

ARTICLE 11 DESIGN STANDARDS

§11.01 APARTMENTS (IN THE UPPER FLOORS OF COMMERCIAL BUILDINGS)

Apartments in the upper floors of commercial buildings are permitted by right in the C-1 zoning districts provided:

- A. Each apartment shall comply with the requirement for minimum size contained in Section 4.05 of this Ordinance.
- B. A minimum of two (2) off-street parking spaces shall be provided per apartment.

§11.02 AUTOMOBILE SERVICE STATIONS

Automobile service stations for the sale of gasoline, oil, and accessories, and subject to the following:

- A. The curb cuts for ingress and egress to a service station shall not be permitted at such location that will tend to create traffic hazards in the streets 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.
- B. The minimum lot area shall be ten thousand (10,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait.
- C. All restroom doors shall be shielded from adjacent streets and residential districts.
- D. Major repair garage, engine and body repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building.
- E. Commercially used outdoor recreational space for children's amusement parks, miniature golf courses, subject to the following:
 - 1. Children's amusement parks must be fenced on all sides with a four (4) foot wall or fence.
 - 2. Adequate parking shall be provided off the road right-of-way and shall be fenced with a four-foot six inch (4'-6") wall or fence where adjacent to the use.

§11.03 AUTOMOBILE WRECKING AND/OR JUNK YARDS

Automobile wrecking and/or junk yards, subject to the following conditions:

- A. All junk yards shall be provided with a buffer of at least fifty (50) feet which buffer shall be provided adjacent to all abutting lands and rights-of-way. Such buffer shall be planted with evergreen and other suitable plants and used for no other purposes.

B. All junk yards shall be enclosed on all sides by a fence that obstructs the view from outlying areas. This fence shall have a height of not less than the height of the stored objects, but in no case less than ten (10) feet.

C. All junk yards shall be a minimum of fifteen (15) acres in size.

§11.04 CLUSTER SUBDIVISIONS

Cluster subdivisions subject to the following conditions:

A. The proposed subdivision shall consist of a tract of land at least twenty (20) acres in area.

B. The application shall be endorsed unequivocally for such development by all the owners of the tract, and procedures and documents shall be provided to assure development under a single administration and as approved by the City Planning Commission.

C. Residential densities may be at not more than 4.5 dwelling units per acre.

D. The developer shall dedicate not less than twenty (20) percent of the total land area for parks, woodlands, conservation district, playgrounds, golf courses, tennis courts, or other open space areas, such as to encourage the preservation of natural features of public or semi-public use. Such land may be dedicated to the City or may be reserved for private use, in which case satisfactory arrangements shall be made, acceptable to the City, for the development, operation, and maintenance of all such areas.

1. The location, extent, and purpose of areas dedicated for open space or recreational use within any subdivision shall be approved by the City Planning Commission and City Commission.

2. The development, operation, and maintenance of dedicated land for private open space or recreational use shall be guaranteed by a trust indenture approved by the City and shall be filed with the Register of Deeds of Genesee County simultaneously with the recording of the final plat of the subdivision.

§11.05 DRIVE-IN THEATERS

Drive-in Theaters, subject to the following conditions:

A. A setback of at least fifty (50) feet from the street right-of-way line of any existing or proposed major thoroughfare must be maintained.

B. Ingress and egress points shall be located at least fifty (50) feet from the intersection of any two (2) streets.

§11.06 FIRE STATIONS AND WATER TOWERS

Fire stations and water towers when located at least fifty (50) feet from all property lines.

§11.07 HOME OCCUPATION

A home occupation may be permitted within a single family residential dwelling, in the R-1; R-3 and R-4 Zoning Districts, subject to the following conditions:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit or accessory building shall be used for the purposes of the home occupation, and shall be carried out completely within such dwelling unit or accessory building.
- C. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling.
- D. There shall be no sale of any goods manufactured elsewhere in connection with such home occupation.
- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices support the home occupation.
- G. All applicants for a Home Occupation Permit under this section shall register with the Zoning Administrator by completing and filing a registration application with the City before the issuance of a permit by the Zoning Administrator. If the applicant is not the owner of the property, the applicant shall also provide the property owner's written approval with the application.

