

# Pigeon Village Zoning Ordinance

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An Ordinance to establish zoning districts, provisions and regulations in the Village of Pigeon, County of Huron, State of Michigan. The Ordinance was initially enacted pursuant to P.A. 207 of 1921, as amended, being the

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City and Village Act, M.C.L. 125.581 et seq. The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, M.C. 125.3101 et seq.

### **ARTICLE 1. SHORT TITLE AND PURPOSE**

#### **Sec. 1.1. Short Title.**

This title shall be known as the Pigeon Village Zoning Ordinance.

#### **Sec. 1.2. Purpose.**

The fundamental purpose of this ordinance is to promote and safeguard the public health, safety, morals and general welfare of the people of the village. The provisions herein are intended to encourage the use of land, water and other natural resources as they pertain to the social, physical and economic well-being of the village; to limit the improper use of land and natural resources; to reduce hazards to life and property; to provide for orderly development within the village; to avoid overcrowding of the population; to provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered; to lessen congestion on the public roads and streets; to protect and conserve natural recreational, residential and other areas suited to particular uses; to facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public facilities; to conserve the expenditure of money for public improvements and services to conform with the most advantageous uses of land, resources and properties; and to be one means of implementing the policies, goals and objectives as set forth in the Village of Pigeon's Community Development Plan.

### **ARTICLE 2-CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**Sec. 2.1. Construction of Language:** The following rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implications between the text of this Ordinance any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for" designed for, intended for," "maintained for", or "occupied for."
- G. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either... or," the conjunction shall be interpreted as follows:
  1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

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3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

I. Terms not herein defined shall have the meaning customarily assigned to them.

**Sec. 2.2. Definitions:** Definitions used in this Ordinance include the following. (Other definitions are those commonly found in Webster Dictionary)

**Abandonment:** The cessation of activity in or use of a dwelling, structure, or lot, other than that which would normally occur on a seasonal basis, for a period of six months or longer.

**Abutting:** Having property or district line in common, e.g. two lots are abutting if they have property lines in common.

**Access:** A way of approaching or entering a property. For purposes of this ordinance, all lots of record shall have access to a public street or highway or to a private street meeting public [street] standards.

**Accessory Use or Accessory:** A use which is clearly incidental to that customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related.

When "accessory" is used in this text, it shall have the same meaning as accessory use.

An accessory use includes, but is not limited to, the following:

- A. Swimming pools for the use of the occupants of a residence, or their guests.
- B. Domestic storage in a garage or shed, tool room, or similar accessory building or other structure, incidental to the principal use on the property, including outdoor furnaces as defined below (K).
- C. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.
- D. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- E. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- F. Accessory off-street parking spaces open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
- G. Uses clearly incidental to a main use such as but not limited to: offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- H. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
- I. Accessory signs, subject to the sign regulations for the district which the zoning lot is located.
- J. A television satellite dish shall mean any device capable of receiving signals from a satellite.
- K. An "outside furnace" is a specific heating device designed for installation out-of-doors and purposely used

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as an accessory furnace on the same parcel as the principal structure it is designed to heat. An outdoor furnace structure is not attached to the principal building [except for heat ducts, lines, piping, or electrical wiring, etc.], is specific as to the type of fuel, and is not intended to serve as an incinerator.

**Adult Entertainment Business:** A business whose principal service activity is one, or a combination of more than one, of the following: adult bookstore, adult motion picture theater, adult mini-motion picture/video theater, or adult personal service establishment.

**Adult Foster Care Facility:** A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released for or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. Seq.: MSA 16.610 (61), et. Seq., as amended. The following additional definitions shall apply in the application of this Ordinance.

A.. Adult Foster Care Family Home [State licensed residential facility]: is a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care.

B. Adult Foster Care Small Group Home: An owner-occupied facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

C. Adult Foster Care Large Group Home: A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

D. Adult Foster Care Congregate Facility: An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**Alley:** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**Alterations:** Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

**Apartments:** A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

**Architectural Features:** Features of a building including cornices, eaves, gutters, belt courses, sills, lintels, chimneys and decorative ornaments.

**Attached:** Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to same.

**Auto Repair Facility:** A place where, along with the sale of engine fuels, the following services may be carried

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out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

**Automobile (motor vehicle) Service Station:** A building used for the retail sale of fuels (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water, and other commodities designed for motor vehicles, aircraft, and boats. Such an operation includes space and facilities for selling, installing or adjusting tires, batteries, parts and accessories within a building provided that such repair and installation are of minor nature.

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

**Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

**Bed and Breakfast:** See "Tourist House" definition.

**Billboard/Non-accessory sign/Off-premise advertising Sign:** See "Non-Accessory Sign" definition

**Block:** The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage; or between any of the foregoing and other barriers to the continuity of development, or boundary lines of the village.

**Board of Appeals:** An used in this Ordinance, this term means the Pigeon Village Zoning Board of Appeals.

**Boarding House:** A dwelling where lodging or meals or both are provided for compensation to three or more individuals on a prearranged basis for a definite period of time.

**Buildable Area:** The space remaining on a lot or parcel (lots of record) after the minimum setback and opens space requirement(s) have been met.

**Building:** Any structure, either temporary or permanent, having a roof supported by columns or walls, or other means of stabilization, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings or vehicles situated on a parcel and used for the above purposes. Structures with interiors not accessible for human use, such as tanks, smokestacks, grain elevators, coal burners, oil cracking towers, or similar structures shall not be considered as buildings.

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

**Building Line:** A line parallel to the front lot line at a minimum required front setback line.

**Building, main:** A building which is used for the principal purpose of the lot on which it is situated.

**Building Site:** A lot, or a two dimensional condominium unit of land (i.e., envelope, footprint) with or without limited common elements, designed for construction of a principal structure or a series of principal structures plus accessory building(s). All building sites shall have access to public or private roads or streets.

**Campground:** A parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of any organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units.

**Certificate of Occupancy/Certificate of Completion:** A signed written statement by the zoning administrator

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and/or building official that specifies construction or use has been inspected and found to comply with all grading plans and specifications.

***Clinic:*** A building or group of buildings where outpatients receive medical examinations, treatment or advise, with services available from a professional, such as a physician, dentist, veterinarian or the like. (Other licensed profession of like nature).

***Club:*** An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

***Commercial Use:*** The use of property in connection with the purchase, sale, barter, display or exchange of goods, wares, merchandise of personal services or the maintenance of office or recreation or amusement enterprises or garage and basement sales conducted on residential premises for more than six (6) calendar days during a given one (1) year period.

***Commission:*** The Village of Pigeon Planning Commission. The term "Planning Commission" shall mean the same.

***Common Element:*** Portions of a condominium project other than the condominium units.

***Condominium:*** Individual ownership of a unit in a multi-unit building or development; said development is approved under Public Act 59 of 1978, as amended, and this Zoning Ordinance.

***Condominium Subdivision:*** A condominium subdivision (site condominiums) shall be equivalent to the term "subdivision" as used in this Zoning Ordinance and the Subdivision Control Act (Public Act 288 of 1967, as amended).

***Condominium Subdivision Plan:*** A plan illustrating the site (of development), survey, and utility plans; floor plans and sections, as appropriate (if buildings are proposed), showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, and vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location and approximate size of common elements.

***Condominium Unit:*** That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office business, industrial, recreational, or any other type of use approved by the Michigan Department of Commerce.

***Convalescent or Nursing Home:*** A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

***Day Care Facilities:*** The following definitions shall apply in the application of this Ordinance:

A. Family Day Care Home: A state-licensed, owner-occupied private residence in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.

B. Group Day Care Home: A state-licensed, owner-occupied private residence in which seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.

C. Day Care Center: A state-licensed facility, other than a private residence, receiving more than one (1) or

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more children for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child.

**Density:** The intensity of development in any given area, measured in this ordinance by the number of dwelling units per acre.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**District:** A portion of the Village within which certain buildings and activities are permitted and certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Drive-In:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure or to provide self-service for patrons and food carry-out.

**Dwelling, Apartment:** A building divided into separate living quarters, each having at a minimum its own sleeping and living facilities. All apartments must conform to regulations applicable to dwelling units in this ordinance.

**Dwelling, Atrium house:** a single-family dwelling attached to other similar single-family units, all having a common courtyard.

**Dwelling, Condominium:** A part of a development (single-family dwelling in a multiple-unit development) in which each unit/tenant holds full title to his/her unit and joint ownership in the common grounds (common elements). A form of property ownership.

**Dwelling, Duplex:** A building consisting of two separate single-family dwelling units.

**Dwelling, Garden:** A building divided into separate living quarters, each having, at a minimum, living and sleeping facilities, and all units with common yard areas for outdoor leisure-time activity.

**Dwelling, Multiple:** A unit within a building consisting of three or more separate single-family dwelling units.

**Dwelling, Patio house:** A single-family detached or semi-detached unit, enclosed by walls for privacy. (See definition of Single-Family Dwelling below)

**Dwelling, Single-Family:** A detached building, occupied and designed for one family and containing sleeping, living, cooking and sanitary facilities for that family, and complying with the following:

A. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.

B. It has a minimum width across any front, side or rear elevation as designated for the zoning district of the property and complies in all respects with the Village's building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the building code then in that event such federal or state standard or regulation shall apply.

C. It is firmly attached to a permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with

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the wheels removed. Additionally, no dwelling will have any exposed towing mechanism, under carriage, or chassis.

E. The dwelling is connected to the public sewer and water supply or to such private facilities approved by the Huron County Health Department.

F. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

G. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

H. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development (being 24 CFR, 3280), and as from time to time such standards may be amended. Additionally, all dwellings, shall meet or exceed all applicable roof snow load and strength requirements.

I. The foregoing standards shall not apply to a mobile home located in a mobile home park, except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Village pertaining to mobile home parks, if applicable..

J. All construction required herein shall be commenced only after applicable construction permits have been obtained in accordance with the applicable building code provisions and regulations

***Dwelling, Townhouse:*** A single-family attached dwelling with units sharing common side walls and usually situated in a straight line with each other.

***Dwelling unit:*** A building or portion of a building which has sleeping, eating and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the part occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, or other such portable structure be considered a dwelling. (See definition of Single-Family Dwelling above)

***Earth Change:*** A manmade change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to storm water **moving offsite and/or** soil erosion or sedimentation of the water of the state.

***Easement:*** An interest in land owned by another that entitles its holder to a specific limited use or enjoyment, such as for ingress, egress, utilities, drainage and similar uses.

***Efficiency Unit:*** A dwelling unit located within a commercial structure or another multi-unit residential structure consisting of one (1) room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing a total of not less than three hundred and sixty (360) square feet of floor area.

***Erected:*** Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

***Essential Services:*** The erection, construction, alteration or maintenance by public utilities or municipal

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departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants and other similar equipment, and applicable accessories reasonably necessary for the furnishing of adequate service by such public utility or municipal department for the public health, safety, and welfare in connection therewith, but not including buildings other than such buildings which are primarily enclosures or shelters for essential services equipment or service personnel.

**Excavation:** Any breaking of ground, except common household gardening and ground care for agricultural purposes.

**Family:**

A. One or more persons related by bonds of marriage, blood or legal adoption occupying a dwelling unit as a single non-profit house keeping unit, plus no more than two (2) additional persons such as "roomers" or "boarders".

B. A collective body of persons living together in one house under one head, whose relationship is of a permanent and distinct domestic character based upon birth, marriage, or other domestic bond and cooking as a single housing keeping unit. This definition shall not include federation, group, coterie or organization; nor shall it include a group of individuals whose association is temporary in character or nature. A body of persons meeting this definition is also distinguished from a group occupying a hotel, club, boarding house, rooming house, fraternity, sorority house or group foster care facility.

**Fence:** A permanent or temporary partition or structure erected as a divider, barrier, or enclosure and not part of a structure required a building permit.

**Filling:** The depositing or dumping of any matter onto, or into, the ground, except for common household gardening and ground care, which alters the topography of the land. **This is also known as a grade or elevation change.**

**Floor Area, Usable** (For the purposes of computing parking): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**Garage, Commercial:** Any structure (except private, community or storage garages) available to the public and primarily used for the storage of motor vehicles, for remuneration, hire or sale, where any such vehicle or engine may also be repaired, rebuilt, or equipped to operate, and where vehicles may be greased, washed and waxed.

**Garage, Private:** An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Garage, Service:** Any premises used for the storage or care of motor driven vehicles, or where any such vehicles are equipped for operation, repaired or kept for compensation, hire or sale.

**Gasoline Service Station:** A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for vehicles, but not including major automobile (motor vehicle) repair.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of

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buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. **The filling of property (grade change) shall not result in storm water flowing onto an adjacent parcel.**

**Greenbelt (buffer strip):** A strip of land which is planted with trees or shrubs acceptable in species and caliper to the Planning Commission to obscure or buffer an activity from an adjacent residential use.

**Groundwater:** The subsurface water that completely fills the pore spaces of soils and void spaces of rock formations beneath the water table.

**Guesthouse:** Separate structure or dwelling, on a residential parcel, used for sleeping and/or eating purposes by nonpaying friends, relatives or acquaintances of the resident or owner of the main structure.

**Highway:** a public thoroughfare or street, excluding alleys, but including federal, state and county roads and those appearing upon plats recorded in the office of the register of deeds and accepted for public maintenance.

