

Appendix A

Model Zoning Ordinance Language

M-32 and Old 27/I-75 Business Loop Access Management Overlay Zone

The M-32 and Old 27/I-75 Business Loop Access Management Overlay Zone is defined as that area lying within three hundred (300) feet of the highway either side of the M-32 or Old 27/I-75 Business Loop right-of-way (and having access to M-32 or Old 27/I-75 Business Loop) in _____ (name of community). The following regulations shall prevail over any specific district regulations specified herein and shall apply to all zoning districts within the corridor.

Section 1 Purpose and Intent

The intent of this ordinance is to provide standards, which will preserve the traffic capacity and speed, and enhance the safety of the highway by regulating safe and reasonable access, though not always direct access, between public roadways and adjacent land. Access controls help provide for orderly growth and prevent harmful aspects of “commercial strip” development. This in turn will protect the long-term viability of existing and new businesses in addition to protecting property values of commercial and residential development along the corridor. It is recognized that existing development may not be able to meet all of the standards contained in this ordinance upon expansion or redevelopment. In such cases, the standards contained herein shall be applied to the maximum extent possible

The standards of this section are further intended to:

- Minimize disruptive and potentially hazardous traffic conflicts thereby reducing the frequency of fatal, injury and property damage crashes;
- Separate traffic conflict areas by reducing the number of direct access points;
- Provide efficient spacing and size standards between access points and between access points and intersections;
- Establish uniform access standards to ensure fair and equal application;
- Implement the goals and recommendations of the M-32 and Old 27/I-75 Business Loop Corridor Plan;
- Protect the substantial public investment in the roadway system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business;
- Require coordinated access among several landowners;
- Ensure reasonable access to properties, though the access may not always be direct access;
- Coordinate local management decisions on development proposals with access permit decisions by the Michigan Department of Transportation and the Otsego County Road Commission or _____ City (or Village) Department of Public Works.

Section 2 Definitions

ACCESS MANAGEMENT OVERLAY ZONE - A regulatory technique whereby land use regulations in addition to the standard zoning ordinance are applied in a designated area along a major road or arterial street.

ACCESS POINT - A location for vehicular access via a public or private driveway or road.

ACCESS POINT SPACING - The distance between access points along a street or road.

ARTERIAL STREET - Streets where the movement of through traffic is the primary function; service to adjacent land uses is a secondary function.

COMMERCIAL STRIP - Intense commercial development occurring along a major road or arterial street, which severely inhibits or interrupts continuous use of the roadway for through traffic purposes.

CORRIDOR - The M-32 or Old 27/I-75 Business Loop corridor [from _____ Road to _____ Road,] including the street right-of-way and lands that are within three hundred (300) feet of the highway right-of-way either side of the M-32 or Old 27/I-75 Business Loop. *(This definition may need to be changed in developed urban settings.)*

CORRIDOR PLAN - The M-32 and Old 27/I-75 Business Loop Corridor Plan compiled in 2000 and adopted in _____ by _____ (county, village or city name). The Corridor Plan documents the rationale for this ordinance and sets forth access management standards and recommendations.

CURB CUT - A gap in the curb along a street or road, affording vehicular access to the property.

DEDICATION - Transferal of property or roads to the public for a public purpose.

DRIVEWAY SPACING - The distance between driveway centerlines along a street or road.

EASEMENT - A grant of one or more of the property rights by a property owner to and/or for the use by the public, or another person or entity.

FRONTAGE ROAD - A public or private drive which generally parallels a public street between the right-of-way and the front building setback line, providing specific access points to private properties while maintaining separation between an arterial street and adjacent land uses.

LOT - A division of land separated from other land by description on a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision; having frontage upon a public or private street or easement and having sufficient size to comply with the requirements of the Zoning Ordinance for minimum area, setbacks, coverage, and open space.

PARALLEL ACCESS - Private driveways or public roads running parallel to a public street, providing access to parcels or lots at specific points.

PARCEL - A division of land comprised of one or more contiguous lots under the same ownership or control.

RESIDENTIAL STRIP - Intense residential development occurring along a major road or arterial street, which severely inhibits or interrupts continuous use of the roadway for through traffic purposes.

ROAD AGENCY - The agency with jurisdiction within the public street right-of-way, either Otsego County Road Commission, _____ City (or Village) Department of Public Works or the Michigan Department of Transportation.

REASONABLE ACCESS - A property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access includes indirect access via frontage roads, service drives, side streets or shared driveways.

REAR ACCESS DRIVES - Driveways which provide access to properties from the rear of principal structures, such as behind shopping centers, downtown areas, or commercial corridors.

RIGHT-OF-WAY - The property occupied by an alley, street, highway, or other thoroughfare or easement permanently established for passage of persons or vehicles.

SERVICE DRIVE - A drive designed to provide shared access to specific access points along the arterial roadway to one or more developments within the corridor. A service road is generally parallel to the arterial road along either the front or rear of a site, but may be perpendicular or have another alignment. Service roads may be in front of, or along the rear of, buildings fronting M-32 or Old 27/I-75 Business Loop.

SETBACKS - The minimum-unoccupied distance from a front, side, or rear property boundary and the principal and accessory buildings on the property.

SHARED ACCESS - Use of one access point onto a public roadway by multiple parcels.

SITE CONDOMINIUM - A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act, P.A. 591 of 1996, as amended (formerly the Subdivision Control Act, P.A. 288 of 1967).

Section 3 Access Management Overlay District Standards

The standards of this section shall apply to any project within the M-32 or Old 27/I-75 Business Loop Access Management Overlay Zone. The access standards of this section are applied simultaneously with the standards of the zoning district for uses and dimensional requirements listed in the Schedule of Regulations. The standards shall be applied to any existing site, which is proposed for redevelopment or a change in use, to the extent possible, as determined by the Planning Commission.

The standards herein are based on findings and recommendations within the M-32 and Old 27/I-75 Business Loop Corridor Plan. The access standards may be more restrictive than those provided by the Otsego County Road Commission and the Michigan Department of Transportation. If there is a conflict with access standards of the agency having jurisdiction within the right-of-way, the more restrictive standards, as determined by the _____ (name of community) Planning Commission with input from the road agency, shall apply.