H. That portion of the residential structure where energy usage and heat exceeds typical residential use or where there is storage of any chemicals or fertilizers shall be subject to inspection and approval by the City of Clio Fire Code Inspector and all inspections required by the City of Clio Code of Ordinances.

I. Medical Marihuana.

The regulations of this Section are intended to ensure that home occupations remain subordinate to the residential use, the residential viability of the dwelling is maintained, and shall not be a detriment to the character and livability of the surrounding neighborhood. Subject to the provisions of this article the following home occupation may be permitted. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Public Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of the City of Clio Zoning Ordinance, shall be allowed as a home occupation. Nothing in the City of Clio Zoning Ordinance, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
2. Not more than five (5) qualified patients registered with the State of Michigan, shall be assisted with the medical use of marihuana within any given calendar week;
3. All harvested medical marihuana plants and cultivation equipment shall be contained within the main residence in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient registered with the State of Michigan.

§11.08 HOSPITALS, SANITARIUMS, CLINICS, NURSING AND REST HOMES AND CHARITABLE INSTITUTIONS FOR HUMAN CARE

Hospitals, sanitariums, clinics, nursing and rest homes and charitable institutions for human care, subject to the following procedures and conditions:

- A. The area accommodating any one of these uses shall not be less than one (1) acre in area.

- B. The building, including accessory buildings, must be located not less than fifty (50) feet from all property lines.
- C. The height of any structure shall be related to the location of the structure so as to equal the distance to any adjacent property line; provided, however, the height limitation shall be related to the capability of the fire fighting capability of the City.
- D. The area must be completely surrounded with screen planting and landscape development, the ultimate height of which shall not be less than six (6) feet. Said planting may be within the above specified setbacks.
- E. Ingress and egress to the area must be located in such a manner so as to provide maximum safety to the public utilizing this facility and the public streets. Said ingress and egress shall be hard-surfaced and properly drained.

§11.09 INDUSTRIAL PARK

Industrial park, subject to the following conditions:

- A. Permitted uses shall include all uses permitted by right within this District. Conditional uses may be permitted, subject to the Conditional Use Provisions of Article 9.
- B. The minimum required land area for an industrial park shall be five (5) contiguous acres.
- C. The development of an industrial park shall be in accordance to an overall plan for development of the park, which plan shall be approved by the City Planning Commission.
- D. The developer shall provide within the industrial park a sanitary sewage system which shall be of sufficient size and design to collect all sewage from structures within the industrial park, which system shall connect with the City's system. If public sewers are not available, the park's sanitary sewer system shall be designed so as to dispose of all sewage and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, and Genesee County Drain Commissioner's Office, and the City.
- E. The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will in the opinion of the City's engineer collect, carry off, and dispose of all predictable surface water run off within the industrial park all contributory areas, and shall be so constructed as to conform with the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Drain Commissioner's Office and the City.
- F. All industrial park sites and structures shall be connected to the water system of the City. If a public water system is not available, the developer shall provide within the industrial park a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.

1. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
 2. Such water system shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, the Genesee County Drain Commissioner's Office and the City.
- G. All industrial parks shall have direct access to a primary street as determined by the City Planning Commission.
- H. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
- I. No parking access and/or service area may be located closer than twenty-five (25) feet of any residential property line.
- J. Parking, loading, or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
- K. Any industrial park adjoining any platted residential subdivision or multiple family structure development shall be provided with a buffer of at least twenty (20) feet which buffer shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes. A landscaped planting area shall also be provided along all street frontage which shall not be less than ten (10) feet in width.
- L. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These facilities will be arranged in such a manner so as to protect abutting streets, and adjacent properties from unreasonable glare or hazardous interference of any kind.
- M. Maximum building coverage on any lot within the industrial park shall not exceed twenty-five (25) percent.
- N. Minimum lot sizes within an industrial park shall be twenty thousand (20,000) square feet.