**Home Occupation:** Any use customarily conducted entirely within the dwelling or an accessory building and carried on by the inhabitants thereof, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof and does not endanger the health, safety and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby. Provided, further that no article or service is sold or offered for sale on the premises, except such as is produced by such occupation; that such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customary in residential areas. No home occupation may generate other than normal residential traffic either in amount or type, nor occupy a floor area greater than twenty-five (25) percent of the ground floor area of the principal dwelling. One (1) non-illuminated nameplate, not more than two (2) square feet in area, is permitted which shall be attached to the building and which contains only the name and occupation of the resident of the premises. Group day care centers, tea rooms, veterinarian's offices, tourist homes, animal hospitals, kennels, millinery shops, barber shops and beauty shops, medical offices and clinics, auto repair, among others, shall not be deemed home occupations.

**Hospital:** A building, structure or institution in which sick or injured persons, primarily in-patients, are given medical or surgical treatment and operation under licensed by the State of Michigan.

**Hotel:** A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial, or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

**Junk:** Any motor vehicle, machinery, appliances, product, merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured.

**Junk Yard:** An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including but not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "Junk Yard" includes automobile wrecking yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

**Kennel:** Any lot or premises on which three (3) or more dogs and/or other domesticated animals six (6) or more months old, are kept either permanently or temporarily boarded.

**Land Use:** a use of land which may result in an earth change, including, but not limited to, subdivision,

## **Pigeon Village Zoning Ordinance**

residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, drainage construction, logging operation, agricultural practices, and mining.

**Limited Common Elements:** A portion of the common elements (of a condominium project) reserved in the master deed for the exclusive use of less than all of the co-owners.

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

**Lot:** A measured portion of a parcel or tract of land which is described and fixed in a recorded plat and having frontage on a public or private street/road either dedicated to the public or designated on a recorded subdivision.

**Lot Area:** The total horizontal area within the lot lines of the lot.

**Lot/Building Site Coverage:** The part or percent of a lot or building site which can be occupied by buildings including accessory buildings.

**Lot, Corner:** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

**Lot [or Building Site] Depth:** The horizontal distance between the front and rear building site or property lines, measured along the median between the side lot lines.

**Lot or Building Site lines:** The lines bounding a lot or building site as defined herein:

A. **Front Line:** In the case of an interior lot/building site line separating said lot/building site from the street. In the case of a through lot/building site, that line separating said lot from either street. In the case of a corner lot/building site, that line as designated on the building plans filed for approval with the Zoning Administrator.

B. **Rear Line:** That line opposite the front line. In the case of a parcel pointed at the rear, the rear line shall be an imaginary line parallel to the front line, not less than ten (10) feet long lying farthest from the front line and wholly within the building site.

C. **Side Line:** Any line other than the front line or rear line. A side line separating a lot or building site from a street is a side street line. A side line separating a lot from another lot or building site is an interior side line.

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

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

**Lot, Width:** The mean horizontal distance between the side lines, measured at right angles to the side lot line. Where side lot lines are not parallel, the lot size shall be considered as the average of the width between such side lot lines.

**Lot, Zoning:** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or build upon as a unit, under single ownership or control. A Zoning lot shall satisfy this ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

**Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the

## **Pigeon Village Zoning Ordinance**

County Register of Deeds or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

**Lot Width:** The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

**Main Building:** A building in which is conducted the principal use of the lot upon which it is situated.

**Major Thoroughfare or County Primary:** An arterial road or street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond. (Designated by the Huron County Road Commission as a State Trunk Line or a County Primary Road).

**Master Plan/Community Development Plan:** The Village of Pigeon Community Development Plan, adopted by the Pigeon Village Planning Commission, contains graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the Village, and includes any unit or part of such plan, any amendment to such plan or parts thereof. Such Plan serves as the long-range plan for the Village of Pigeon.

**Mezzanine:** An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story.

**Mini-Warehouse (Self-Storage Facility):** A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to different tenants for the storage of customers' goods and wares. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principle use, such as packing materials, identification labels, rope, locks, tape, etc. shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials are expressly prohibited.

**Mobile Home (Trailer Coach):** Is a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational unit. (SEE DEFINITION OF A SINGLE FAMILY DWELLING UNIT).

**Mobile Home Park (Trailer Court):** Any parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park. (A MOBILE HOME PARK MUST BE LICENSED BY THE STATE OF MICHIGAN).

**Motel:** A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space which provide for overnight lodging primarily to the public traveling by motor vehicle for compensation.

**New Construction:** Means structures for which the "start of construction" commenced on or after the effective date of this amendatory ordinance.

**Nonaccessory Signs [a.k.a. Billboard]:** Signs which identify, describe, illustrate or are used to direct attention to a use or activity which occurs or exists at a location other than the site where the sign is placed.

**Nonconforming Building or Structure:** A building or structure or portion thereof lawfully existing on the

## **Pigeon Village Zoning Ordinance**

effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance in the district in which it is located.

***Nonconforming Use:*** A use which lawfully occupied a building or land on the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

***Nursery, Plant Materials:*** A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises-including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

***Nuisance Factors:*** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, (o) invasion of non-abutting street frontage by traffic.

***Off-Street Parking Lot:*** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

***Open Front Store:*** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "Open Front Store" shall not include automobile repair stations or automobile service stations.

***Open Storage:*** Outdoor storage of building materials, sand gravel stone, lumber, equipment, materials to be recycled and other supplies.

***Parcel:*** A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory buildings, condominium units, or by any other use or activity permitted thereon and including open spaces and setbacks required under this ordinance, and having its frontage on a public or private street or road.

***Parking Space:*** An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

***Principal Use:*** The main use to which the premises are devoted and the principal purpose for which the premises exist.

***Public Utility:*** A person or firm, or corporation, municipal or county department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

***Recreational Unit:*** Is a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational vehicle includes a travel trailer, camping trailer, motor home, truck camper, slide-in camper and chassis-mount camper. A recreational unit shall not be considered a dwelling unit. (SEE DEFINITION OF "DWELLING, SINGLE FAMILY").

***Restaurant:*** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below.

A. Restaurant, Carry-Out: A carry-out restaurant is a restaurant with a method of operation involving the sale of

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food, beverages, and/or frozen deserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

**B. Restaurant, Fast-Food:** A fast-food restaurant is a restaurant with a method of operation involving minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.

**C. Restaurant, Sit Down:** A standard restaurant is a restaurant with a method of operation involving either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

**C. Bar/Lounge:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

**Right-of-Way:** A legal right of passage over real property typically associated with roads and railroads.

**Rooming house:** A dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire without meals.

**Setback:** The minimum required horizontal distance measured from the front side, or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot.

**Sign:** The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, and are visible to the general public.

**Sign, accessory:** See “accessory sign” definition.

**Sign, nonaccessory:** See “nonaccessory” sign definition.

**Site Condominium Project:** A development project consisting of not less two (2) single family units established in conformance with the Michigan Condominium Act, P.A. 59 of 1978, as amended; this meaning is the same as a "condominium subdivision". Such development shall be considered a multiple-family development for review purposes, wherein the Planning Commission shall utilize “site plan review” provisions of this ordinance to determine zoning compliance.

**Story:** The part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story.

**Story, Half:** An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7' - 6"). For the purposes of this Ordinance, the usable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

**Street:** A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

**Structure:** Means a walled and roofed building that is principally above ground, including gas or liquid storage facilities, and mobile homes.

**Substantial Improvement:** Means any repair, reconstruction, or improvement of a structure, the cost of which

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equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Temporary Use or Building:** A use or building permitted by the Board of Appeals or Zoning Administrator to exist during periods of construction of the main building or use, or for special events, not to exceed six (6) months' duration.

**Tourist Home/Bed and Breakfast:** A building in which there are eight (8) or less sleeping rooms occupied for a fee on a more or less temporary basis for individuals who are lodged without meals other than breakfast.

**Tower:** A radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals, including structures and facilities incidental thereto.

**Travel Trailer:** See Recreation unit.

**Use:** The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**Variance:** A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

**Wall, obscuring (fence):** structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

**Yards:** The open spaces on the same lot or building site with a building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

**Yard, Corner side:** A side yard which faces a public street.

**Yard, Front :** An open space extending the full width of the lot, parcel or building site, the depth of which is the minimum horizontal distance between the front lot/building site line and the nearest point of the main building.

**Yard, Interior:** A side yard located immediately adjacent to another zoning lot or to an alley or easement separating such side yard from another zoning lot.

**Yard, Rear:** A yard extending the full width of the lot on which a building is situated and located between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

**Yard, Side:** An open space between a main building and the side lot/parcel/building site line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot/parcel/building site line to the nearest Point of the main building.

**Yard, Transitional:** A yard that must be provided on a lot where a more intensive land use is located adjacent to either an existing or planned use of a less intensive nature, in accordance with the provisions of this ordinance. Such transitional yard shall be in lieu of the requirements for front, side and rear yards as stipulated in the ordinance.

### ARTICLE 3. ZONING DISTRICTS

## *Pigeon Village Zoning Ordinance Update September/2006*

### **Sec. 3.1. Classification of districts.**

The Village of Pigeon shall be and is hereby divided into districts as enumerated **in this Ordinance**.

### **Sec. 3.2. Required conformity to district regulations.**

Except as otherwise provided in this Ordinance, no structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, altered or moved onto the existing lot or onto a different lot unless in conformity with the regulations herein specified for the district in which the structure or land is located.

### **Sec. 3.3. District boundaries show on zoning map.**

The boundaries of said districts are hereby established as shown on the zoning map, which accompanies this ordinance and which zoning map with all notations, references and other information shown thereon shall be as much a part of this ordinance as if fully described herein. The zoning map shall be certified as the "official copy" by the Village Clerk and shall be kept on display in the Village Clerk's office. Maps and descriptions which accompany enacted amendments shall be displayed adjacent to the official copy until such time as the official copy is corrected. The official copy shall be reviewed annually, and, if so ordered by resolution of the Village, the official copy shall be corrected to show all amendments and the accuracy and completeness of such corrections shall be certified thereon by the Village Clerk.

When the properties are annexed to the Village of Pigeon, the village Council shall assign the properties appropriate zoning district classifications. This ordinance and the zoning map shall be amended as outlined in Section 13.3 of this ordinance to include those annexed properties.

### **Sec. 3.4. Interpretation of zoning maps.**

Where, due to the scale, lack of detail or illegibility of the zoning map accompanying this ordinance, there is an uncertainty, contradiction or conflict as to the intended location of any district boundary as show hereon, interpretation concerning the exact location of the district boundary line shall be determined by the board of Zoning Appeals. The Board, in arriving at a decision in these matter, shall apply the following standards:

- A. District boundary lines are intended to follow centerlines of: alleys or streets, rights-of-way, watercourses or lot lines; or be parallel or perpendicular thereto, unless such district boundary lines are otherwise obviously indicated as shown on the zoning map.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- C. In unsubdivided property, or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- D. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the board of zoning appeals shall determine and fix the location of said line in a reasonable manner.

## **ARTICLE 4. USE REGULATIONS**

### **Sec. 4.1. General**

Except as otherwise provided herein, regulations governing land and building use are hereby established as shown in Articles 7 to 9, Schedule of Regulations. Any use not expressly permitted is prohibited. Uses

requiring Board of Zoning Appeals special exceptions permit [or variance] are permissible only if in the opinion

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of the Board of Zoning Appeals adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this ordinance and intent and principal uses of the district. Otherwise such uses are prohibited uses (See Sec. 13.4.)

### **Sec. 4.2 Use of accessory building prior to use of principal building prohibited.**

No accessory building may be constructed/used prior to its principal building or principal use except as facility of construction of said principal building or principal. In this instance, the principal use must be part of the application for the site's development.

### **Sec. 4.3. Reserved**

## **ARTICLE 5. AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS**

### **Sec. 5.1. General**

Except as otherwise provided herein, regulations governing areas, height, bulk and placement are set forth in Articles 7 through 9, Schedule of Regulations.

### **Sec. 5.2. Encumbering land required to satisfy regulations.**

No portion of a lot necessary for compliance with the provisions of this ordinance in regard to area, height, bulk and placement regulations in connection with an existing or proposed building, structure or use shall, through sale of otherwise, again be used as part of the lot required in connection with any other building, structure or use.

### **Sec. 5.3. Exception to height limits.**

The height limits of this ordinance may be modified by appeal to the Board of Zoning Appeals in its application to church spires, belfries, cupolas, penthouses, domes, water towers, observation towers, radio towers, TV towers, masts and aerials, flagpoles, chimneys, smoke-stacks, ventilators, skylights, derricks, conveyors, cooling towers and other similar and necessary mechanical appurtenances pertaining to and necessary to the permitted uses of the districts in which they are located.

### **Sec. 5.4. Averaging existing front open space.**

In residential districts where the average front open space for existing buildings adjacent to a lot on either side, within 100 feet, exceeds the minimum specified in the ordinance, front open space shall be provided on the lot equal to this greater average depth, but need not exceed 40 feet. Where such average front open space is less than minimum specified, the required front open space may be reduced to this lesser depth, **but in no case to less than ~~25~~ 15 feet from the street lot line.** For the purpose of computing such average front open space, an adjacent vacant lot shall be considered as having the minimum front open space required in the district.

### **Sec. 5.5. Exceptions to required open space.**

The following projections into required open space are permitted: sills, belt courses, cornices, eaves, gutters, chimneys or pilasters projecting not more than 24 inches into any required space.

### **Sec. 5.6. Corner lot setback on side street.**

Every corner lot in a residential district having on its side street an abutting interior lot shall have a minimum setback from the side street equal to the minimum required front setback of the district in which it is located; provided, however, that this does not reduce the buildable width of any lot of record to less than 30 feet. On corner lots where a rear open space abuts a side open space on the adjoining lot, accessory buildings on the corner lot shall have a minimum setback from the rear lot line a distance equal to the smaller of the side setbacks required for the lot abutting the corner lot.