1. **Structure Setback** – No structure other than signs or billboards, as allowed in the Sign and Billboard Ordinances, utility structures that are not buildings, transfer stations or substations, shall be permitted within **one hundred (100) feet** of the highway right-of-way. *(This minimum setback will need to be changed in urban and existing small lot situations.)*
2. **Parking Setback & Green Zone** – No parking shall be located within **fifty (50) feet** of highway right-of-way. The fifty (50) feet setback shall be landscaped as required in **Section ____ Landscaping, Screening, Buffers, and Fencing**, with informal clusters of

trees and shrubs suitable to the soil type encountered. (*This minimum setback will need to be changed in urban and existing small lot situations.*)

3. **Egress** – Lots in all zoning districts shall have driveways and adequate turn around space so that vehicles will not back onto M-32 or Old 27/I-75 Business Loop.
4. **Minimum Lot Width** – Two hundred (200) feet for single family residential zoning districts and four hundred (400) feet for multi-family residential, commercial, office, and industrial zoning districts, smaller lots in existence on or before the adoption of this standard are exempt. Adjacent parcels in common ownership at the effective date of this ordinance shall be considered as one parcel.
5. **Vehicular Access** – One vehicle access point shall be permitted for each two hundred (200) foot lot for single family residential zoning districts and for each four hundred (400) foot lot for multi-family residential, commercial, office, and industrial zoning districts. One driveway may be permitted for each separately owned parcel, created prior to the adoption of this ordinance, with less than two hundred (200) feet of frontage for single family residential zoning and less than four hundred (400) feet for multifamily residential, commercial, office, and industrial zoning districts, provided the parcel is wide enough for the minimum driveway width. Where parcel size is insufficient to meet the access standards of this ordinance section, a shared driveway or other means of access may be required.
6. **Stormwater Drainage** – Driveways shall be constructed such that drainage is channeled away from the street right-of-way.
7. **Ingress/Egress Angle** – All driveways shall be on a ninety (90) degree angle with the roadway unless physical modifications and directional signs are used to enforce one-way operations or restricted turning movements.
8. **Driveway Locations** – Driveways shall not be constructed along any acceleration or deceleration lanes or tapers.
9. **Costs** – All costs associated with site plan review, traffic analysis and traffic impact analysis shall be paid by the applicant.

Section 4 Access Point Standards

Location and Spacing

1. Access points shall be located so that no undue interference with the free movement of road traffic will result, to provide the required sight distance, and to provide the most favorable driveway grade based on standards in Michigan Department of Transportation Driveway Criteria, Rule 63, of the Administrative Rules Regulating Driveways, Banners and Parades on and over Highways.
2. If an access point curb radius extends beyond the frontage of the property, written consent from the affected property owner allowing the design must be provided.
3. In order to minimize left turn conflicts, new access points shall be aligned with those across the roadway where possible. If alignment is not possible, access points shall be offset a minimum of two hundred fifty (250) feet on M-32 or Old 27/I-75 Business Loop from those on the opposite side of the highway, measured centerline to centerline of

access points. Longer offsets may be required depending on the expected inbound left-turn volumes of the access points.

4. Where parcels, lots, or building sites have frontage or access on more than one roadway, access shall be provided from the lesser traveled street. Where spacing requirements can be met, high traffic volumes will be generated, or the subject side street is inappropriate for nonresidential traffic, access onto M-32 or Old 27/I-75 Business Loop will be considered.
5. In the case of expansion, alteration, change of use or redesign of an existing development where existing access points do not comply with the guidelines set forth herein, the closing, relocation, or redesign of the access point may be required.
6. Table 1, below, displays desirable separation distances for access drives and the recommended access point spacing for various areas along M-32 and Old 27/I-75 Business Loop. All site plans for proposed developments should show the location of all proposed and existing access points within the area of the proposed development. The location of all of the proposed access points should be reviewed to determine if proper access point spacing will be maintained.

Table 1 Desirable Separation of Adjacent Access Points	
Highway Speed	Minimum Access Point Spacing*
25 mph	130 feet
30 mph	185 feet
35 mph	245 feet
40 mph	300 feet
45 mph	350 feet
50 mph & above	455 feet

* Measured from centerline to centerline

7. Driveway profile shall be designed and constructed according to Michigan Department of Transportation Driveway Criteria, Rule 63, of the Administrative Rules Regulating Driveways, Banners and Parades on and over Highways.
8. Adequate storage for vehicles parking or waiting to be serviced shall be provided so as not to interfere with pedestrian movements, vision requirements or traffic operations on the highway.
9. Traffic signs and pavement markings shall conform to the current Michigan Manual of Uniform Traffic Control Devices.
10. Minimum Corner Clearance – Access points shall be subject to the schedule defined in Table 2 below.

Table 2		
Access Point Spacing From Intersections		
Access Points along M-32 or Old 27/I-75 Business Loop		
Intersecting Street	Full Movement Access Point (Feet)	Channelized for right-turn-in, right-turn-out (Feet)
Arterial	250	100
Signalized Non-Arterial	125	75
Other Street	100	75
Access Points Along Side Streets Intersecting M-32 or Old 27/I-75 Business Loop		
Arterial	Full Movement Access Point (Feet)	Channelized for right-turn-in, right-turn-out (Feet)
Arterial	200	100
Signalized Non-Arterial	100	75
Other Street	75	75
* Measured from nearest edge of access point throat to the nearest edge of intersection		

11. In the case where an intersection setback cannot be met, the _____ (name of community) Planning Commission may require that the access point be constructed on an alternative street or be provided through a shared access point, which meets the applicable intersection setback. Where no other alternative exists, the Planning Commission may allow construction of the drive along a property line farthest from the intersection to minimize the impacts to the intersection.
12. Additional access points may be permitted for commercial property as follows:
 - a. One additional access point may be allowed for a site with continuous frontage of four hundred (400) feet or more if no other access opportunities are available.
 - b. Two additional access points may be allowed for a site with continuous frontage of eight hundred (800) feet or more if no other access opportunities are available.
13. Additional access may be allowed if the applicant provides justification that traffic safety will be improved with the additional access point based upon standard traffic engineering criteria that encompasses analyses of trip generation, distribution and level of service. The _____ (City, Village, County) has the final decision regardless of conclusions drawn from such analysis.
14. Adjacent property owners may and are encouraged to consolidate their access points by using either a joint driveway system or a frontage road. All frontage roads are to be placed on private property outside of the right-of-way. Easements from participating property owners must be submitted to _____ (name of community).
15. Requirements for minimum intersection or corner sight distance for commercial and private road approaches should be in accordance with American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in Chapter 9 of "A Policy on Geometric Design of Highways and Streets," 1984, as amended. Where special circumstances are present (e.g., frontage limitations) the following:

Posted Speed Limit (MPH)	Minimum Sight Distance (In Feet)
25	250
30	300
35	350
40	400
45	450
50	500
55	550

Intersection sight distance will be measured fifteen (15) feet from the edge of pavement on paved roads. The eye height will be assumed to be three and one-half (3.5) feet and the object height will be three and one-half (3.5) feet if the above reduced values are used.