§11.10 MOBILE HOME PARK

The minimum required lot area for a mobile home park shall be ten (10) acres.

No mobile home shall be located closer than twenty-five (25) feet to any street right-of-way line.

No mobile home, or any structure within the mobile home park, shall be located closer than fifteen (15) feet from any side lot lines.

No mobile home, or any structure within the mobile home park, shall be located closer than thirty-five (35) feet from any rear lot lines.

No structure or appurtenance thereto shall be erected to exceed a height of two and one-half (2 ½) stories, or twenty-five (25) feet, except essential service structures.

A. Site Design Requirements

1. Each mobile home site or lot shall be not less than seven thousand two hundred (7,200) square feet in area and not less than sixty (60) feet in width.
2. There shall be a side to side spacing between mobile homes of at least thirty (30) feet.
3. The end to end spacing between mobile homes shall be at least seventy (70) feet.
4. No enclosed attached or detached projection, including expandable units, shall be permitted within the thirty (30) feet side yard spacing.
5. There shall be a greenbelt planting strip, with a width of not less than twenty (20) feet, along the exterior property lines of the mobile home park.
 - a. This greenbelt may be within the minimum front, side and rear yard setbacks required.
 - b. Such greenbelt shall contain at least one (1) straight or staggered row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart, and at least three (3) rows of deciduous or evergreen shrubs, spaced not more than eight (8) feet apart, and which shrubs grow to an ultimate height of approximately twelve (12) feet. Varieties and species to be planted shall be approved in advance by the City Planning Commission.
6. There shall be a recreation area or areas at a ratio of at least ten (10) percent of the gross mobile home park area.
 - a. This area(s) may be located within the minimum setback requirements, but not within the twenty (20) feet greenbelt.
 - b. Such area(s) shall be enclosed with deciduous shrubs or evergreens.
7. All roadways or streets within the park shall include curbs and gutters and paved streets with a minimum width of twenty-eight (28) feet, measured from back of curb to back of curb. Such streets shall be of concrete or asphalt construction approved by the City's engineers, but in no event shall the specifications or design of such streets be less than that required for the City's local streets, which are hard surfaced.

8. The mobile home park shall be provided with a walk system consisting of forty-eight (48) inch minimum width concrete sidewalks along both sides of all roadways and streets within the park, and connecting to the park recreation and service facilities, plus thirty-six (36) inch minimum width walks connecting the entrance of each mobile home to the balance of the park walk system.
9. Each mobile home site shall be provided with a concrete pad, no less than twelve (12) feet in width, sixty (60) feet in length and four (4) inches in thickness, upon which the mobile home shall be located. Said pad shall include an eight (8) inch rat wall around its entire circumference. In all cases, the pad shall be at least as large as the mobile home placed thereon.
10. The grounds of a mobile home park shall be graded to drain properly into storm sewers.

B. General Requirements

1. Plans and specifications for water and sewage shall have the written approval of the City, Genesee County Health Department, and the Michigan State Health Department. Said written approval shall be submitted to the Michigan State Health Department. Said written approval shall be submitted to the City Building Inspector.
 - a. A certificate of approval from the City, the Genesee County Health Department, and the Michigan State Health Department, must also be submitted to the City Building Inspector after final inspection of the completed facilities.
 - b. No mobile home park shall be constructed or licensed, unless it shall have an approved public sewer connection to the City sewer system and an under-ground sewer provided to each mobile home site.
 - c. A central water supply system, connected to a public water supply system (if reasonably available), with water supplied to each mobile home site, shall be provided.
 - d. Fire hydrants shall be provided within three hundred (300) feet of each mobile home site.
2. No mobile home shall be occupied for dwelling purposes unless the mobile home is placed on the pad and connected to water, sanitary sewers, electricity and such other facilities as may be necessary.
3. Paved parking off the roadways or streets within the park shall be provided at the rate of at least two (2) parking spaces per each mobile home or dwelling unit, plus additional guest parking spaces equal to fifty (50) percent of the number of mobile home sites.