***Pigeon Village Zoning Ordinance Update September/2006***

**Sec. 5.7. Accessory buildings, including satellite antennas (dish receivers) & outdoor furnaces.**

Accessory buildings in residential districts shall conform to the following regulations except as may be otherwise provided in this ordinance:

A. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform with, all regulations of this Ordinance applicable to main buildings (setbacks, lot coverage, height, etc.).

B. Accessory buildings shall not be erected in required setbacks areas, except when an accessory building is located completely to the rear of the main building, when the proposed accessory building may be located to within three (3) feet of the interior side line and rear line [Clarification: 3 ft. to side wall and 2 ft. to fascia of overhang].

C. No more than two (2) unattached accessory buildings may be located on any single parcel, subject to setback, lot coverage, and other standards (size/height) of this ordinance.

D. The size of any accessory building shall not exceed 1200 s.f. of ground floor area or exceed the ground floor area of the principal dwelling, whichever area is less, nor have a wall height exceeding 10 ft. above grade or an overall height of fifteen (15') feet to the midline of the roof (from grade). The area of such accessory use buildings shall not exceed thirty-five (35%) percent of the rear **yard** open space [rear yard open space area is that area immediately to the rear of principle structure to rear property line for the full width of the parcel]. Total ground coverage of all buildings on the parcel shall not exceed twenty-five (25%) percent of the lot area..

E. When an accessory building is proposed on a corner lot, where the side street line is a front line for dwellings along said side street, the side street setback (from r.o.w. line) shall not be less that the established setback for buildings on the adjacent lot or 15 feet from said r.o.w. line, whichever is more [25 feet is the current front yard setback required for new construction]. If a garage door (vehicle entrance) faces the side street of a corner lot, a minimum distance of 18 feet shall be provided to the r.o.w. line. [clarification: in instances where the standard setback can be reduced]

F. On double frontage parcels, accessory buildings shall be subject to front yard setbacks on both streets.

G. A private garage shall only be used for storage of items and uses incidental to residential dwellings. Unattached accessory buildings shall not be used for or converted to housekeeping quarters.

H. No unattached accessory building shall be constructed until the principal building is occupied, except that construction of an unattached garage or storage area may proceed at the same time as the construction of the principal dwelling.

I. Recreational units (travel trailers, RV's, truck campers, pop-ups, boats, jet skis & other personal water craft, snowmobiles, etc.) are defined as accessory buildings for setback purposes when stored on occupied residential parcels. Said units shall not be parked/stored on vacant residentially zoned parcels. Recreational equipment may be parked in the front yard [street side of dwelling] for loading/unloading purposes only, limited to a 48 hour period.

Recreation equipment shall not be connected to water or sewer systems and shall not be used for housekeeping purposes.

J. Satellite receiving dishes may be placed in rear yards with no restriction as to height. Side yard placement will be allowed if rear yard placement is not possible, subject to appropriate screening from the neighboring residence. Front yard placement of satellite dishes is limited to dishes (oval-shaped) 36 inches or less in diameter. All installations must comply with appropriate building and safety codes.

K. Outdoor furnaces:

## Pigeon Village Zoning Ordinance

All outdoor furnaces shall comply with the following rules and regulations:

1. Installation. All outdoor furnaces shall comply with the Michigan Air Pollution Controls Rules, Part 1 (R336.1119), Part 2 (R336.1278, Part 3 (R336.1301) and Part 9 (R336.1901).

All outdoor furnaces shall be installed, operated and maintained per the manufacturer's instructions [clarification: a mechanical permit through the Huron County Building Department shall be secured]

2. Permitted Fuel. Only firewood, untreated lumber, corn and/or other bio-mass fuels are permitted to be burned in any outdoor furnace. Burning of any and all other materials is prohibited. No outdoor furnace shall be utilized as a waste incinerator.

3. Setbacks. Outdoor furnaces shall be placed:

- a. Forty (40) feet or more from the nearest point of intersection of any other adjacent property owners' structure;
- b. Twenty (20) feet or more from the nearest point of intersection of the property line of another property owner.

4. Chimney Height. The chimney height of any furnace located 50 feet or less to any residence not served by the furnace shall be at least fifteen (15) feet and/or two (2) feet higher than the eave line of the unserved residence; the chimney height of any furnace located more than 50 feet but no more than 100 feet to any residence not served by the furnace shall be at least fifteen (15) feet and/or 75% of the height of the eave line of the unserved residence, plus an additional 2 feet; the chimney height of any furnace located more than 100 feet but no more than 150 feet to any residence not served by the furnace shall be at least 50% of the height of the eave line of that residence, plus an additional 2 feet; the chimney height of any furnace located more than 150 feet but no more than 200 feet to any residence not served by the furnace shall be at least 25% of the height of the eave line of the unserved residence, plus an additional 2 feet. The chimney height of any furnace located more than 200 feet from any residence not served by the furnace shall be a minimum of 8 feet.

5. Chimney Specification. Chimneys shall be supported to withstand winds up to 90 miles per hour and shall comply with all applicable manufacturer's specification as well as any State or Federal rules and regulations.

### L. Commercial vehicles:

In any R district, private garages may provide storage for not more than one commercial vehicle (displaying an identification name or logo) of not over a one (1) ton capacity. Commercial vehicles shall not be stored outdoors in residential areas.

### Sec. 5.8. Application of [requirements to] Lots of Record.

Where the owner of a lot of record does not own and cannot reasonably acquire sufficient land to enable him to conform to the open space and other requirements herein prescribed, such lot may be used by said owner as a building site provided the open space and other provisions conform as closely as possible in the opinion of the Board of Zoning Appeals to the requirements for the district in which it is located and subject to Sec. 13.4 of this Ordinance.

Where two or more abutting [nonconforming] lots of record are held in one ownership, either in fee simple

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and/or under a vendee's land contract interest, or subsequently come to be hold in one ownership, they shall be considered the same as a single lot of record for the purpose of this ordinance, and the provisions of this ordinance shall not thereafter be circumvented or avoided by the willful sale or conveyance of a part or portion of any parcel or parcels.

### **Sec. 5.9. Double-frontage lots.**

Where the rear of a lot abuts upon a street, the depth of a rear yard shall be increase if necessary to conform to the requirements for front yard on such rear streets.

## **Article 6. General Requirements**

### **Sec. 6.1. Issuance of building permit per approved site plan.**

**A. *Submission of Site Plan.*** Site plan review shall be required of all uses in the business and industrial district and of multiple-family dwellings (except for single-and two-family dwellings) and of uses permitted by all special land use permits.

**B. *Review of Site Plans.*** Review of all site plans shall be performed by the Village Planning Commission. The Planning Commission may delegate responsibility for review to the zoning administrator for certain classes of site plans by size or function.

**C. *Issuance of Building Permit or Certificate of Occupancy.*** A building permit or certificate of occupancy shall not be issued prior to final approval of the site plan as required by this Zoning Ordinance.

**D. *Site Plan Contents.*** Site plans for a proposed use shall be submitted, including the following information:

1. A scaled site plan with a scale of one inch equal 20 feet or greater.
2. Location, arrangement and dimensions of existing and proposed driveways, streets, sidewalks, hard-surfaced parking areas and arrangement of structure(s).
3. General layout of existing vegetation and of proposed landscaping.
4. Approximate size, location, height and floor area of all structures [distances from property lines; lot coverage calculation; calculation of habitable area; square footage of accessory space; elevation of walls and distance to midline of roof; etc.]
5. General relationship to all utilities, including sanitary sewerage disposal, water supply, storm drainage, gas lines, rubbish enclosures, electric and telephone lines. [illustrate location and size of existing and proposed lines.]
6. A schedule of usable floor areas, land areas, building height and setback, net land coverage and number of parking spaces provided.

**E. *Site Plan Standards.*** The Planning Commission shall review the site plans in terms of the following standards:

1. Safe and convenient vehicular access to and egress from the proposed use without interference with surrounding transportation patterns.
2. Provision of bicycle and/or pedestrian access, if appropriate.
3. Impact of structures, fencing, lighting and landscaping on adjacent land uses and properties.

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4. Appropriate consideration of environmental concerns including natural resources, air quality, noise levels, rubbish disposal and storm runoff.
5. Continuance of established area patterns of landscaping, setbacks, structural materials and street furniture.

### Sec. 6.2 Nonconforming Uses.

It is the intent of this ordinance to permit the continuance of a lawful use of a any building or land existing at the effective date of this ordinance. However, except as herein provided, no building, structure, or use or part thereof shall be used, altered, constructed or reconstructed except in conformity with the provisions of this ordinance, and further, it is hereby declared that the existence of nonconforming uses is contrary to the best interests of the general public. Further, it is hereby declared to be the policy of this community, as expressed in this ordinance, to discontinue nonconforming uses in the course of time as circumstances permit, having full regard for the rights of all parties concerned. However, the Zoning Board of Appeals has authority under PA 110 of 2006, being the Michigan Zoning Enabling Act, to provide conditions for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures.

#### **A. Elimination of Nonconforming Uses.**

Subject to PA 110 of 2006, being the Michigan Zoning Enabling Act, whenever a nonconforming use has been discontinued for twelve (12) consecutive months, or for eighteen (18) months during any three-year period, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this ordinance. However, the Zoning Board of Appeals has authority under PA 110 of 2006, being the Michigan Zoning Enabling Act, to provide conditions for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures.

**B. Nonconforming Uses of Land.** The nonconforming uses of land existing at the effective date of this ordinance, where no building is located, may be continued, provided dimensional requirements are complied with, and further provided that no buildings are to be constructed after the effective date of this ordinance, except that will conform to district requirements within which the use is located, and further provided all other pertinent requirements of Section 6.2 are complied with.

**C. Nonconforming Signs.** Signs existing at the time of the enactment of this ordinance and not conforming to its provisions, but which were constructed in compliance with previous regulations, shall be regarded as nonconforming signs which may be continued to be in conformance with other ordinances of this municipality. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this code.

**D. Illegal nonconforming uses.** Nonconforming uses of buildings or land existing at the effective date of this ordinance established without a building permit or not shown on the tax records as a nonconforming use prior to the last official assessment roll, or those nonconforming uses which cannot be proved, conclusively, as existing prior to be discontinued with a period of three (3) years following the effective date of this ordinance.

**E. Reconstruction and Restoration.** Any lawful nonconforming uses damaged by fire, explosion, or act of God, or by other causes, may be restored, rebuilt or repaired, provided that such restoration does not exceed 1 ½ times the assessed value of the parcel as determined by the assessing officer, exclusive of foundation, and provided that said use is the same or more nearly conforming with the provisions of the district in which it is located.

**F. Repair of Nonconforming Buildings.** Nothing in this ordinance shall prohibit the repair, improvement or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed an aggregate cost thereby increasing the assessed value by more than

## Pigeon Village Zoning Ordinance

30 percent as determined by the assessing officer unless the subject building is changed by such repair to a conforming use.

**F. *Changing Uses.*** If no structural alterations are made, the Zoning Board of Appeals may authorized a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.

**H. *Prior Construction Approval.*** Nothing in this ordinance shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that construction is commenced with 30 days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one year after the issuance of the building permit.

**I. *District Changes.*** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

### ARTICLE 7. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, SCHEDULE OF REGULATIONS

#### Sec. 7.1. Intent.

The regulations of this district are intended to encourage a suitable environment for families typically with children. Uses are limited to one- and two-family dwellings, along with certain other uses such as schools, parks and playgrounds, which provide a desirable neighborhood environment. In keeping with the intent, development is regulated to a moderately low density. Commercial and other uses which tend to be incompatible with the intent are prohibited. As such, the R-1 Single-Family Residential Districts are designed to be the most restrictive of the residential districts. Certain complimentary religious, education, recreational and cultural facilities may also be permitted as Special Approval Uses.

#### Sec. 7.2. Uses permitted by right

- A. Single-family, detached dwellings are permitted subject to Sec. 2.2 Definitions; Dwelling, Single-Family and Schedule of Regulations (Limitation for height, area, bulk and placement by zoning district) and further subject to a minimum width of twenty four (24) feet across any front, side or rear measurement [**width or length**].
- B. State-licensed residential facilities providing resident services for up to six (6) persons under twenty-four (24) hour supervision or care, or both. This uses shall not apply to foster care facilities licensed by a state agency for care and treatment of persons release from or assigned to correctional institutions.
- C. State-licensed or approved family day care facilities where one (1) to six (6) children are cared for in a private home on less than a twenty-four (24) hours basis. All employees of the facility must reside on the premises. At least four hundred (400) square feet of outdoor play area must be provided on the premises. Off-street parking for three (3) vehicles must be provided for on the premises.
- D. Publicly owned and operated parks and playgrounds with customary buildings and structures.
- E. Home occupations pursuant to Sec. 2.2 (Definition of home occupations) of this Ordinance.
- F. Essential services, as defined in Sec. 2.2 (Definition of Essential Services) of this Ordinance..
- G. Signs as provided in Sec. 11.5 (Signs, General) of this Ordinance..

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H. Public, parochial or private elementary, intermediate and/or high schools offering courses in general education and not operated for profit, provided that no building shall be located less than forty (40) from another lot in any residential district and access to the site is from a County Primary Road.

### **Sec. 7.3. Permitted accessory uses.**

- A. Private garage pursuant to Sec. 5.7 of this Ordinance..
- B. Garden house, tool house, playhouse or greenhouse, or shed not being used for commercial purposes.
- C. Signs in accordance with Sec. 11.5 of this Ordinance..
- D. Fences in accordance with Sec. 11.3 of this Ordinance.
- E. Automobile parking, not in excess of automobiles owned by the occupants, plus two additional spaces.
- F. Swimming pools.
- G. Satellite/Dish antennas, pursuant to Sec. 5.7 (J) of this Ordinance..
- H. Outdoor furnaces per requirements of Section 5.7 (K) of this Ordinance..
- I. Any use customarily incidental to the permitted principal use.