16. All traffic signage and pavement markings at the proposed commercial driveway shall conform to the current Michigan Manual of Uniform Traffic Control Devices.

Section 5 Service Drives, Cross-Connections, and Internal Circulation

All land in a parcel having a single tax code number, as of the date of this amendment, fronting on _____ (name of road), shall be entitled to one (1) driveway or road access point per parcel from said highway. Parcels when subsequently subdivided, either as metes and bounds described parcels, as a plat created in accord with P.A. 288 of 1967 as amended, or as a site condominium in accord with Act 59 of 1978 as amended, shall provide access by subdivision roads, other private or public roads or by service drives. Notwithstanding the requirement of the _____ (name of community) Land Division Ordinance, the standards for service drives shall be as follows:

1. Width: A minimum of twenty-four (24) feet with construction to County Road Commission or City or Village Department of Public Works standards for base and thickness of asphalt.
2. A minimum of fifteen (15) feet snow storage/landscaping area must be reserved along both sides of the service drive with the edge of the service drive located a minimum of fifteen (15) feet from the major thoroughfare right-of-way.
3. All driveway radii shall be concrete curbs.
4. The location of the entrance to the service drive from a public or private road shall be subject to the schedule defined in Table 2 to provide for adequate stacking and maneuvering.
5. The service drive shall be a private road maintained by adjoining property owners or users who shall enter into a formal legal agreement together for the joint maintenance of the service drive.
6. Landscaping along the service drive shall conform to the requirements of Section _____ (insert reference to appropriate landscaping standards). Installation and maintenance of landscaping shall be the responsibility of the developer, owner or a property owners association.
7. All separate parking areas shall use no more than one (1) access point or driveway to the service drive.

8. The _____ (name of community) Planning Commission shall review and approve all service drives to insure safe and adequate continuity of the service drive between contiguous parcels.
9. Parking lot cross-connections may be used as an alternative to frontage service roads if, in the opinion of the Planning Commission, such cross-connections are designed with equivalent standards and function, and do not interfere with safe internal parking lot circulation patterns. The connector drives must be recorded easements and maintained by adjoining property owners or users who shall enter into a formal legal agreement together for the joint maintenance of the service drive.

Section 6 Access Management Approval Process for Projects within the M-32 and Old 27/I-75 Business Loop Access Management Overlay Zone

In order to help assure consistent review by the _____ (name of community) Planning Commission and the appropriate road agency, and in addition to any review requirements imposed by this ordinance, the following procedure shall be followed for projects located within the M-32 and Old 27/I-75 Business Loop Access Management Overlay Zone.

1. Single Family Residential Development – residential development not required to follow the site plan review process shall follow these procedures:
 - a. The applicant shall submit a scaled drawing of the parcel showing location of proposed residence and buildings and location of the proposed access point to _____ (name of community) staff for review of completeness of information and compliance with corridor plan and overlay zone regulations.
 - b. After the _____ (name of community) staff has determined the submittal is complete, and meets the criteria set forth in this ordinance, the applicant will then request a driveway permit from the road agency.
 - c. After the applicant has received a driveway permit from the road agency, the _____ (name of community) staff will issue a zoning permit detailing the location of the access point.
2. For all other development requiring site plan approval or plat approval the procedures noted below shall be followed:
 - a. The applicant shall be required to submit _____ copies of the site plan or tentative preliminary plat to the _____ (name of community) staff for review of completeness of information and compliance with corridor plan and overlay zone regulations.
 - b. Based on criteria detailed in Table 3 the _____ (name of community) staff will determine the necessity and type traffic impact study. The traffic impact study shall be reviewed and accepted by the road agency and the _____ (name of community) Planning Commission. _____ (name of community) may utilize it's own traffic consultant to review the applicant's traffic study, with the cost of the review being borne by the applicant.
 - c. After the _____ (name of community) staff has determined the submittal is complete, a copy of the site plan and supporting documentation will be sent to appropriate road agency for comment. Comments will be obtained from the road agency within a reasonable time frame of _____ days.
 - d. After comments have been received from the road agency, the _____ (name of community) Planning Commission will review and act on the site plan. If the Planning

Commission requires modification of the site plan access, the modified site plan must be sent back to the road agency for comment.

- e. After the site plan is approved by the _____ (name of community) Planning Commission, the Planning Commission informs the road agency of the site plan decision.
- f. The applicant requests driveway permit from the road agency.

Table 3 Requirements for Various Types of Traffic Impact Studies

Task	Trip Threshold (Based on Trip Generator Rates – See Land Use Threshold Table)		
	Rezoning Traffic Study	Traffic Impact Assessment	Traffic Impact Statement
Impact Analysis		50-99 Peak Hour, Peak Direction or 500-749 Daily	100+ Peak Hour, Peak Direction of 750+ Daily
Existing conditions analysis at site (levels of service as determined by techniques outlined in the <i>Highway Capacity Manual</i>)	O	X	X
Sight distance evaluation	X	X	X
Opposing driveway locations		X	X
Existing conditions at nearby intersections	O		X
Study area & future road summary			X
Comparison of trip generation associated with uses allowed, requested v. current permitted uses	X		
Trip generation for specific uses		X	X
Trip distribution analysis	O	X	X
Background traffic growth	O		X
Future conditions analysis at nearby intersections	O		X
Mitigation identification & evaluation	O	X	X
Site Issues:			
Evaluate number, location & spacing of access points	O	X	X
Evaluate access design, queuing, etc.		X	X
Evaluate site circulation		O	O
Other Analyses:			
Crash history			O
Gap analysis for unsignalized locations		O	O
Evaluate long-range traffic impacts on computer model-MDOT/MPO participation	O		O
Key: X = required; O = may be appropriate on a case-by-case basis			

Landscaping, Screening, Buffering, and Fencing

It is the intent of this ordinance to require buffer zones and landscape screening to reduce the negative impacts between incompatible land uses, minimize visual impacts of development along major highway corridors (road names), and to provide for landscaping within parking lots. In addition, the intent is to preserve and enhance the aesthetic qualities, character, privacy and land use values along major highway corridors (road names).