- a. The guest parking shall be provided in a separate area or areas within the park.
 - b. The roadways and streets within the park may be utilized for additional guest parking, provided however, that such parking will not interfere with safe vehicular and pedestrian movement, and provided that the street width permits same in accordance with P.A. 243 of the Michigan Public Acts of 1959, as amended.
 - c. Roadways and streets within the park shall be posted as to parking areas to insure compliance with this Ordinance. Cost of such posting, including signs, shall be borne by the park owner.
4. Street lighting shall be provided and paid for by the owner of the park and shall be approved as to the adequacy of illumination by the Building Inspector.
 5. Street signs shall be provided by the owner at all street intersections in accordance with City specifications and all streets shall be individually named and all lots shall be clearly and uniformly numbered.
 6. Fences on individual mobile home sites shall be uniform in height and approved by the park operator.
 7. Mobile home parks shall be located with direct access to an arterial road as determined by the City Planning Commission.
 8. There shall be a maximum of one (1) sign per entrance, which shall bear only the name of the mobile home park.
 - a. Such a sign shall have a maximum area of fifty (50) square feet and may be lighted, provided that the source of light is not visible, and not of the flashing or intermittent type.
 - b. Such a sign shall not be located within any required "setback area," and shall be wholly within the zone in which the park is located.
 9. There shall be no commercial sales or display of mobile homes within any portion of the park.
 10. All requirements as regulated by Michigan State Act. No. 243, P.A. of 1959, as amended, shall be complied with.
 11. The owner or operator of any mobile home park shall be responsible for and shall perform all street construction and street maintenance within the confines of the mobile home park, as shall be determined necessary by the City; shall be responsible for and shall perform all snow removal within the confines of the mobile home park, as shall be determined necessary by the City; shall be responsible for and shall pick up trash and

garbage within the confines of the mobile home park, and handle same in a manner approved by the City; and shall reimburse the City for all City inspection fees necessitated by the mobile home park.

12. No mobile home shall be occupied by more than one (1) family.
13. Each mobile home shall have a safe and unobstructed primary exit and shall also have an emergency exit located away from the primary exit.
14. All gas and electrical service conduits shall be underground.
 - a. Each mobile home lot shall be provided with underground gas and electrical service.
 - b. When separate meters are installed, each meter shall be located on a uniform post on the lot line.
 - c. Wiring shall comply with recommended standards of the local utility company and the City Building Code and the Michigan State Electrical Code.
15. Each mobile home site shall be provided with approved garbage containers.
 - a. The containers shall be kept in a sanitary condition at all times.
 - b. It shall be the responsibility of the mobile home park operator to insure that garbage containers do not overflow.
 - c. Exterior property areas shall be maintained free from organic and inorganic material that might become a health or fire hazard, or endanger persons or property.
 - d. Facilities for cleaning refuse receptacles shall be provided in a central location approved by the City.
16. No domestic animals or house pets shall be allowed to run at large or commit any nuisance within the limits of the mobile home park.
17. Every park shall be equipped at all times with fire extinguishing equipment in good working order, and of such type, size, number and location within the park as required by the Michigan State Fire Code.
 - a. Fire extinguishers shall bear the underwriter's label and be of such service approved by the Commissioner of the State Police.
 - b. Each fire extinguisher shall be annually examined by the park owner and kept at all times in a usable condition, in compliance with the regulations of the local fire department.