### **Sec. 7.4. Uses permitted by Special Land Use Permit.**

The following uses may be permitted by issuance of a special land use permit following the procedures outlined in Article 12, providing all of the applicable conditions for required setback dimensions, area, height, bulk and placement regulations and off-street parking are met:

- A. Boarding, lodging and tourist homes, i.e., bed and breakfast homes, providing service is limited to three (3) non-housekeeping sleeping rooms for six (6) or less persons. Two (2) off-street parking spaces shall be provided for the principal family and one (1) additional off-street parking space shall be provided for each sleeping (room).
- B. Two-family dwellings providing each unit has a minimum of seven hundred twenty (720) square feet of habitable floor space and is completely separated from each other.
- C. Townhouses, apartments and condominiums not exceeding eight units per acre, providing the following standards are met:
  - 1. That such land use has direct access onto a street identified as a collector or arterial within the Village of Pigeon.
  - 2. That structures do not exceed two stories or 30 feet in height.
  - 3. That there shall be a minimum yard of 50 feet from any structure to any adjacent R-1 or B-1 zoning

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district.

4. That the project site or lot includes at least one acre.

5. That no more than thirty-five percent (35%) of the lot or project site may be covered by all buildings.

D. Personal service shops, such as beauty and barber shops, tanning salons, etc, in a private home which are limited to one (1) chair or booth and provided additional off-street parking space is located on the premises.

E. Public utility buildings, telephone exchange buildings, electric transformer stations and substations and gas regulator stations, but not including storage yards, when operating requirements necessitate locations within the district to serve the immediate vicinity and such use is not injurious to the surrounding neighborhood.

F. State license group day care facilities where seven (7) to twelve (12) children are cared for in a private home on less than a twenty-four hour basis, subject to the following provisions:

1) At least one member of the staff must reside on the premise.

2) There must be at least six hundred (600) square feet of fenced (min. 4 ft .in height) outdoor play area provided on the premises. A group day care home shall not require exterior modifications to the dwelling nor shall the front yard be the location of play equipment, except on a corner lot.

3) Off-street parking for four (4) vehicles shall be provided on the property.

4) The proposed group day care facility shall not be located closer than 1,500 feet of any of the following facilities as measured along a street, road or other public thoroughfare, excluding an alley: another licensed group day care home; an adult foster care large group home; a licensed facility offering substance abuse treatment and rehabilitation services to seven (7) or more people; a community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

5) One (1) non-illuminated sign, two (2) square feet or less in size, is permitted on the wall of the principal structure located on the property. (The sign shall be similar to that for a home occupation-name of day care operator and address).

6) Hours of operation shall not exceed sixteen (16) hours in a twenty-four period, and activity shall not be permitted between the hours of 10:00 p.m. and 6:00 a.m.

G. State licensed Adult Foster Care Small Group Home with a capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation, subject to the following provision:

1) A state licensed adult foster care small group home shall not be located within fifteen (1,500) feet of another similar state licensed facility.

2) One (1) on-site parking space shall be provided for each employee in addition to the parking required

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for the dwelling unit. The driveway may be used for this purpose.

3) The property (architecture and landscaping) shall be maintained in a manner that is consistent with the character of the neighborhood.

H. Institutional uses for medical, health, religious and educational pursuant to Sec. 12.4 of this Ordinance.

I. Public utility service buildings or regulator station pursuant to Sec. 12.4 of this Ordinance

J. Cemeteries, when occupying a site of ten (10) or more acres and having direct access to a major thoroughfare.

K. Governmental uses when found to be necessary for the public health, safety, convenience or welfare.

L. Churches and other facilities normally incidental thereto, provided ingress and egress from such site is onto a County primary road. No buildings shall be located less than fifty (50) feet from any other lot in any residential district.

M. Funeral homes & mortuaries, pursuant to Sec. 12.6 of this Ordinance (Crematoriums permitted in the Industrial District only).

N. Institutional uses for medical, health, religious and educational pursuant to Sec. 12.4 of this Ordinance.

### AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

#### R-1 Single Family Residential District

**Sec. 7.5. Minimum building area.** Area in square feet: 720 [24 ft. minimum width]

**Sec. 7.6. Reserved.**

**Sec. 7.7. Maximum building area.** Coverage of a lot including accessory building in percent of lot area: 25 percent [For accessory building coverage when located in rear yard - 35% of rear yard area].

**Sec. 7.8. Front yard.** Twenty-five [25'] feet. (See Section 5.4.)

**Sec. 7.9. Side yard[, least].** Least one: Six [6'] feet.

**Sec. 7.10. Side yards[, total].** Total of two: Fifteen [15'] feet.

**Sec. 7.11. Rear yard.** Thirty-five [35'] feet.

**Sec. 7.12. Maximum building height [in feet].** Thirty [30'] feet.

**Sec. 7.13. Maximum building height (in stories).** Two and one-half [2 ½].

**Sec. 7.14. Minimum lot size [area].** Area in square feet: Seventy-Two Hundred [7,200 s.f.]..

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**Sec. 7.15. Minimum lot size[, width].** Width in feet: Sixty-Six [66'].

**Sec. 7.16. Minimum lot size for multiple-family dwellings.** Area in square feet shall be as required in Section 7.14 (7,200 square feet) plus the following area for each additional dwelling unit: one bedroom, 20,000 square feet; two bedroom, 2,900 square feet; three bedrooms, 3,400 square feet.

### **Article 8. General Business District**

#### **Sec. 8.1. Intent and Purpose.**

The General Business District is, as herein established, is designed to meet the day-to-day convenience shopping and service needs of persons residing in nearby residential areas as well as to provide sites for more diversified business types. Further, it is designed to accommodate uses such as apartments, offices, banks and personal services which can serve as transitional areas between single-family residential and commercial uses, and to provide a transition between major thoroughfares and residential districts in areas platted in small lots. Certain automobile-related uses and uses requiring larger parcels are permitted after review by the Planning Commission.

The intent of this district is to provide for, to encourage and to facilitate the development of sound and efficient retailing, parking, personal and business services. To achieve this end, the regulations are so designed to exclude certain uses and activities which typically disrupt the functions of a concentrated business district.

#### **Sec. 8.2. Principal Permitted Uses and Structures.**

In a General Business Districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance and subject to the limitations contained below:

- A. Office buildings including medical and dental clinics but not veterinary clinic having outdoor kennels, financial establishments, funeral homes, municipal buildings and uses, but not including outdoor storage yards.
- B. Generally recognized retail businesses which supply commodities on the premises, such as but not limited, to: groceries, meats, dairy products, baked goods or other foods, pharmacy products, dry goods, clothing, notions, arts & crafts items, and hardware, office supplies, convenience foods, and other similar retail items, excluding outdoor storage yards.
- C. Eating and drinking establishments, hotels or motels, theaters.
- D. Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoe, computers, etc.); tailor shops, self-service laundries and dry-cleaners; beauty parlors, barber shops, tanning salons; physical cultural centers, photographic studios.
- E. Private clubs, fraternal organizations and lodge halls, pursuant to development standards of Sec. 12.4; however, said use is not considered a Special Land Use.
- F. Churches and related facilities, subject to development regulations of Sec. 12.4 of this Ordinance.
- G. Municipal, state or federal uses, including public utility building, telephone exchange building, etc pursuant to development requirements of Sec. 12.4 of this Ordinance

## Pigeon Village Zoning Ordinance

- H. Showroom uses: Passenger cars, trucks, farm equipment subject to Sec. 8.3 (indoor display only; no automotive repair). For outdoor display lots, refer to Sec.
- I. Business service establishments performing services on the premises such as office machine repair, printing, blue-printing.
- J. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer.
- K. Off-street parking lots, subject to provisions of Article 11 of this Ordinance.
- L. Mobile home parks subject to P. A. 96 of 1987, as amended, and General Rules related thereto as adopted by the State Mobile Home Commission; said act being adopted by reference.
- M. Other uses which are similar to the above and subject to the following provisions:
  - 1. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.
  - 2. All business, servicing or processing excepting for off-street parking or loading/unloading space shall be conducted within completely enclosed buildings.
  - 3) Storage of commodities shall be within buildings and shall not be visible to the public from a street or thoroughfare.
  - 4) Off-street parking and loading/unloading space shall be provided as required in Article 11 of this Ordinance.
- N. Signs as provided in Article 10, Section 10.4 of this Ordinance.
- O. Accessory buildings and uses customarily incidental to the above principal permitted uses, subject to Section 8.3 of this Ordinance.

### **Sec. 8.3. Permitted accessory use.**

- A. Any use customarily incidental to the permitted principal use, including outdoor display limited to 500 s.f. for items customarily incidental a principle indoor use (seasonal display).
- B. Drive-in facilities for banking and package pickup are permitted only when accessory to a permitted principal use not being a drive-in type of facility.
- C. Convenience store uses that include the sale of gasoline and other vehicle-related products shall be reviewed pursuant to a dual use. The vehicle related use shall be approved pursuant to Sec. 8.4. prior to consideration convenience store uses. Setback, off-street parking, loading & unloading space, maneuvering lanes, etc.

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### Sec. 8.4. Uses permitted by Special Land Use Permit.

In the General Business Districts, the following uses shall be permitted subject to the conditions hereinafter imposed for each use and subject further to review and approval of the Planning Commission pursuant to the provisions of Article XII of this Ordinance and the Michigan Zoning Enabling Act, as amended.

A. Gasoline service stations for the sale of gasoline, oil and minor accessories and including automotive repair activity where repair activity is conducted within a completely enclosed building; storage of disabled motor vehicles and parts there from is prohibited. The sale of food items, convenience items, etc. is permitted subject to additional on-site parking and maneuvering space pursuant to this Article 11 of this Ordinance.

1) The curb cuts for access to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets/roads immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection, measured from the road right-of-way, or from adjacent residential districts.

2) The minimum lot area shall be fifteen thousand (15,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait. Gasoline service stations which are intended solely for the sale of gasoline, oil and minor accessories and having no facilities for repair or servicing of automobiles, including lubricating facilities, may be permitted on lots of ten thousand (10,000) square feet or larger, subject to all other provisions herein required.

3) A six (6) ft. high screening fence shall be constructed along those property lines which abut a Residential zoning district.

B. Outdoor display lots for exclusive sale of new or used automobiles, recreational units, farm implements, or for rental trailers and or automobiles, subject to the following provisions:

1. The lot or area shall be provided with a durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.

2. Access to the sales lot shall be at least sixty (60) ft. from the intersection of any two (2) roads/streets.

3. No major repair or major refinishing shall be done on the lot and no disabled motor vehicles or parts there from shall

be stored on the property unless stored in a completely enclosed building or screened from public view.

4. All lighting shall be shielded from adjacent residential areas.

5. Off-street parking (where applicable) shall be provided to Article 11 of this Ordinance.

C. Businesses that have a drive-in or open front character, provided that the following can be met:

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1. The setback for buildings or canopies shall be a minimum of forty (40) ft. from the right-of-way line of any adjacent streets..
2. Access drives to the property shall be located at least sixty (60) feet from the intersection of any two (2) streets.
3. All lighting shall be shielded from adjacent residential areas.
4. A four (4) ft. high screening fence shall be provided when abutting or adjacent to residential districts.

D. Veterinary hospitals or clinics, and/or commercial kennels with outdoor animal runs, provided the outdoor areas are fenced and not located within the setback areas.

E. Nurseries which have outdoor storage or display of plants, plant materials, garden supplies, lawn furniture, playground equipment subject to the following:

1. The storage and/or display of any materials and/or products shall meet all setback requirements of the principal building.
2. All loading and parking areas shall be provided on the site.
3. The storage of any soil, fertilizer, or other loose, unpacked materials shall be contained so as to prevent any affects on adjacent properties.

F. Bowling alleys, billiard halls, indoor archery ranges, indoor tennis courts, indoor skating rinks, or similar forms of indoor commercial recreation which located at least fifty (50) feet from any front, rear or side property line when said use or building is adjacent to a residential zoned property.

G. Outdoor commercial recreational facilities such as tennis courts, archery courts, shuffle- board, horseshoe courts, miniature golf facilities, golf driving ranges, baseball batting cages, basketball courts, children's amusement parks, water-slides or similar commercial leisure-time activities, providing all areas or equipment sites are not located in the front yard setback area nor closer than 50 feet from any property line that abuts a residential zoning district; and further, that such activity areas are provided with a security fence around its perimeter. Such perimeters that abut a residential zoning district shall be provided with a six (6) ft. high obscuring wall/fence along the common property line.

H. Publicly owned buildings, public utility buildings, telephone exchange buildings; electric transformer stations substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.

I. Adult entertainment businesses, as defined in this Ordinance, subject to the following provision:

All adult entertainment business locations shall be located a minimum of one thousand (1,000) feet from another adult entertainment business, residence, governmental building, park, library, civic building , church or

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school.

J. Arcades and amusement centers where mechanical, electronic or other devices, excluding music devices, which may be operated or played upon by the placing or depositing coins, slugs or rented, or by paying therefore either in advance of or after use, involving in its use either skill, games, chance, amusement or pleasure including, but not limited to, tape machines, card machines, pinball machines, bowling game, shuffleboard, marble game machine, horse racing machines, basketball (baseball, football, hockey, etc), electronic video games, or any similar devices, where five (5) or more such devices are located at one establishment or center, subject to being located 200 feet or more from properties zoned for residential use.

K. Wholesale stores, storage facilities, warehouse buildings, distribution plants, subject to access, parking and maneuvering standards of this Ordinance.