Section 1 Application

These requirements shall apply to all uses, for which site plan review is required under Section _____ of the Zoning Ordinance. No site plan shall be approved unless the site plan shows landscaping, greenbelt buffers, and screening consistent with the requirements set forth in this ordinance. Screening is the enclosure of an area by a visual barrier, which may include a landscape buffer, solid fencing or other materials. Fencing is the enclosure of an area by the materials identified in Section 7.

Section 2 Landscape Plan Required

A separate detailed landscape plan shall be submitted as part of a site plan review. The landscape plan shall include, but not necessarily be limited to, the following items:

1. Location, spacing, size, and root type [bare root (BR) or balled and burlaped (BB)] and descriptions for each plant type proposed for use within the required landscape area.
2. Minimum scale: 1" = 100' (*same scale as required for site plan*).
3. Existing and proposed contours on-site and one hundred fifty (150) feet beyond the site at intervals not to exceed two (2) feet.
4. Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
5. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
6. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
7. Identification of existing trees and vegetative cover to be preserved.
8. Identification of grass and other ground cover and method of planting.
9. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this ordinance.

Section 3 Screening between Land Uses

1. Upon any improvement for which a site plan is required, screening shall be constructed at least six (6) feet in height along all adjoining boundaries with residentially zoned or used property. Either a landscape buffer or solid wall may be used as provided below, or when the distance between structures or adjoining lots is greater than twice the minimum setbacks would require, a fence meeting the requirements of Section 7 may be required at the discretion of either the Planning Commission or Planning Department. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of thirty-six (36) months, in the event that the landscaping has not totally blocked the view of areas required to be screened.
2. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall shall be required. Such wall shall be six (6) feet or more in height as measured on the side of the proposed wall having the higher grade, and shall be constructed on both sides with face brick, poured-in-place simulated face brick, precast brick panels having simulated face brick, or stone.

Section 4 Parking Lot Landscaping

Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, with minimum landscaped space within a designated parking area of fifty (50) square feet. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

1. Individual landscaped areas shall be a minimum of eighteen (18) feet wide and three hundred twenty-four (324) square feet in area.
2. Individual landscaped areas shall be wider than fifteen (15) feet where necessary to accommodate snow removal without plant damage.
3. Parking lot landscaping shall be so designed to provide directional guidance to drives, including ingress, egress, and interior circulation.

Section 5 Highway Landscape Buffers

1. A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, freeway, or major thoroughfare, and shall be landscaped with a minimum of one (1) tree not less than twelve (12) feet in height or a minimum caliper of two and one-half (2 ½) inches (whichever is greater at the time of planting) for each thirty (30) lineal feet, or major portion thereof, of frontage abutting said right-of-way. The remainder of the buffer shall be landscaped in grass, ground cover, shrubs, and/or other natural, living, landscape material. The area along the roadway proposed to be grassed shall be minimized and directly related to the necessity, if any, for an ornamental landscape character.
2. Access ways from public rights-of-way through required landscape strips shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine

the minimum number of trees required unless the calculation would result in a violation of the spacing requirement set forth in this section.

Section 6 Site Landscaping

1. In addition to any landscape areas and/or parking lot landscaping required by this ordinance, at least ten (10) percent of the site area, including existing thoroughfare right-of-way, shall be landscaped.
2. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be excluded as a portion of the required landscaped area not to exceed five (5) percent of the site area.

Section 7 Fencing and Screening

Unless otherwise specified or determined by the Planning Commission, Planning Department or Zoning Board of Appeals, fencing and screening shall be a minimum of six (6) feet in height. Gateposts at entrances and exits shall not exceed twelve (12) feet in height.

1. Mechanical Equipment (*This subsection does not apply to single-family residential uses, or to any use in an industrial land use category except if it abuts a residential area*). When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
 - a. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
 - b. Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
2. Outdoor Storage: to be screened on all sides by a solid wall or fencing.
3. Public Utility Substations: To be screened on all sides by a solid wall or fencing, and landscaping.
4. Side and Rear Lot Lines: The side and rear property lines of all nonresidential uses are to be screened as follows:
 - a. Adjacent to a Residential Use or Zone: See requirements of Section 3 above.
 - b. Industrial and Commercial Zones: A solid wall or fencing is to be located on the side and rear property lines of any site within an Industrial or Commercial zone that abuts another zoning district or land use.
5. Swimming Pools: yard areas with private pools are to be fenced to discourage unsupervised access and use by small children. Such fencing is to be minimum of four (4) feet high, and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of four (4) feet. Such fencing may be omitted where building walls without doorways abut the pool area.

Section 8 Barrier Fences

Barrier fences containing barbed wire, electric charges or sharp materials at the top of a fence or wall less than six (6) feet in height are prohibited unless needed to protect the public safety and approved by the Planning Commission or Planning Department.

Section 9 Fire Hazard

No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department in case of fire to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians.