18. No business of any kind shall be conducted in any mobile homes.
19. The grounds of a mobile home park shall be graded to drain properly and to satisfactorily meet the approval of the City Engineer, the Genesee County Drain Commissioner, and the Genesee County Road Commission.
20. Skirting shall be installed on each mobile home in a manner and of materials which shall first be approved by the City of Clio Building Inspector. Such skirting must at all times provide for adequate ventilation under the mobile home.
21. Each mobile home shall be jacked up on a uniform jack which shall be supplied by the mobile home park.
22. No axles shall be removed from any mobile home, except for repairs. Further, no mobile home shall be placed on blocks, posts, or walls, or any other temporary or permanent foundations.
23. No accessory building, addition, or other building or foundation shall be attached to any mobile home or located upon any mobile home site, except for the following:
 - a. One (1) metal utility cabinet or shed may be located on any mobile home site unless prohibited by the rules and regulations of the mobile home park.
 - b. An awning of aluminum, canvas or fiberglass may be located upon any mobile home site and attached to the mobile home, unless otherwise prohibited by the rules and regulations of the mobile home park. Such awning space may be screened-in provided that the screened area shall not be greater than fourteen (14) feet in width nor shall said area be enclosed or glassed-in, except as otherwise permitted herein.
24. There shall be no storage of any kind underneath any mobile home, and each mobile home shall be maintained in a clean and presentable condition at all times.
25. All fuel for cooking and heating shall be through installations provided by a public utility to each mobile home unit.
26. No camping trailers, boats, or other large equipment shall be stored upon the mobile home site, but a separate storage area shall be provided for such purposes.

§11.11 MOTEL

Motel, subject to the following:

- A. Provided that it can be demonstrated that ingress and egress do not conflict with adjacent business uses.

- B. No kitchen or cooking facilities are to be provided, with the exception of units for the use of the manager or caretaker.
- C. Each unit shall contain not less than three hundred (300) square feet of floor area.

§11.12 MULTIPLE FAMILY STRUCTURES

The following site design standards will be required for all multiple family structures:

- A. Maximum building coverage shall not exceed thirty (30) percent of the lot area.
- B. The distance between any two (2) buildings within a multiple family structure development shall be not less than forty (40) feet.
- C. Any multiple family structure development adjoining any single family residential district or any developed non-residential district shall be provided with a buffer of at least ten (10) feet which shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purpose. A landscaped planting area shall also be provided along all street frontage which shall not be less than ten (10) feet in width.
- D. All multiple family structure developments shall be served with public sewer and water facilities.
- E. A minimum of ten (10) percent of the total lot area shall be developed for recreation and park purposes.
- F. Provision shall be made for safe and efficient egress and ingress to public streets and highways serving any multiple family structure development which shall be designed to minimize congestion and interference with normal traffic flow.
- G. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
- H. Lighting facilities shall be required where deemed necessary for the safety and convenience of residents and visitors. These facilities shall be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.
- I. Provisions for serving multiple family structures by refuse collection vehicles shall be made.

§11.13 MUNICIPAL, DENOMINATIONAL AND PRIVATE CEMETERIES

Municipal, denominational and private cemeteries when occupying a site of at least twenty (20) acres and when all buildings are at least one hundred (100) feet from all property lines.

§11.14 OUTDOOR SALES SPACE FOR SALE OF NEW AND USED AUTOMOBILES,
FARM EQUIPMENT, HOUSE TRAILERS, AND TRAVEL TRAILER

Outdoor sales space for sale of new and used automobiles, farm equipment, house trailers, and travel trailers, subject to the following:

- A. Ingress and egress to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets.
- B. No major repair or major refinishing shall be done on the lot.

§11.15 PLANNED UNIT DEVELOPMENTS

Planned unit developments subject to the following conditions and provided such development is found not detrimental to the public health, safety, and general welfare of the occupants and the community.