1. The proposed use is located on a street designated as an arterial or collector in the Village of Pigeon comprehensive development plan.
2. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses and zoning districts.

L. Residential dwelling units subject to the following conditions:

1. Dwelling units shall not be located below the second floor, except where special circumstances warrant locating such use(s) on the first floor.
2. The planning commission may impose any required setback and/or performance standards so as to insure public health, safety and general welfare.

### AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

**Sec. 8.5. Maximum building height [in feet].** Forty feet.

**Sec. 8.6. Maximum building height [in stories].** Two stories.

**Sec. 8.7. Lot line.** All buildings in the Business District may be built on (to) the front property line.

A. *Side yards.* In business districts no side yard shall be required, except, where a lot abuts upon the side of a lot zoned for a residence, there shall be a side yard of not less than five feet in width.

B.

C.B. *Rear yards.* If there is an existing alley, the building may be constructed up to the alley line. If no alley exists in this district, the building shall be set back from the rear lot line a sufficient distance to permit servicing and access to the building by motor vehicle.

### ARTICLE 9. 1-1 INDUSTRIAL DISTRICT (LIMITED MANUFACTURING SCHEDULE OF REGULATIONS)

## Pigeon Village Zoning Ordinance

**Sec. 9.1. Intent & Purpose.** There are two classifications for manufacturing districts: M-1 Light Manufacturing and M-2 Heavy Manufacturing.

Lands in M-1 districts are those suited to industries characterized by low land coverage and the absence of objectionable external effects. Manufacturing plants and uses shall have performance characteristics similar to those uses listed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation.

Lands in M-2 districts are those suited to more intense types of industrial and manufacturing uses which are usually within industrial areas of the village. The following regulations shall apply to the appropriate manufacturing land use classifications as set forth and shall be subject further to provisions to Article VI. General Exceptions and Article XII, General provisions.

### **Sec. 9.2. Principal uses permitted—M-1 Districts.**

M-1 Light Manufacturing:

- A. Special trade contractors, building materials and wholesalers.
- B. Public utilities and communication, such as: electrical receiving or transforming station; radio, microwave, or television broadcasting station, transmitting or receiving towers.
- C. Warehousing, refrigerated and general storage, bulk storage of refined petroleum products as per state and federal regulations.
- D. Local and suburban transit and passenger transportation facilities; trucking, transportation terminals, maintenance and service facilities.
- E. Laundries, laundry services, and cleaning and dyeing plants.
- F. Industrial plants manufacturing, processing or assembling the following:
  1. Agricultural products.
  2. Food and kindred products, excluding slaughterhouses and abattoirs.
  3. Furniture and fixtures.
  4. Converted paper and paperboard products.
  5. Printing, publishing and allied industries.
  6. Biological products, drugs, medicinal, chemical and pharmaceutical preparation.
  7. Glass products made of purchased glass.

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8. Electrical machinery, equipment and supplies, electronic components and accessories.
  9. Professional, scientific and controlling instruments, photographic and optical goods.
  10. Jewelry, silverware and plated ware, musical instruments and parts, toys, amusement, sporting and athletic goods, pens, pencils and other office and artists' materials, costume jewelry and advertising displays.
  11. Canvas products made of purchased canvas.
  12. Fabricated metal products, except heavy machinery and transportation equipment.
  13. Metalworking machinery and equipment; general industrial machinery and equipment.
  14. Office, computing and accounting machines.
  15. Jobbing and repair machine shops.
  16. Monuments, cut stone, and stone products.
- G. Any uses which are charged with the principal function [of] research such as the following:
1. Industrial research, development and testing laboratories and offices.
  2. Scientific research, development and testing laboratories and offices.
  3. Business research, development and testing laboratories and offices.
- H. Any other manufacturing plants and uses having performance characteristics similar to those listed in this district.

### **Sec. 9.3. Principal uses permitted—M-2 districts.**

M-2 heavy manufacturing.

- A. Any principal use permitted in the M-1 light manufacturing district subject to all the regulations of the M-2 districts.
- B. General construction contractors such as highway and street, heavy construction and general building; coal and coke deals [dealers].
- C. Bulk storage of refined petroleum products as per state and federal regulations.

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- D. Railroad and railroad terminal facilities and services related thereto.
- E. Air transportation companies and fixed facilities and services related thereto.
- F. Transportation, communication, power and fuel rights-of-way.
- G. Industrial plants manufacturing, processing or assembling the following:
  - 1. Prefabricated buildings and structural members.
  - 2. Chemical products such as plastic materials, medicinal, chemicals, biological products and pharmaceutical preparations.
  - 3. Leather and leather products such as: industrial belting and packing; footwear; gloves and mittens; luggage and handbags.
  - 4. Stone, clay and glass products such as: flat glass, pressed or blown glass and glass cut stone and stone products, abrasive, asbestos and miscellaneous nonmetallic mineral products.
  - 5. Wooden containers such as: boxes, crates and cooperage.
  - 6. Aluminum, bronze, copper, copper-base alloy and other nonferrous castings.
  - 7. Machinery such as: engines and turbines; farm machinery and equipment; industrial machinery and equipment.
  - 8. Transportation equipment such as: motor vehicle equipment and parts, motorcycles, bicycles and parts.
- H. Any of the following uses, subject to the approval of the planning commission:
  - 1. Junkyards, scrap and waste wholesaling, where conducted entirely within a building enclosed on all sides or when entirely enclosed with a fence approved by the planning commission.
  - 2. Asphalt and concrete mixing plants.
  - 3. Sand and gravel pits.
  - 4. Slaughterhouse.

### **Sec. 9.4. Permitted accessory uses.**

Accessory uses that are clearly subordinate to the main use of the lot or building shall be permitted. Such uses include:

## Pigeon Village Zoning Ordinance

- A. Restaurant or cafeteria facilities for employees.
- B. Caretaker's residence if situated upon a portion of the lot complying with all the requirements of the R-1 residential district.
- C. Office buildings associated with a manufacturing facility.

### **Sec. 9.5. Uses permissible on special use approval—M-1 and M-2 districts.**

The following uses of land and buildings may be permitted in the 1-1 district by the application for issuance of a special land use permit when all the provisional requirements specified in article 12, together with all applicable standards cited in this chapter [article], are met:

- A. Restaurants, taverns and other eating establishments provided the following standards are met:
  - 1. The proposed use is designed, constructed, operated and maintained in harmony with land uses in zoning districts.
- B. Junkyards provided the following standards are met:
  - 1. The site shall be a minimum of five acres in size.
  - 2. An opaque fence or wall at least eight feet in height shall be provided around the entire site. Such a structure shall be of sound construction, aesthetically compatible to its surroundings and maintained on a regular basis.
  - 3. There shall be no stacking of material above the height of the fence or wall, except for movable equipment used on the site.
  - 4. No equipment, materials, signs or lighting shall be used or stored outside the fenced area.
  - 5. All fenced-in areas shall be at least 50 feet from any front street property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of installation.
  - 6. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within an enclosed building.
  - 7. Whenever the installation abuts upon property within a residential or business district, a transportation strip at least 100 feet in width shall be provided between the fenced-in area and the adjacent district. Such a strip shall contain plant materials, grass and structural screen of a type approved by the board of zoning appeals to effectively minimize the appearance of the installation.
- C. Industrial uses, determined by the planning commission to be of more intensive nature, must comply with all conditions deemed necessary and as established pursuant to the provisions of article 12.

### **Sec. 9.6. General Use Requirements.**

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A. Enclosed buildings. Activities in the I-1 District shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors provided that within 200 feet of any other districts said storage shall be in completely enclosed buildings.

All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exist gates, which fence or wall shall be at least four feet in height, but in no case shall the fence be lower than the enclosed storage, up to a maximum of eight feet in height. Such storage shall be deemed to included the parking of licensed motor vehicles over 1 ½ tons rated capacity.

B. Retail sales and residential dwellings are expressly prohibited.

C. Uses in the I-1 District shall conform to the following standards:

1. Emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare, except those produced by internal combustion engines under design operating conditions.
2. Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the parcel.
3. Produce no heat or glare to such an extent to be detrimental to the health, safety and general welfare at or beyond the lot boundaries.
4. Produce no physical vibrations to such an extent to be determined detrimental to the health, safety and general welfare at or beyond the lot boundaries.
5. Does not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor include the use of any such material in production.
6. Shall conform to all local, state and applicable federal pollution control standards, including noise, air and water quality requirements.

### AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

**Sec. 9.7. Maximum building area.** Coverage of lot including accessory buildings in percent of lot area: Thirty-five percent [35%].

**Sec. 9.8. Front yard.** Twenty-five feet.

**Sec. 9.9. Side yard.** Each side yard shall be ten feet.

**Sec. 9.10. Maximum building height.** Sixty [60'] feet.

**Sec. 9.11. Minimum lot size.** Twelve thousand [12,000 s.f.] square feet.

**Sec. 9.12. Minimum frontage.**

Each lot shall be a minimal frontage of 100 feet. Where a lot in this district abuts a lot in any residential district no building in the I-1 District shall be closer than 100 feet to the property line of such residential lot. When the side or rear yard area abuts land within a residential district and when such yard areas are to be used for parking,

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loading, unloading, or servicing, the such side and rear yard areas shall be effectively screened by a solid, uniformly finished wall or fence. Such wall or fence shall be at least eight feet tin height, but in no case shall the fence or wall be lower than the enclosed parking, loading or servicing activity to be screened.

Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall be used for parking, loading, storage or accessory structures. Side and rear yards, except for a strip along the lot boundary ten feet in width, may be used for parking and loading but not for storage. The side and rear yard may be eliminated where a railroad service to the site is obtained at the edge of the lot.

### ARTICLE 10. SUPPLEMENTARY REGULATIONS

#### Sec. 10.1. Required access.

No dwelling shall be built on or moved to a lot unless the lot is fronting upon a street.

#### Sec. 10.2. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Village of Pigeon, it being the intention hereof to exempt such essential services from the application of this ordinance.

#### Sec. 10.3. Fences (residential)

Fences are permitted, or required subject to the following:

##### A. Materials; location; height.

1. In residential areas all fences shall be constructed of posts sunk in soil at least two feet and be construction of posts, boards, or other materials without barbs or projections likely to cause injury. Posts shall be erected upon the property owner's side, with the finished side toward the adjoining property owner.
2. Fences on all lots of record in the R-1 Residential Districts which enclose property up to six feet in height, measured from the surface of the ground, shall not extend toward the front of the lot near than the front of the house or the required minimum front yard whichever is greater. Fences and hedges may not exceed six feet in height.
3. No wall or hedge planting shall exceed a height of three feet within any residential front yard. Clear vision fences are permitted in front yards but shall not exceed four feet in height. On a corner lot or parcel, no fence, wall or planting shall be allowed except as may be permitted by the zoning administrator who shall be reasonable assured that such fence, wall or planting will not interfere with traffic visibility across a corner.
4. On a corner lot or parcel, fences with enclosed property shall not exceed six feet in height, measured from the surface of the ground and shall not be placed nearer the side lot line than the required front yard setback. Only walls and hedges less than three feet in height or clear vision fences up to four feet in height shall not be subject to setback requirements.
5. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.
6. To build or to cause to be built a partition fence or grow a hedge or cause to grow a partition hedge, in a residential area, any person shall obtain written permission from the owner, or owners, of the adjoining lots, granting him permission to build a fence or grow a hedge and granting him access to their property for the purpose of maintaining such a fence or hedge. A partition fence may be built by adjoining owners if all

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parties involved sign the permit, and provide for maintenance thereof; and any such permission shall run with the land and may be terminated only by mutual consent.

7. Fences which enclosed public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots, shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.

8. Fences and hedges must be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise, imperils life or property shall be deemed a nuisance. The zoning administrator of the Village of Pigeon shall notify the owner of the property upon which the fence is located of the existence of such a nuisance and said nuisance must be abated within 30 days after receipt of such notice. Notice may be written or printed and served personally or by certified mail upon the owner or occupant, or by posting the same in a conspicuous place upon the premises. Said notice shall specify the work to be done and state that the same may be done by the village and the expense thereof assessed against the premises and the village council is hereby granted power to perform such acts and levy such assessment.

### **Sec. 10.3.1 Fences (industrial).**

Protective Fence: A fence erected for the expressed purpose of protection of the enclosed area and its contents in all areas of business, industrial and all areas other than residential areas. When such protective measures fence employs barbed wire along the uppermost edge, the minimum height for such fence, below the barbed wire extension, shall be six feet.

### **Sec. 10.4. Signs, general.**

No sign, except those established and maintained by the Village, County, State or federal governments shall be located in, project into, or overhang a public right-of-way or dedicated public easement. EXCEPTION: No sign shall project over a street or other public space more than ten feet from the face of the building or structure, nor in any case beyond the vertical plane two feet inside the curb line.

Signs that are in need of repair (other than normal maintenance), not securely affixed to a substantial structure, obsolete, affixed to trees, rocks or other natural features, resemble official traffic signs or obstruct official signs, or obstruct the vision of oncoming vehicles or pedestrian are prohibited.

Signs advertising a business or use that no longer occupies a site shall be removed within 6 months of the vacancy of such site.

There shall be no flashing or intermittent or red or blue or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street or road, or at any intersection of two or more streets. All illuminated sign shall be so placed to prevent the rays and illumination there from being placed upon neighboring residences within a residential district and shall be located not less than 100 feet from such residential district.