Section 10 General Landscape Development Standards

1. Minimum Plant Material Standards:

- a. All plant material shall be hardy to Otsego County, free of disease and insects and conform to the standards of the American Association of Nurserymen. A list of recommended plants is available from the Zoning Administrator.
- b. All plant materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
- c. All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.
- d. Minimum plant sizes at time of installation:

Deciduous Canopy Trees	2 ½" caliper
Deciduous Ornamental Trees:	2" caliper
Evergreen Tree:	6' height
Deciduous Shrub:	2' height
Upright Evergreen Shrub:	2' height
Spreading Evergreen Shrub:	18" – 24" spread
- e. Existing plant material, which complies with the standards and intent of the ordinance, as determined by the Zoning Administrator, shall be credited toward meeting the landscape requirements.
- f. The plant material shall achieve its horizontal and vertical screening effect within four (4) years of initial installation.
- g. The overall landscape plan shall not contain more than thirty-three (33) percent of any one plant species.
- h. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

<u>Common Name</u>	<u>Horticultural Name</u>
Boxelder	<i>Acer Negundo</i>
Ginkgo	<i>Ginkgo Biloba (female only)</i>
Honey Locust	<i>Gleditsia Triacanthos (with thorns)</i>
Mulberry	<i>Morus Species</i>
Poplars	<i>Populus Species</i>
Black Locust	<i>Robinia species</i>
Willows	<i>Salix Species</i>
American Elm	<i>Ulmus Americana</i>
Siberian Elm	<i>U. Pumila</i>
Slippery Elm: Red Elm	<i>U. Rubra</i>
Chinese Elm	<i>U. Parvifolia</i>

2. Minimum Standard for Berms:

- a. Berms shall be constructed so as to maintain a side slope not to exceed a one foot (1') rise to a three feet (3') run ratio.
- b. Berms not containing planting beds shall be covered with grass or living groundcover maintained in a healthy growing condition.
- c. Berms shall be constructed in a way that does not alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.

- d. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.

Model Billboard Ordinance

The regulation of billboards is intended to enhance and protect community character and image by minimizing visual blight and pollution, and to minimize traffic safety hazards due to diversion of the driver's attention and blockage of sight distances. Billboard regulations address the location, size, height and related characteristics of such signs.

Section 1 Title

This ordinance shall be known and may be cited as the Billboard Ordinance of _____ (name of community).

Section 2 Intent

The sign standards contained in this ordinance are declared necessary to protect the general health, peace, safety and welfare of the citizens of _____ (name of community) and are based on the following objectives:

- To avoid excessive property and use signing in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
- To place signs in such a way that scenic views are respected and visual obstructions to the natural landscape are minimized.
- To protect the character of _____ (name of community).

Section 3 Definitions

BILLBOARD – An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located. Billboards may also be referred to as off-premise signs.

Section 4 Billboard Regulations

Billboards may be established in the Commercial and Industrial (*Note: could be limited to just commercial or industrial*) zoning district classification(s) provided that they meet the following conditions:

1. Not more than three (3) billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the subject street or highway. The linear mile measurement shall not be limited to the boundaries of _____ (name of community) where the particular street or highway extends beyond such boundaries. Double faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces (i.e., two parallel billboard faces facing the same direction and side-by-side to one another) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection below.
2. No billboard shall be located within one thousand (1,000) feet of another billboard abutting either side of the same street or highway.

3. No billboard shall be located within two hundred (200) feet of a residential zone and/or existing residence. If the billboard is illuminated, this required distance shall instead be three hundred (300) feet.
4. No billboard shall be located closer than seventy-five (75) feet from a property line or public right-of-way. No billboard shall be located within ten (10) feet from any interior boundary lines of the premises on which the billboard is located. (A community could also limit it to the setback of a principal structure in the zoning district.)
5. The surface display area of any side of a billboard may not exceed *fifty-six (56) sq. feet (Coordinate standards with abutting communities)*.
6. The height of a billboard shall not exceed thirty (30) feet above the elevation of the centerline of the abutting roadway.
7. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.
8. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
9. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continues readability of message.
10. A billboard established within a business, commercial, or industrial area, as defined in the Highway Advertising Act of 1972 (1972 PA 106, as amended) bordering interstate highways, freeways or primary highways as defined in said Act shall in addition to complying with the above condition, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended.
11. No person, firm or corporation shall erect a billboard within _____ (name of community) without first obtaining a permit from the _____ (name of community) Zoning Administrator, which permit shall be granted upon a showing of compliance with the provisions of this ordinance and payment of a fee. Permits shall be issued for a period of one year, but shall be renewable annually upon inspection of the billboard by the _____ (name of community) Zoning Administrator confirming continued compliance with this ordinance and payment of the billboard permit fee. The amount of the billboard permit fee required hereunder shall be established by resolution of the _____ (governing body) and shall bear a reasonable relationship to the cost and expense of administering this permit requirement. The _____ (governing body) shall further have the right to amend the aforementioned resolution from time to time within the foregoing limits of reasonableness. *(NOTE: A community adopting this provision should be prepared to demonstrate that the amount of its billboard permit fee is reasonably related to the actual costs incurred by the community in administering the permit requirement.)*

Model Sign Ordinance

An ordinance to regulate and control the size, location, number and types of signs within _____ (name of community). The purpose of this ordinance is to permit signs that will not, by their size, location, construction or manner of display, endanger the public safety of any person, will be consistent with the intent and purposes of the _____ (name of community) Zoning Ordinance and will enhance the public interest and general welfare.

Section 1 Title

This ordinance shall be known and may be cited as the Sign Ordinance of _____ (name of community).

Section 2 Intent

The sign standards contained in this ordinance are declared to be necessary to protect the general health, safety and welfare of the citizens of _____ (name of community), and are based on the following objectives:

- To reflect the primary purpose of signage as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.
- To promote signs that are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.
- To avoid excessive property and use signing in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
- To place and size signs in a way that scenic views are respected and visual obstructions to the natural landscape are minimized.
- To protect the character of _____ (name of community) by encouraging the design of institutional, business or industrial signs that reflect the community's favorable environment as a permanent and seasonal home community.
- To maintain and enhance economic stability by retaining aesthetic appeal to tourists and visitors, and encouraging signing practices that will compliment the community's natural environment.

Section 3 Definitions

FREESTANDING SIGN OR GROUND SIGN - a sign supported by permanent uprights or braces in the ground.

ILLUMINATED SIGNS - A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with the sign, or a sign illuminated by a light shielded so that no direct rays from it are visible from any public right-of-way or from the abutting property.

MEASUREMENT OF SIGN AREA - The entire area within the sign perimeter enclosing its extreme limits, together with any frame or other material forming an integral part of the display,

excluding the necessary supports or uprights on which the sign is placed, but including any sign-tower is considered the area of measurement. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal size, or as the area of the larger face if the two (2) faces are of unequal area. In the case of a sphere, the total area of the sphere is divided by two (2) for purposes of determining the total maximum permitted sign area.

OUTDOOR BUSINESS OR INFORMATIONAL SIGN - a freestanding, overhanging, or wall mounted sign located outside of a structure on which information is displayed pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign.

OVERHANGING SIGN - a sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

POLE SIGNS - A sign supported by one (1) or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and having a clear space of at least ten (10) feet from the ground to the bottom of the sign.

PORTABLE SIGN - any sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T-frame signs;
- Attached temporarily or permanently to ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;
- Menu and sandwich boards;
- Searchlight stand; and
- Hot air, forced air or gas-filled balloons or umbrellas used for advertising.

SIGN - a structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

SIGN SURFACE - that portion of a sign excluding its base, foundation and erection supports on which is displayed information pertaining to a product, use, occupancy, function, service, or activity located within that structure, on the same property as the sign.

Section 4 Maximum Sign Area by Zoning District

The size of any publicly displayed sign, including temporary and portable signs, symbol or notice on a premise to indicate the name of the occupant, to advertise the business transacted therein, shall be regulated as follows:

Use District

Residential
Agricultural
Commercial
Industrial

Maximum Size of Sign

Ten (10) square feet
Twenty-four (24) square feet
Thirty-two (32) square feet
Fifty-six (56) square feet

Note: Billboards or off-premise signs are regulated by the _____
(name of community) Billboard Ordinance.

Section 5 Signs Prohibited

Any sign not expressly permitted by this ordinance is prohibited.

Section 6 Supplemental Sign Regulations

In addition to the size limitations stated by district, the following conditions shall apply to all signs erected in any use district:

1. No sign, except non-illuminated residential name plates or temporary residential real estate signs, shall be erected or altered until approved by the Zoning Administrator or authorized by an approved site plan or building permit.
2. No signs shall be located on any street corner which would obscure the vision of drivers using the streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
3. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. Illuminated signs shall not be of the flashing, moving or intermittent type unless approved by the Zoning Administrator, who shall find that the lighting is non glaring, does not interfere with traffic control devices, and does not involve the principal notice or message carried on the sign.
4. Freestanding signs, pole signs or advertising pylons may be permitted in a required front yard for uses set ten (10) feet or more behind the front property line. No freestanding sign shall exceed the maximum height limits of the District where located.
5. All directional signs required for the purpose of orientation, when established by the (Village or City), County, State, or Federal governments, shall be permitted in all Districts.
6. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet. No sign shall project into the public right-of-way.
7. The number of signs allowed shall be decided by the Planning and Zoning Commission at the time of site plan review. Factors considered will include building size, location and length of street frontage, and lot size.
8. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached.
9. The Zoning Board of Appeals may upon application by the property owner, modify the area of sign permitted where, in unusual circumstances no good or practical purpose would be served by strict compliance with the requirements of this ordinance.

10. Political and campaign signs shall not be erected more than _____ days before an election and shall be removed _____ following the election.

Model Stormwater Management Ordinance

Section 1 Purpose

The purpose of this ordinance is to reduce or eliminate the hazards to public health and safety caused by excessive stormwater runoff; to reduce the economic losses to individuals and the community at large; to enhance broader social and economic objectives; and to protect, conserve, and promote the orderly development of land and water resources.

Section 2 Regulated Activities

1. Subdivision of land.
2. Land development use regulations requiring site plan review as stated in the _____ (name of community) Zoning Ordinance.
3. Earth moving involving a parcel of one (1) or more acres.
4. Construction of new impervious surfaces (driveways, parking lots, etc.)
5. Construction of new buildings or additions to existing buildings.
6. Diversion or piping of any natural or manmade stream channel.
7. Installation of stormwater systems or appurtenances thereto.

Section 3 Applicability

A stormwater management plan must be submitted and approved before:

1. A plat is recorded; or
2. An existing drainage system is altered, rerouted, deepened, widened, enlarged, or obstructed; or
3. A residential development having a gross aggregate area including roads, utility rights-of-way, and any other dedicated lands of one (1) or more acres is constructed;
4. Any new commercial, industrial, institutional, or utility development is commenced; and
5. No final subdivision plat shall be approved, and no building permits shall be issued until and unless stormwater management plan has been reviewed and approved by the Township.

Section 4 Exemptions

The following development activities shall be exempted from some or all of the provisions of this Ordinance at the discretion of the _____ (name of community) Planning Commission.

1. The development of single-family or two-family residential dwelling units and their accessory structures (such as fences, storage shed, and septic tanks) in an existing subdivision or on a lot of less than one (1) acre in size.

2. Any maintenance, alteration, use, or improvement to an existing structure not changing or affecting quality, rate, volume, or location of surface water discharge.
3. Land disturbance associated with existing one and two family dwellings.
4. Use of land for gardening for home consumption.
5. Agriculture when operated in accordance with the Natural Resources Conservation Services Best Management Practices for that district.
6. The division of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access.
7. Logging operations that are operating under an approved Otsego County erosion and sedimentation control plan.
8. Exempted activities may be required to provide a simplified stormwater management plan that would identify stormwater facilities and how stormwater would be managed on site and the expected off-site impact. Simplified plans may utilize creative and innovative stormwater management techniques, such as:
 - Swales in back-lot areas.
 - Parking lot depressions.
 - Leaching basins and underground storage.
 - Gravel berms.
 - Fill ditches.
 - Gravel underlayments.

Section 5 Definitions

DETENTION BASIN - A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a predetermined rate. A detention basin may drain completely after a storm event, or it may be a pond with a fixed minimum water elevation between storm events.

RETENTION BASIN - A holding area for stormwater, either natural or constructed, which does not have a positive outlet. Water is removed from retention basins through filtration and/or evaporation process, and may or may not have a permanent pool of water.

RUNOFF - The water that flows across the land without seeping into the ground following a rain, snowmelt or irrigation.

STORMWATER FACILITIES - All facilities, area, and structures which serve to convey, store, or receive stormwater, either on a temporary or permanent basis.