A. Signs in residential district. In residential R districts, identification signs are permitted as follows:

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1. For dwelling principal and accessory uses (see schedule of regulations), one sign displaying the street number and name of the occupant of a dwelling unit, not exceeding one square foot in area. Such sign may identify an accessory use.
2. For principal and accessory uses other than dwellings and for special exceptions uses, one bulletin or announcement board not exceeding 32 square feet in area. No sign shall be located nearer to a front lot line than one-half the depth of the front open space.
3. "For Sale" or "For Rent" signs, not to exceed six square feet in area, advertising only the premises on which erected.
4. In subdivision developments, one subdivision sign advertising the sale or rental of premises may be maintained, having an area of not more than 32 square feet and having an overall height of not more than 12 feet above the ground.
5. One trespassing, safety or caution sign not over two square feet in area shall be permitted on a lot.
6. No sign shall be illuminated by other than continuous indirect white light, nor shall contain any visible moving parts.

B. Signs in business districts. In the General Business (B) District, identification and business signs are permitted, as follows:

1. Any sign permitted in residential districts.
2. Attached on-site signs: one or more attached signs pertaining to the use of the premises on which they are placed, the total of all such signs not exceeding a total area of one square foot for each three square feet of wall surface area facing [the] front lot line or a maximum of one hundred (100) square feet. Advertising signs or business logos are prohibited on the side(s) or rear of buildings.
3. Pedestal (pole) signs: maximum of 35 feet high or the height of the building and not to exceed 100 s.f. of area per side.
3. No sign facing directly across a street or across an adjoining lot line upon property in a residential district shall be illuminated by other than continuous indirect white light, nor shall contain any visible moving parts.

C. Signs in Industrial Districts. In Industrial (1) Districts, identification, business and advertising signs are permitted as follows:

1. Any sign permitted in section 10.4.B. not exceeding a surface area of 100 square feet.
2. Any sign, including billboard (off-premise advertising) sign not exceeding a surface area of 300 square feet per side, when conforming to the area, height, bulk and placement regulations of Article 9 for buildings in the district.

### Sec. 10.5 General Performance Standards.

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The following shall be considered to be the minimum performance standards subject to county, state or federal standards and requirements which may be more restrictive:

- A. Odors- The emission of obnoxious odors, noise, dust fumes or vibrations of any kind shall not be permitted which are contrary to the public health, safety and general welfare.
- B. Gases- No gas shall be emitted which is detrimental to the public health, safety and general welfare.
- C. Glare and Heat- Glare and heat from arc welding, acetylene torch cutting, or similar processes shall be performed so as not to have an adverse effect outside of the property.
- D. Fire and Safety Hazards- The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with state rules and regulations as established by Public Act 207 of 1941, as amended.
- E. Drifted and blown material - The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

### **ARTICLE II. OFF-STREET PARKING AND LOADING**

#### **Sec. 11.1. Required off-street parking.**

General off-street parking in conjunction with all land and building uses shall be provided as herein prescribed.

A. The minimum number of off-street parking spaces shall be determined in accordance with the following table in Section 11.2. For uses not specifically mentioned therein, off-street parking requirements shall be interpreted by the board of zoning appeals from requirements for similar uses.

B. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal required facilities are provided elsewhere. Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than would hereinafter be required for such building or use.

C. The off-street parking may be provided either by individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.

D. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses

computed separately. However, in cases of dual functioning of off-street parking where peak operating hours do not overlap, the board of zoning appeals may grant a special exception based on the peak hour demand.

E. Required off-street parking shall be for the use of occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles is prohibited. All off-street parking, whether public or private, for nonresidential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

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F. Where off-street parking in permanent public ownership and operation exists in quantity and location greater than would be necessary to fulfill the requirements of this ordinance for the existing contiguous building, then such excess number of parking spaces may be prorated to the land area within 300 feet, as measured in paragraph E., above, to the extent that the parking requirements are thereby met. The board of zoning appeals shall determine such proration calculation. To the extent of such proration calculation, the board of zoning appeals may grant special exception to the minimum number of off-street parking spaces required to be provided prior to the issuance of a certificate of occupancy for any new building or new use.

G. Off-street parking shall be provided as hereinafter required, prior to the issuance of a certificate of occupancy; provided, where a parking program for a specified area to be carried out by public action is established by an official plan that proposes parking spaces comparable to the quantitative requirements of this ordinance and includes a time schedule of land acquisition and construction, certificates of occupancy for all land or building uses within such officially planned area shall not be contingent upon prior provision of off-street parking.

**Sec. 11.2. Table of required off-street parking spaces.** (The use is followed by the number of required spaces per unit of measurement, rounded off to the nearest unit).

- A. Residential, including dwelling units in all types of buildings: **Two**—Dwelling unit.
- B. Hospital, convents, homes for aged, convalescent homes: One—Each bed, **plus employee parking equal to the number of the largest shift.**
- C. Private clubs, fraternities, dormitories: One—Two beds or 100 square feet usable floor area, whichever is greater.
- D. Tourist homes, motels, hotels: One—Each rooming unit and each dwelling unit.
- E. All other uses must demonstrate to the commission adequate parking facilities to accommodate expected needs.

**Sec. 11.3. Off-street parking lot layout, construction and maintenance.**

Wherever a parking lot is built as required off-street parking, such parking lot shall be laid out, constructed and maintained in accordance with the following requirements. In determining conformity with the requirements set forth in A. through J., below, the administrative officer may request the findings of a qualified engineer.

- A. Each parking space shall constitute a new land area of at least 180 square feet. The total parking lot space, including access lanes, shall constitute at least 300 square feet of land area per parking space.
- B. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.
- C. Where the parking lot abuts a residential district, the required setbacks of parking spaces are:
  - 1. Side lot lines: Five feet from such side lot line.
  - 2. Contiguous common frontage in same block: Five feet from such lot line.

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3. Across the street and opposite, with residential lots fronting on such street: Five feet from street lot line.
4. Rear lot line: None.

D. The land between the setback line and the lot line in a parking lot is for the purposes of this ordinance called a buffer strip. There shall be bumper stops or wheel chocks provided as to prevent any vehicle from projecting over the buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials.

E. Where buffer strips are not required, bumper stops or wheel chocks shall be provided, so located as to prevent any vehicle from projecting over the lot line.

F. Where the parking lot boundary adjoins property zoned for residential use, a suitable chain-link wire or masonry fence shall be provided, but shall not extend into the required front open space of the abutting residential lot. Such fence shall be not less than four feet nor more than six feet in height. Where a chain-link wire fence is used, it shall be supplemented with a visual screen or evergreen plant material at least four feet [in] mature height and maintained in good condition.

G. The parking lot shall be drained to eliminate surface water.

H. The surface of the parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of a dustless and durable all-weather surfacing. Lighting shall be arranged to reflect away from residential buildings, residential districts and streets.

I. Parking structures may be built to satisfy off-street parking requirements when located in commercial or industrial zone districts, subject to the area, height, bulk and placement regulations of such district in which located.

J. Automotive sales areas [and filling stations]. Every parcel of land hereafter used as an automobile or trailer sales area or as an automobile filling station shall be subject to the above requirements of this section.

### Sec. 11.4. Off-street loading and unloading.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, display, including a department store, a wholesale store, a market, a hotel, a motel, a hospital, or mortuary, a laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading, designed to avoid interference with public use of streets and alleys. Such loading and unloading spaces shall be an area in minimum ten feet by 40 feet with a 14-foot height clearance and shall be provided according to the following table.

The following table lists the gross usable floor area in square feet and the loading and unloading spaces required in terms of square feet of usable floor area:

0 to 20,000	1 space
20,000 to 100,000	1 space plus 1 space for each 20,000 square feet of excess over 20,000 square feet
100,000 to 500,000	5 spaces plus 1 space for each 40,000 square feet of excess over 100,000 square feet
Over 500,000	15 spaces plus 1 space for each 80,000 feet of excess over 500,000 square feet

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## ARTICLE 12. SPECIAL LAND USE PERMIT REQUIREMENTS

### Sec. 12.1. Intent and purpose.

It is the intent of this section to provide a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole.

It is the expressed purpose of the regulations and standards herein to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community.

For the purposes of this ordinance the following special land use categories are identified, which, together with cited special land uses within the various districts, are operational under the conditions and standards of this chapter [article]:

- A. Institutional uses.
- B. Clubs, lodges and meeting places for other organizations.
- C. Funeral homes and mortuaries.
- D. Gasoline filling stations.
- E. Miscellaneous special land uses.

The following, together with previous references in other chapters [articles] of this ordinance, designate the requirements, procedures and standards which must be met before a special use permit can be issued.

### Sec. 12.2. Permit procedures.

The application for a special land use permit shall be submitted and processed under the following procedures:

A. *Submission of application.* An application shall be submitted through the zoning administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the village council.

In the event the allowance of a desired use requires both a rezoning and a special land use permit, both requests may be submitted jointly, subject to the following:

1. The ordinance procedures for each shall be followed as specified in this article.
2. All applicable standards and specifications required by this ordinance shall be observed.

B. *Data required.*

1. The special form shall be completed in full by the applicant including a statement by the applicant that section 12.3 can be complied with.
2. Final approval of a site plan that conforms to the requirements of section 6.1.

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3. Preliminary plans and specification of the proposed development.

*C.[Review by] the Village of Pigeon Planning Commission.* The application, together with all required data, shall be transmitted to the planning commission for review. After review and study of any application and related material the planning commission shall hold a public hearing after at least one publication in a newspaper of general circulation in the community, not less than 15 days prior to the said hearing. All property owners and residents within 300 feet of the boundary of the property in question shall receive notice by mail or personal delivery, not less than five and not more than 15 days before the public hearing. The notice shall comply with requirements of PA 110 of 2006, being the Michigan Zoning Enabling Act:

1. Describe the nature of the special land use request.
2. Indicate the property subject to the special land use request.
3. State when and where the public hearing will be held.
4. Indicate when and where comments will be received.

*D. Permit expiration.* A special land use permit issued pursuant to this chapter [article] shall be valid for one year from the date of issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the zoning administrator shall notify the applicant in writing of the expiration of said permit.

*E. Revocation.* The planning commission shall have the authority to revoke any special land use permit after it has been proven that the holder of the permit has failed to comply with any of the applicable requirements in Article 12, or other applicable sections. Written notice of violation shall be given by the zoning administrator to the holder of the permit and correction must be made within 30 days. After this 30-day period, an additional notice shall be given by the zoning administrator, that the use for which the permit was granted must cease within 30 days from date of second notice.

*F. Reapplication.* No application for a special land use permit which has been denied wholly or in part by the planning commission shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence or proof or change of conditions.

### **Sec. 12.3. Permit standards.**

Before formulating recommendations on a special land use permit application, the planning commission shall establish that the following general standards, as well as specific standards, shall be satisfied:

*A. General standards.* The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each proposed use will:

1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
2. Not be hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole.
3. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.

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4. Not create excessive additional requirements at public cost for public facilities and services.
5. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
6. Be consistent with the intent and purpose of the zoning district in which it is proposed to locate such use.

B. *Conditions and safeguards.* The planning commission may stipulate such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this ordinance will be observed. The breach of any condition, safeguard, or requirements shall automatically invalidate the permit granted.

C. *Specific requirements.* The general standards and requirements of this section are basic to all uses authorized by special land use permit. The specific and detailed requirements set forth in the following sections relate to particular uses and are requirements which must be met by these uses where applicable.

D. *Permitted uses.* Uses permitted by special land use permit shall be those listed by districts as noted in article 7, 8, [and] 9 and as herein regulated, controlled or defined.

### Sec. 12.4. Institutional uses.

A. *Authorization.* In recognition of the many institutional types of nonresidential functions that have been found compatible and reasonably harmonious with residential uses, certain institutional uses specified in this section may be authorized by the issuance of a special land use permit. Such permit shall not be issued unless all the procedures and applicable requirements stated herewith, together with the additional requirements of this section, can be complied with.

B. *Uses.* The following uses may be authorized in those districts as noted under articles 7 and 8 and provided the applicable conditions are complied with:

1. *Institutions for human care.* Hospitals, sanitariums, nursing or convalescent homes, homes for the aged, foster care facilities, philanthropic and charitable institutions.
2. *Religious institutions.* Churches or similar places of worship, convents, parsonages, and parish houses, and other housing for clergy.
3. *Educational and social institutions.* Public and private elementary and secondary schools, and institutions for higher education, provided that none are operated for profit, auditoriums and other places of assembly, including charitable and philanthropic activities other than activities conducted as a gainful business of a commercial nature.
4. *Public buildings and public service installations.* Publicly owned and operated buildings and structures, transformer stations and substations, and gas regulator stations.

C. *Institutions specifically prohibited.* The following type of use shall not be permitted in any residential district:

1. Camps or correctional institutions.

D. *Site location principles.* The following principles shall be utilized to evaluate the proposed location of an

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institutional use within a permitted district. These principles are alterable, depending upon the specific conditions of each situation, but they shall be applied by the planning commission as general guidelines to help assess the impact of an institutional use upon the district in which such use is proposed to be located.

1. Any institutional structure or use to be located within a residential district should preferably be located at the edge of a residential district, abutting either a business or industrial district, or adjacent to a public open space.
2. Motor vehicle entrance should be made on a principal arterial as to avoid the impact of traffic generated by the institutional use upon a residential area.
3. Site locations should be preferred that offer natural or manmade barriers that would lessen the effect of the intrusion of the institutional use in a residential area.