Section 6 Stormwater Management Regulations

13. Stormwater management areas and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality. The design of any stormwater management system shall be based upon a 10-year frequency 24-hour duration storm event. In order to be approved, all site plan provisions for stormwater management must meet the following performance standards:

- a. Runoff leaving the site shall be controlled to a non-erosive velocity, both during and after construction.
 - b. After development, runoff from the site shall approximate the rate of flow, volume, and timing of runoff that would have occurred following the same rainfall under predevelopment conditions. Stormwater management conveyance and storage facilities shall be designed to reduce flood hazards and water pollution related to runoff from the proposed development project.
14. Stormwater storage facilities, which protect water quality and prevent adverse flooding on-site and off-site, shall be required for all sites where one (1) acre or more will be disturbed. In order to improve the quality of stormwater runoff and reduce the discharge of sediment into the _____ (name of community) wetlands and watercourses,
- a. One or more of the following techniques shall be used.
 - Infiltration of runoff, provided that soils and groundwater conditions are suitable.
 - Retention basins with a fixed minimum water elevation between runoff events (e.g., wet ponds).
 - Detention basins which drain completely after a storm event (e.g., dry basins) but which discharge storm water to wetlands or constructed basins which trap sediment carried by storm water runoff.
 - b. The following standards shall be used:
 - Detention basins, which hold stormwater for more than 24 hours before completely draining to become a dry basin (extended detention basins).
 - Detention basins with a positive outlet shall be designed to hold runoff from a 10-year storm event, as a minimum. Retention basins without a positive outlet shall be designed to hold runoff from a 100-year storm event.
 - The banks of detention basins shall not exceed a 1:6 slope unless a fence is constructed.
 - Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized or otherwise altered without approval from the Michigan Department of Environmental Quality, and /or County Drain Commission.
 - Discharge of runoff from commercial and industrial sites which may contain oil, grease, toxic chemicals, or other polluting materials shall be prohibited unless approval has been obtained from the Michigan Department of Environmental Quality.
 - The use of stormwater management areas and vegetated buffer areas as open space, recreation, and conservation areas shall be encouraged.
 - Stormwater detention/retention ponds located in all districts shall be completely enclosed with a permanent substantial fence with gate or gates no less than four (4) feet in height above the ground level. All gates shall be kept locked to prevent unauthorized access.
 - Fencing may be waived by the Planning Commission at the site plan review process when pond design is as follows: thirty-three (33) percent maximum slope to a three (3) feet permanent water depth, fourteen (14) percent slope to six (6) feet permanent water depth. The slope after six (6) feet permanent water depth may be as required to achieve the desired maximum depth of the pond.
15. Pipes, conduits, ditches, drains, or other stormwater conveyance facilities shall not discharge directly to:
- a. Any natural watercourses, including lakes, ponds, rivers and streams.
 - b. Wetlands with unique or natural wildlife or habitat characteristics as defined by a professional wetlands delineation specialist, biologist or ecologist.
 - c. Wetlands which are within five hundred (500) feet of any natural lake or pond.
 - d. Wetlands which are within one hundred (100) feet of any river or stream.

- e. Discharge from stormwater conveyance facilities shall be routed through swales, vegetated buffer strips, stormwater basins, hydrological isolated wetlands, and other facilities designed to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.
 - f. If wetlands are proposed for stormwater detention, runoff must be diffused to non-erosive velocities before it reaches the wetlands.
 - g. Vegetated buffer strips shall be created, or retained in their natural state along the edges of all watercourses and wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment from overland runoff, and buffer structures from periodic flooding.
16. Driveway drainage, drainage from adjacent parking or storage areas on private property, and driveway culverts shall be designed according to Michigan Department of Transportation driveway criteria standards, Rule 61 of the Administrative Rules Regulating Driveways, Banners and Parades on and over Highways.

Anti-Blight Ordinance

AN ORDINANCE OF THE _____(CITY or VILLAGE), OTSEGO COUNTY, MICHIGAN, PROVIDING FOR THE REGULATION AND CONTROL OF JUNK MOTORIZED VEHICLES, ABANDONED MOBILE HOMES AND HOUSE TRAILERS AND OTHER JUNK DEFINED HEREIN.

Section 1 Purpose and Intent

Consistent with the letter and spirit of and by the authority granted to the (City, Village or County) by the State of Michigan Act No. 344 of the Public Acts of 1945, as amended, it is the purpose of the Ordinance to prevent, reduce, or eliminate blight or potential blight in _____ (name of community) by the prevention or elimination of certain environmental causes of blight or blighting factors, which exist or which may in the future exist in the community.

Section 2 Causes of Blight or Blighting Factors

It is hereby determined that the following uses, structures, and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted or undesirable neighborhoods. On and after the effective date of this ordinance, no person, firm, or corporation of any kind shall maintain, or permit to be maintained, any of the causes of blight or blighting factors upon any property in _____ (name of community) owned, leased, rented, or occupied by such person, firm, or corporation.

1. No more than two motor vehicles shall be kept, parked, or stored in any district zoned for residential use, unless the vehicle is in operating condition and properly licensed or is kept inside a building.

Vehicles that are not in operating condition or not properly licensed shall not be parked nor stored in the front or side yard of a parcel, as defined by the _____ (name of community) Zoning Ordinance. Such vehicles may be parked in the rear yard provided a minimum distance of twenty (20) feet shall be maintained between the vehicle and any abutting lot used for residential purposes.

2. The open parking or storage of recreational trailers, boats, campers, snowmobiles, jet skis, motor homes, or similar vehicles not owned by the owner of the parcel or lands not specifically designated for such parking and storage shall be permitted for a period of up to seventy-two (72) hours. However, a camper, motor home, or travel trailer not owned by the owner of the parcel may be parked in the rear yard of a single-family lot for a period of up to four (4) weeks provided a permit has first been secured from the Zoning Administrator.
3. Residents of _____ (name of community) may store their own trailer, boat, and similar vehicles on their own property for an indefinite period of time, provided the vehicles are in operable condition and are not stored within any front yard or required side yard setback area. *(Communities may want to set a maximum number allowed.)*
4. A travel trailer, camper, or motor home parked or stored on a residential lot shall not be connected to sanitary facilities and shall not be occupied.

5. Unusable or inoperable machinery, equipment, or parts of machines not suited for use upon the premises, or old and/or used building materials and other materials either discarded, unsightly, or showing evidence of a need for repair shall not be kept or stored outside of a building anywhere in _____ (community name). However, building materials intended to be used to improve the premises may be stored outside if piled off the ground so as not to become a suitable environment for rats, rodents or similar vermin. The temporary storage of building materials to be used for the purpose of new construction shall also be permitted. In no case shall usable or unusable machinery, building materials, or other items be stored on a permanent basis in a truck trailer or other type of trailer, with or without its wheels.
6. In any area, the existence of any structure or part of a structure, which because of fire, wind or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended, shall be prohibited.