E. *Development requirements.* A special land use permit shall not be issued for the occupancy of a structure or parcel of land or for the erection, reconstruction, or alteration of a structure unless complying with the following site development requirements. These requirements are not alterable except as noted:

1. Hospitals, schools, churches, temples and synagogues.
  - a. The proposed site shall have at least one property line abutting a principal or minor arterial or a collector as classified on the adopted major street plan. All ingress and egress to the off-street parking area (for guests, employees, staff) shall be directly from the major thoroughfares. The depth of the lot shall be three times the width of the lot.
  - b. All two-story structures shall be at least 60 feet from all boundary lines or street lines. Buildings less than two stories shall be no closer than 40 feet to any property or street lines. For buildings above two stories, the building shall be set back from the initial 60 feet setback an additional one foot for each foot or [of] additional height above two stories.
  - c. No more than 35 percent of the gross site shall be covered by buildings.
  - d. Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a principal or minor arterial or collector street.
  - e. All signs shall be in accordance with the schedule outlined in section 10.4.
  - f. Off-street parking space shall be provided in accordance with the schedule outlined in Article 11.
2. For all other uses that may be permitted, except public utility transformer stations and substations, gas regulator stations, and housing for religious personnel attached to a church or school function:
  - a. The proposed site shall be at least one acre in area.
  - b. No building shall be closer than 40 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located, except as may be provided under height exceptions for the district in question.
  - c. No more than 25 percent of the gross site area shall be covered by buildings.

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d. All buildings shall be of an appearance that shall be harmonious and unified as a group of buildings and shall blend appropriately with the surrounding area.

e. All signs shall be in accordance with the schedule outlined in section 10.4.

f. Off-street parking shall be provided in accordance with the schedule outlined in Article II. No parking space shall be provided in the front yard and the parking area shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials, not less than four feet in height.

3. For public utility transformer stations and substations, gas transformer stations and housing for religious personnel attached to a church or school function:

a. Lot area and lot width shall be no less than that specified for the district in which he proposed use would be located.

b. Yard and setback requirements shall be no less than that specified for the district in which the proposed use would be located.

c. No building shall be erected to a height greater than that permitted in the district in which the proposed use would be located.

d. No more than 25 percent of the lot area may be covered by buildings.

e. All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other buildings on the same site development.

f. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

g. All signs shall be in accordance with the schedule outlined in section 10.4.

h. Off-street parking space shall be provided in accordance with the schedule outlined in Sec. \_\_

### **Sec. 12.5. Clubs, lodges and meeting places for other organizations.**

A. *Authorization.* These uses may be permitted within listed district by issuance of a special land use permit pursuant to district allowance and all standards herein specified.

B. *Uses.* The following uses may be authorized in those districts as noted under Article(s) 8 and 9, and provided the applicable requirements are complied with:

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1. Service clubs and lodges.
2. Meeting places for other organizations.
3. Athletic and sports clubs.

Accessory uses for a permitted use shall be constructed to include restaurant and other eating or drinking establishments and such retail sale directly connected with the conduct of the principal use.

C. *Site location principles.* The following principles shall be used in evaluating the proposed location of a permitted use under section 12.5:

1. Allowed use should be located to be immediately accessible from a principal or minor arterial or collector street as classified by the adopted major street plan.
2. Site location should be allowed which enhances the natural environment and amenities for community life.

D. *Development requirements.* The following standards shall be applicable as basic requirements for the use of land or for the erection, reconstruction, or alteration of permitted structures:

1. Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residential lands which adjoin the site.
2. Off-street parking shall be provided as required in article II, which shall include additional spaces which may be required for such accessory uses as a restaurant or bar.
3. Signs shall be in accordance with the schedule outlined in section 10.4.
4. Minimum yard and height standards require that no building shall be closer than 50 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located, except as may be provided under height exceptions for the district in question.

### **Sec. 12.6. Funeral homes, mortuaries and crematoriums.**

A. *Authorization.* Because funeral homes and mortuaries perform special and necessary services to urban populations, and in recognition of the unique locational and site development characteristics of these functions, such uses of land may be authorized by special land use permit under Article 7 when all of the procedures and applicable requirements stated and the additional requirements of this section can be complied with.

B. *Uses that may be permitted.* Funeral homes, mortuaries and crematoriums, provided that the conduct of all aspects of activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.

C. *Development requirements.* The following requirements for site development, together with any other applicable requirements of this ordinance, shall be complied with:

1. *Minimum site size.* One-acre site with a minimum width of 150 feet.
2. *Site location.* The proposed site shall front upon a major or minor arterial or principal collector as classified on the adopted street plan. All ingress and egress to the site shall be directly from said thoroughfare.

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3. *Yards.* Front, side and rear yards shall be at least 40 feet, except on those sides adjacent to nonresidential districts, wherein it shall be 20 feet. All yards shall be appropriately landscaped in trees, shrubs, and grass. No structures or parking areas shall be permitted in said yards, except that rear yards may be used for parking purposes under the requirements specified, and except for required entrance drive and those walls and/or fences used to obscure the use from abutting residential districts.
4. Signs as provided in section 10.4.
5. Off-street parking as provided in Article 11.

### **Sec. 12.7. Gasoline filling stations.**

A. *Authorization.* Facilities to serve motor vehicles are of considerable importance within urbanizing areas where the basic mode of transportation is by private automobile. The continued growth of motor vehicle registrations and of total miles traveled annually has stimulated additional needs for retailing gasoline and associated products. To meet the demands of location and space for this type of retail facility requires careful planning to properly integrate the service station function into the pattern of other commercial and retail activities serving the community. Because such integration requires special considerations relating to location, site layout, storage facilities, traffic, safety, and compatibility with surrounding uses of land, this ordinance requires conformance to the standards set forth in this section before a building permit may be issued for a gasoline service station under a special land use permit within a B or I zoning district.

B. *Objectives.* It is the intent of this section to exercise a measure of control over service stations and permitted buildings, and their sites, and to establish a basic set of standards within which individual solutions may be developed to meet the retail service needs of motor vehicles. The objectives of the regulations set forth in this section are to:

1. Promote the type of development which will be compatible with other land use activities located in areas where service stations will be constructed.
2. Control those aspects of service station design, site layout, and operation which may, unless regulated, be damaging to surrounding uses of land.
3. Minimize the traffic congestion and safety hazards which are inherent in service station activity.

C. *Uses that may be permitted.* Gasoline filling stations as defined in article 2, section 2.8 [2.1], including the servicing of motor vehicles under 1/2 tons rated capacity such as minor adjustments to motor vehicles, sales and installation of automotive accessories, and other servicing of motor vehicles, provided such accessory uses and services are conducted wholly within a completely enclosed building.

D. *Site development requirements.* The following requirements for site development, together with any other applicable requirements of this ordinance, shall be complied with:

1. *Minimum site size.* Fifteen thousand square feet with a minimum width of 150 feet.
2. *Site location.* The proposed site shall have at least one property line on a principal or minor arterial.
3. *Building setback.* The service station building, or permitted buildings, shall be set back 50 feet from all street right-of-way lines and shall not be located closer than 50 feet to any property line in a residential district unless separated there from by a street or alley.

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- a. No installations, except walls or fencing and permitted signs, lighting, and essential services, may be constructed closer than 20 feet to the line of any street right-of-way.
  - b. Hydraulic hoists, pits, and all lubrication, greasing, automobile washing, and repair equipment shall be entirely enclosed within a building.
4. *Access drives.* No more than two driveway approaches shall be permitted directly from any principal or minor arterial nor more than one driveway approach from any other street, each of which shall not exceed 35 feet in width at the property line.
- a. If the service station or permitted building site fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable, but not less than 50 feet.
  - b. No driveway or curb for a driveway shall be located within ten feet of an adjoining property line and shall be no less than 25 feet from any adjacent lot within an R district as extended to the curb or pavement.
  - c. Any two driveways giving access to a single street should be separated by an island with a minimum dimension of 20 feet at both the right-of-way line and the curb or edge of the pavement.
5. *Curbing and paving.* A raised curb at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt.
6. *Fencing.* A solid fence or wall four feet in height shall be erected along all property lines abutting any lot within a residential district or abutting an alley which abuts a residential district.
7. *Signs.* Signs shall be allowed as provided for in section 10.4. No signs, whether permanent or temporary, shall be permitted within the public right-of-way.
8. *Off-street parking.* Off-street parking shall be provided in conformance with the schedule outlined in article II.
9. *Lighting.* Exterior lighting shall be so arranged so that it is deflected away from adjacent residential districts and adjacent streets. The height of lighting shall not exceed 12 feet when located within 200 feet of a residential district and further may not exceed a height of 16 feet otherwise.

### Sec. 12.8. Miscellaneous special uses.

#### A. *Special open space uses.*

1. The proposed site shall have at least one property line abutting a major thoroughfare or principal collector as classified on the adopted street plan. All ingress and egress to the site shall be directly from said thoroughfare or collector street.

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2. All buildings and structures shall be set back at least 100 feet from any property or street line. Whenever the installation abuts upon property within a residential district, this 100-foot setback shall be landscaped with trees, grass, and structural screens of a type approved by the board of zoning appeals to effectively screen the installation from surrounding residential properties.
3. No more than 35 percent of the gross site shall be covered by buildings.
4. Accessory uses for a permitted use shall be constructed to include restaurants and other eating or drinking establishments and such retail sales directly connected with the principal open space use.

### ARTICLE 13. ADMINISTRATION

#### Sec. 13.1. General requirements.

The provisions of this ordinance shall be administered by the planning commission, the board of zoning appeals, and the village council in conformance with applicable State of Michigan enabling legislation.

A. *Responsibility.* The village council shall employ a zoning administrator to act as its officer to effect proper and adequate administration of this ordinance. The term of employment, compensation, and any other conditions of employment shall be established by said council. For the purposes of this ordinance, the zoning administrator shall have the power of a police officer.

B. *Duties of zoning administrator.*

1. All applications for permits or certificates shall be submitted to the zoning administrator, who may issue certificates of zoning compliance when all applicable provisions of this ordinance have been met. The zoning administrator shall be empowered to make inspections of buildings or premises to carry out his duties in the enforcement of this ordinance.
2. The zoning administrator shall record all nonconforming uses existing at the effective date of this ordinance for the purpose of carrying out the provisions of section 6.2 of this ordinance.
3. Under no circumstances is the zoning administrator permitted to make changes in this ordinance nor to vary the terms of this ordinance in carrying out his duties.

C. *Permits.* No building or structure shall be erected, moved, enlarged, substantially altered, or razed nor shall any work be started on such structures or buildings after the effective date of the ordinance, until a site permit has been obtained from the zoning administrator. No such site permit shall be issued unless the request for the site permit is in conformance with the provisions of this ordinance or amendments adopted from time to time after the effective date of this ordinance. Site permits issued shall remain valid for one year from date of issue and, unless construction is started within that year, the permit expires. In the event a site permit expires, a new permit must be obtained prior to commencing construction.

D. *Application requirements.* As a portion of the application for a site permit, the following information shall be

## Pigeon Village Zoning Ordinance

included on a drawing of the property or site to scale showing:

1. Shape, area, dimensions, of the lot or parcel and location of street(s).
2. Location, dimensions and height of existing and/or proposed structures to be erected, altered or moved on the lot.
3. Use intended and intensity (such as: single-family dwelling, farm building or trailer).
4. Yards, open space, setbacks, and parking dimensions (if off-street parking is required), including driveways.
5. Flood area and wetlands.

The zoning administrator shall seek to determine and may request needed information to make a finding if the permit being requested is within 500 feet of an existing river or creek. In those instances where a building or structure is proposed to be built within 500 feet of a river or creek, as defined by the State of Michigan, the zoning administrator shall not issue a site permit unless plans are approved by the Michigan Department of Environmental Quality (MDEQ)

6. Other permits required prior to obtaining building permit:
  - a. Sewer or septic system permit: Huron County health department.
  - b. Soil erosion control measures and plan approved for sites where more than one acre of land is being disturbed, or if site is within 500 feet of a lake, stream or creek: Huron County building and zoning department.
  - c. Culvert permit: Huron County road commission.
  - d. Any other permits as may be required, e.g., building, electrical, plumbing, mechanical: Huron County Building/Inspection Services Department, Bad Axe, Michigan.
7. Any other information deemed necessary by the zoning administrator to assure that the site permit request is in compliance with the provisions of this ordinance.
8. The site permit shall be required to secure a building permit issued by the building inspector operating within the Village of Pigeon.
9. Fees for the issuance of site permits shall be made to the Pigeon village treasurer in advance of the issuance of the site permit. Such fees are necessary to cover the costs involved and shall be established from time to time by the Pigeon village council.

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### Sec. 13.2. Enforcement.

The zoning administrator shall enforce the provisions of this ordinance.

A. *Violation and penalties.* Violations of any provisions of this ordinance are declared to be a nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this ordinance observed by or communicated to an official or employee shall be reported to the zoning administrator.

1. *Inspection of violation.* The zoning administrator shall inspect each alleged violation or violations he observes or is aware of and shall order correction, in writing, of all conditions found to be in violation of this ordinance.

2. *Correction period.* All violations shall be corrected within a period of 30 days after the order to correct is issued or in such longer period of time, not to exceed six months, as the zoning administrator shall determine necessary and appropriate. A violation not corrected within this period shall be reported to the village's legal council [counsel], who is hereby authorized to and shall initiate procedures to eliminate such violation.

3. *Penalties.* Every person, whether as principal, agent, servant, employee or otherwise, including the owners of any building, structure or premises or part thereof where any violation of this ordinance shall exist or shall be created, who shall violate or refuse to comply with any of the provisions of this code, shall be guilty of maintaining a nuisance per se and upon conviction thereof shall be punished by a fine of not more than \$500.00 or by imprisonment for a term of not to exceed 90 days, or by both such fine and imprisonment, within the discretion of the court; for each and every day the violation continues beyond the permissible grace period, a separate offense shall be declared.

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

### Sec. 13.3. Amendment.

A. *[Generally.]* The village council may amend the regulations and provisions stated in the text of this ordinance and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by ordinance of the village council in accordance with the applicable zoning enabling legislation of the State of Michigan.