Section 3 Enforcement and Penalties

1. This ordinance shall be enforced by the Zoning Administrator who is hereby vested with the power necessary for the enforcement of this ordinance. In the exercise of this power, he/she can conduct investigations into the presence of blight or blighting factors on specific properties. Incidental to such investigations, he/she may enter into any land or structure to be investigated. A failure or refusal to permit such entry after the issuance of an order by the Zoning Administrator shall constitute a violation of this ordinance.
2. The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors as set forth in Section 2 are found to exist shall be notified in writing to remove or eliminate the causes of blight or blighting factors from the property within ten (10) days after service of the notice. The notice may be served personally or by registered mail, return receipt requested. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate the causes of blight or blighting factors are in progress.
3. Failure to comply with the notice within the time allowed by the owner and/or occupant shall constitute a violation of this ordinance.
4. Violation of this ordinance shall be considered a civil municipal infraction (*or misdemeanor which shall be punishable upon conviction thereof by a fine not to exceed \$100.00, or by imprisonment not exceeding 30 days, or by both fine and imprisonment at the discretion of the court*). Each day of violation of this ordinance shall be considered as a separate offense.

Adult Entertainment/Sexually Oriented Business

Section 1 Definitions for Sexually Oriented Businesses (Insert in definitions section of the zoning ordinance)

ADULT ARCADE - Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

ADULT BOOKSTORE OR ADULT VIDEO STORE - A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

1. books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five percent (35%) or more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.

ADULT CABARET - A nightclub, bar restaurant, or similar commercial establishment that regularly features:

1. persons who appear in a state of nudity;
2. live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
4. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT MOTEL - A hotel, motel or similar commercial establishment that:

1. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
2. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

ADULT MOTION PICTURE THEATER - A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

ADULT THEATER - A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

CHILD CARE ORGANIZATION - Any governmental or non-governmental organization having as its principle function, the received of minor children for care, maintenance, training, and supervision, notwithstanding whether educational instruction may be given, and organizations commonly described as child caring institutions, child placing agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes or day care homes.

CHURCH - See definition for Place of Worship.

ESCORT - A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY - A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

NUDE MODEL STUDIO - Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

NUDITY OR A STATE OF NUDITY - Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- 1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.*
- 2. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.*
- 3. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.*

OFF STREET PARKING LOT - A facility which is not located on a public street or right-of-way providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.

PLACE OF WORSHIP - A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary buildings.

SCHOOL - A public, charter or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

SEXUAL ENCOUNTER CENTER - A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

SEXUALLY ORIENTED BUSINESS - A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

SPECIFIED ANATOMICAL AREAS - are defined as:

1. less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
2. human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - means and includes any of the following:

1. the fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. masturbation, actual or simulated; or
4. excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

SPECIAL APPROVAL - Approval by the _____ (name of community) Planning Commission of a use of land in a district that is not antagonistic to other land use in the district when such use is specified in this ordinance for that district upon such approval.

Section 2 Add “Sexually Oriented Business” as a Special Approval Use in the Commercial District

Section 3 Supplemental Site Development Standards (for Sexually Oriented Businesses)

Those permitted uses and uses allowed by Special Approval enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements:

Sexually Oriented Business

1. No sexually oriented business shall be permitted at a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.

2. *No sexually oriented business shall be established on a parcel within five hundred (500) feet of any residence, park, school, child care organization, place of worship, or residentially zoned property measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, park, school, child care organization, place of worship, or residentially zoned property.*
3. *The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.*
4. *The proposed use must meet all applicable written and duly promulgated standards of the City, Village or County of _____ and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.*
5. *The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.*
6. *Any sign or signs proposed for the sexually oriented business must comply with the provisions of _____ (name of community) Sign Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.*
7. *Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."*
8. *No product or service for sale or gift, or any picture or other representation of any product, or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.*
9. *Hours of operation shall be limited to 8:00 AM to 12:00 AM.*
10. *All off-street parking areas shall be illuminated during hours of operation of the sexually oriented business, and until one hour after the business closes.*
11. *Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:*
 - a. *Is handicap accessible to the extent required by the Americans with Disabilities Act;*
 - b. *Is unobstructed by any door, lock or other entrance and exit control device;*
 - c. *Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;*
 - d. *Is illuminated by a light bulb of wattage of no less than 25 watts;*
 - e. *Has no holes or openings in any side or rear walls.*

Section 4 Review Procedure for Sexually Oriented Businesses

The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.

1. If the Planning Commission determines that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within three (3) business days of the determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
2. If the Planning Commission determines that the application is complete, it shall within sixty (60) days of the determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards of this ordinance. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business or approved or denied the issuance of a special approval within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.
3. Prompt judicial review of adverse determination: If the Planning Commission denies a special approval application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator. The City, Village or County shall within three (3) business days of the receipt of the written notice do the following:
 - a. File a petition in the Circuit Court for the County of Otsego seeking a judicial determination with respect to the validity of such denial and, in conjunction therewith, apply for a preliminary and permanent injunction restraining the applicant from operating the sexually oriented business in violation of the _____ (name of community) Zoning Ordinance;
 - b. Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of the petition. In the event the applicant appears at or before the time of the show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for the hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of a permanent injunction on its merits, the City, Village or County shall be required to waive its application for preliminary injunction and shall join in such request.
 - c. In the event that the applicant does not waive notice and/or does not request an early hearing on the City's, Village's or County's application for permanent injunction, it shall

never the less be the duty of the City, Village or County to seek the earliest possible hearing date under Michigan Law and the Michigan Court Rules.

- d. The filing of written notice of intent to contest the Planning Commission's denial of a special approval shall not in any way affect the validity of the denial, but the denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of the City's, Village's or County's petition, a show-cause hearing has not been scheduled.

Communities may want to consider "Group B" special uses such as pawn shops, fortune tellers, dance halls, pool or billiard halls, shoe shine parlors, liquor stores, psychic readers, health clubs, tattoo parlors, steam baths, etc.