B. *Initiation of amendments.* Proposals for amendments, supplements, or changes may be initiated by the village council of its own action, by the planning commission or by petition of one or more owners, or their agents, of property involved in by the proposed amendment.

C. *Amendment procedures.* All procedures are pursuant to PA 110 of 2006, being the Michigan Zoning Enabling Act.

## **Pigeon Village Zoning Ordinance**

1. *Filing of applications.* All petitions for amendments to this ordinance shall be in writing, signed and filed in triplicate with the village clerk for presentation to the village council. A fee, as established by the village council, shall be paid at the time of application to cover costs of necessary advertising, for public hearings, and investigation of the amendment request. The village council shall transmit the application to the planning commission for recommended action.
  
2. *Referral of petition to planning commission.* The planning commission shall consider each petition for amendment in terms of its own judgment on particular factors related to the individual petition and in terms of the likely effect of such proposal upon the development of the lone case. The planning commission may recommend any additions or modifications to the original amendment petition.
  
3. *Public hearing and notice thereof.* After deliberation on any petition, the planning commission shall conduct at least one public hearing, notice of the time and place of which shall be given in at least one publication in a newspaper of general circulation in the community not less than 15 days prior to the date set for the public hearing. Not less than 15 days' notice of the time and place of such hearing shall also be given, by mail, to each public utility company servicing the community, and which has registered its name and mailing address for the purpose of receiving such notice, and to each railroad company servicing the community, and to each railroad within the zone affected. The notice shall include the places and times at which the tentative text and/or map amendment to the zoning ordinance may be examined. An affidavit of mailing shall be maintained. Additionally, it is required that, if an individual property or several adjacent properties are proposed for rezoning, the notice of the proposed rezoning and hearing shall be given to the property owners at least 15 days prior to the public hearing, stating the time, place, date and purpose of the hearing. Notice shall also be given to all property owners and residents within 300 feet of the boundary of the property in question by mail or personal delivery, not less than five and not more than 15 days before the public hearing.
  
4. *[Action by] Village Council.* Upon receipt of the planning commission's report and a summary of the public hearing comments, the village council shall review said report. If the village council shall deem that any amendments, changes, additions or departures are advisable to the proposed ordinance amendment recommended by the planning commission, it shall refer the same back to the planning commission for a report thereon within a time specified by the village council. After receiving the proposed amendment recommendations heretofore specified, the village council may require a second public hearing on the proposed amendment within 30 days of receipt of the planning commission's report. Thereafter, the village council may deny, or adopt, the amendment with or without any changes.
  
5. *Resubmittal.* No application for a rezoning, which has been denied by the village council, shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the village council to be valid.
  
6. *Effect of protest to proposed amendment.*

## Pigeon Village Zoning Ordinance

a. An amendment to a zoning ordinance is subject to a protest petition as required Sec. 403 of the Michigan zoning enabling act. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body, unless a larger vote, not to exceed a 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body before final legislative action on the amendment and shall be signed by 1 or more of the following:

(1) The owners of at least 20% of the area of land included in the proposed change.

(2) The owners of at least 20 % of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

b. Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection a above..

7. *Notice of adoption.* Within 15 days following adoption of an ordinance or an amendment by the village council, a notice of adoption, containing the information specified in this new section, must be published in a newspaper of general circulation in the village. Said notice shall include the following information:

a.1. For newly adopted ordinances, the following statement: "A Zoning Ordinance regulating the development and use of land has been adopted by the Village Council of the Village of Pigeon."

a 2. For amendment to an existing ordinance, a summary of the regulatory effect of the amendment or the text of the amendment.

b. The effective date of the ordinance.

c. The place and time where a copy of the ordinance may be purchased or inspected.

### **Sec. 13.4. Board of Zoning Appeals.**

#### ***A. Creation and membership.***

The Pigeon Village Zoning Board of Appeals is established by and operates under Article VI, Sec. 601 of P.A 110 of 2006 [a.k.a. Michigan Zoning Enable Act]. The Village Council is authorized to serve as the Zoning Board of Appeals under Sec. 601 (2) of said Act.

#### ***B. Organization and procedures.***

1. *Rules of procedure.* The Board of Zoning Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The board shall choose its chairperson and in his/her absence an acting chairperson.

## Pigeon Village Zoning Ordinance

2. *Meetings.* Meetings shall be held at the call of the chairman and at such times as the Board of Zoning Appeals may determine. All meetings by the Board of Zoning Appeals shall be open to the public. The board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.

3. *Records.* Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the village clerk and shall be made available to the general public. The Village Clerk or a duly authorized assistant shall act as secretary for the Board of Zoning Appeals.

4. *Counsel.* Legal council [counsel] for the Village shall act as legal counsel for board of zoning appeals and shall be present at all meetings upon request by the board of Zoning Appeals or at the direction of the Village Council.

5. *Hearings.* When a notice of appeal has been filed in proper form with the Board of Zoning Appeals, through the Village Clerk, the board shall immediately place the said request for the appeal on the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served, personally or by mail, addressed to the parties making the request for appeal, at least **15 days** prior to the date of the scheduled hearing. All notices shall be sent to the addresses stated on the application form.

Any person may appear and testify at the hearings, either in person or by duly authorized agent or attorney. The board of zoning appeals may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment of the board hearing, no further notice shall be required. The board shall give due notice to all property owners within 300 feet of the property affected, said notice being given at least **15 days** before the hearing date. **[Pursuant of PA 110 of 2006, being the Michigan Zoning Enabling Act.]**

6. *Decisions.* The Board of Zoning Appeals shall return a decision upon each case within 30 days after a request or appeal has been filed unless a further time is agreed upon with the parties concerned. Any decision of the Board of Zoning Appeals shall not become final until the expiration of five days from the date of entry of such order, unless the Board of Zoning Appeals shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

7. *Majority vote.* The concurring vote of two-thirds of the members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator or to decide in favor on the applicant on any matter upon which they are required to pass under this ordinance or to effect any variation in the ordinance.

### C. Appeals.

## Pigeon Village Zoning Ordinance

1. *Filing of appeals.* Appeals to the Board of Zoning Appeals may be made by any person, aggrieved, or by any officer, department, or board of the village government. Any appeal from the ruling of the zoning administrator concerning the enforcement of the provisions of this ordinance may be made to the board of zoning appeals, through the village clerk, within ten days after the date of the delivery of the zoning administrator's decision. Such appeal shall be filed with the zoning administrator and shall specify the grounds for the appeal. The Village Clerk shall immediately transmit to the secretary of the board of appeals the record upon which the action appealed from was taken. The Village Clerk shall forward a copy of the notice of appeal to the zoning administrator.
2. *Stay.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator, after notice of appeal has been filed with him, [certifies] that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of zoning appeals or, on application, by a court of record.
3. *Fees.* A fee as established by the Village Council shall be paid to the Village Treasurer at the time of filing application with the board of zoning appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, fees of the board members, and other expenses incurred by the Board of Zoning Appeals in connection with an appeal. The Village Council shall determine the fee to be paid for the Board of Appeals members.

The Board of Zoning Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this ordinance, but does have power to act on those matters where this ordinance provides for an administrative review, interpretation, variance exception, temporary or conditional approval permit as defined in this section. [Duties & powers are pursuant to PA 110 of 2006, Michigan Zoning Enabling Act].

1. *Review.* The board of zoning appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or by any other official in administering or enforcing any provisions of this ordinance.
2. *Interpretation.* The board of zoning appeals shall have the power to:
  - a. Interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purpose of the ordinance.
  - b. Determine the precise location of the boundary lines between zoning districts.
  - c. Classify a use or an accessory use customarily incidental to the principal use, which is not specifically mentioned as part of the use regulations of any zoning district, so that it conforms to a comparable permitted or prohibited use in accordance with the purpose and intent of each district.
  - d. Determine the off-street parking and loading space requirements of any use not specifically mentioned in article II.

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e. Determine if a change in a nonconforming use is more detrimental than the existing use, in accordance with article 6, section 6.2.

f. Hear appeals with regard to decisions on the issuance of special land use permits as governed by this ordinance.

3. *Variances.* The board of zoning appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, provided all of the basic conditions listed herein and any one of the special conditions listed thereafter can be satisfied:

a.. *Basic Conditions.* That any variance granted from this ordinance:

(1) Will not be contrary to the public interest or to the intent and purpose of this ordinance.

(2) Shall not permit the establishment within a district of any use within that zone district, or any use or dimensional variance for which a conditional use permit is required.

(3) Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

(4) Is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

(5) Will relate only to property that is under control of the applicant.

b. *Special Conditions.* When all of the foregoing basic conditions can be satisfied, a variance may be granted when anyone of the following special conditions can be clearly demonstrated:

(1) Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

(2) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this ordinance.

(3) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

c. *Rules.* The following rules shall be applied in the granting of variances:

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(1) The board of zoning appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this ordinance. The breach of any such condition shall automatically invalidate the permit granted.

(2) Each variance granted under the provisions of this ordinance shall become null and void unless:

(a) The construction authorized by such variance or permit has been commenced within six months after the granting of the variance.

(b) The occupancy of land, premises *or* buildings authorized by the variance has taken place within one year after the granting of the variance.

(3) No application for a variance which has been denied wholly or in part by the board of zoning appeals shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.

4. *Special exceptions.* When, in its judgment, the public welfare will be served and the use of neighboring property will not be injured thereby, the board of zoning appeals may, in a specific case, after due notice and public hearing and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this ordinance in harmony with the general character of the district and the intent and purpose of this ordinance. The granting of a special exception shall in no way constitute a change in the basic uses permitted in the district affected nor on the property wherein the exception is permitted. The board of zoning appeals may issue a conditional permit as special exception for the following land and structure uses:

a. *Temporary permits.* For temporary structures, such as a garage or partial structure to be used for operation and construction purposes, including mobile homes or house travel trailers not located in a licensed mobile home park, subject to the following procedures and limitations:

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(1) An application requesting a permit for the erection or movement of a temporary structure to be used in operating or construction activities, including trailer coaches, shall be made to the board of zoning appeals on a special form used exclusively for that purpose.

(2) The board of zoning appeals shall give due notice to the applicant and to all property owners within 300 feet of the property affected at least five days before the hearing will be held on such application.

(3) A temporary permit shall not be granted unless the board of zoning appeals finds adequate evidence that the proposed location of the use will not be detrimental to property in the immediate vicinity, and that village utilities for water and sanitary sewer are connected by the applicant.

(4) The board of zoning appeals may impose any reasonable conditions in addition to the district requirements in which the use is proposed, including setbacks, land coverage, off-street parking, landscaping and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.

(5) Unique and temporary conditions shall exist which justify the need for a trailer coach on a given lot or parcel such as a dwelling for seasonal farm labor, aged family members, domestic employees or similar dwelling needs of a temporary nature that relate to the use of the principal dwelling on the property in question.

(6) The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed 12 months. No permit shall be transferable to any other owner or occupant. The permit may be renewed in the case of trailer coaches if the conditions of (1) and (5) above can be met again.

5. *Conditional permits.* When conditions exist that are unique to a particular situation, a conditional permit may be issued with specific limitations imposed by the board of zoning appeals. The land or structure uses may be permitted to be established and to continue in use as long as the unique conditions to the use exist. The permit may be canceled when the conditions upon which the permit was issued cease to exist. The permit issued shall contain all the specified conditions under which continued use may be allowed. Conditional permits may be issued for the following uses:

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a. The board of zoning appeals may authorize a reduction, modification, or waiver of any of the off-street parking or off-street loading regulations in article II, when it can be demonstrated that circumstances of extreme practical difficulty exist that would unquestionably result in hardship to the applicant when a literal interpretation of the regulations is required. Hardship shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land. A hardship that is a result of any action of the applicant shall not be considered

by the board of zoning appeals. Under all these circumstances, in no case shall the off-street parking or off-street loading standards be reduced by more than 25 percent.

b. Joint use of off-street parking areas may be authorized when the capacities outlined in Article II, Section 11.1, are complied with and when a copy of an agreement between joint users shall be filed with the application for a building permit, and is recorded with the Register of Deeds of Huron County, guaranteeing continued use of the parking facilities for each party.

c. Other conditional uses based upon a finding of fact by the board of zoning appeals that indicate conditions exist that are unique to a particular situation, however, not contrary or in contradiction to the intent of the district within which the proposed use is located. Conditions imposed shall do the following:

(1) Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity [under] consideration, residents and landowners 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 regulations, 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.

Conditional uses shall be based upon a finding of fact by the board of zoning appeals that indicates conditions exist that are unique to a particular situation, however, not contrary or in contradiction to the intent of the district within which the proposed use is located.

6. *Bond for compliance.* In authorizing any variance, or in granting any conditional or special approval permits, the board of zoning appeals may require that a bond of ample sum, but not to exceed the cost of the project, be furnished to insure compliance with requirements, specifications and conditions imposed with the grant of variance. A certified check or surety bond shall be deposited with the village clerk and returned upon certification of completion by the zoning administrator.

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## **ARTICLE 14. REPEALS**

### **Sec. 14.1 Other ordinances.**

All ordinances inconsistent with the provisions and regulations of this ordinances are hereby amended to conform to the provisions and regulations of this ordinance to the extent of such inconsistency or conflict.

### **Sec. 14.2. Licenses.**

Nothing herein contained shall be deemed to repeal or amend any ordinance requiring a permit or license or both to cover any business.

## **ARTICLE 15. SEVERABILITY AND EFFECTIVE DATE**

### **Sec. 15.1. Severance clause.**

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

### **Sec. 15.2. Effective date.**

Approved by the village council on September 21, 2006.

This ordinance shall become effective on October 20, 2006.