A. Requirements regarding tract:

1. The minimum required land area for a planned unit development shall be sixty (60) contiguous acres.
2. The developer shall provide within the planned unit development a sanitary sewage system which shall be of sufficient size and design to collect all sewage from all present and proposed structures in the planned unit, shall connect with the City's system, and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, the Genesee County Drain Commissioner's Office and the City of Clio.
3. The developer shall provide within the planned unit development a storm drainage system which shall be of sufficient size and design as will in the opinion of the City's engineer collect, carry off and dispose of all predictable surface water run-off within the development and any adjoining tributary area, and shall be so constructed as to conform with the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, the Genesee County Drain Commissioner's Office, and the City of Clio.
4. If a public water system is not available, the developer shall provide within the planned unit development a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
 - a. The developer shall provide a fire hydrant within four hundred (400) feet of each structure.

- b. Water systems shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Genesee County Health Department, the Genesee County Drain Commissioner's Office, and the City of Clio.

B. Permitted Uses:

1. Single family attached or detached dwelling.
2. Multiple family structure.
3. Accessory private garage.
4. Public or private park or recreation area which may include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink, and other similar recreational uses, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire, or other safety hazards, smoke, fumes, or other pollutants detrimental to existing or prospective occupants or the general public.
5. Municipal building.
6. School.
7. Church, temple, synagogue, parsonage or parish house, convent.
8. Art gallery or professional office.
9. Theatre for stage productions or films, but not a drive-in theatre.
10. Studio of artist, sculptor, musician or photographer, but no goods or objects shall be sold or publicly displayed on the premises.
11. Restaurant.
12. Business activities of a local or neighborhood character, conducted within an enclosed building only, providing necessary services for the day-to-day operation of a household, and which can be supported economically by a small neighborhood area, including business of the type included in, although not limited to, the following:
 - a. Barber and beauty shop.
 - b. Cigar store.
 - c. Cleaning and dyeing distribution shop (no processing).
 - d. Dairy products, retail sales.
 - e. Delicatessen.
 - f. Drugstore.

- g. Laundry collection shop, self-service laundry and hand laundry.
- h. Local store selling, at retail, fish, fruit, food, hardware, meats (no slaughtering) and vegetables, and beer and wine under SDM license and gasoline from not more than two gasoline pumps; provided further, that such store may not exceed twelve thousand (12,000) square feet of sales floor area.
- i. Newsstand.

C. Density and Design Standards:

1. Area limitations for various uses: Within a planned unit development the following percentages of the total land area shall be devoted to the specified uses:
 - a. A maximum of eighty (80) percent for residential use; land devoted to residential use shall be deemed to include those streets, alleys, parking areas, private open spaces and courts which abut and service primarily residences or groups of residences, but it shall not include useable open space which is available for use by the general public or by persons who do not live in the residences or groups of residences immediately provided herein.
 - b. A maximum of twenty (20) percent for non-residential uses and required parking, provided, however, that open air recreational uses, other open space uses, and land devoted to streets shall not be included in determining non-residential use.
 - c. A minimum of twenty (20) percent for open air recreational uses and other useable open space.
 - 1) Usable open space shall be defined as an open area designated and developed for common use by the occupants of the development or by others for recreation (whether commercial, private, or public) courts, gardens, or household service activities such as clothes drying, which space is effectively separated from automobile traffic and parking and is readily accessible; the term shall not include space devoted to streets and parking.
2. Residential density: The density of residences shall not exceed 4.5 units per acre of the land within the development which is devoted to residential use and usable open space.
3. Lot size: There shall be no minimum lot size, no minimum setbacks, no minimum percentage of lot coverage and no minimum lot width for any unit; provided, however, that in areas of single family and/or townhouse structures which are to be sold and for which the care and maintenance of the grounds and exteriors associated with such structures will be the responsibility of the purchaser of such structure or parts of such structures, such areas shall be platted with applicable and recordable provisions of the Subdivision Regulations. For purposes of determining overall densities within the

planned unit development, the number of units located in such platted areas shall be included.

4. Height: The height of any structure within a planned unit development shall be related to the location of the structure such as to equal the distance to any adjacent property line; provided, however, the height limitation shall be related to the capability of the City and provided further, that this provision affect any structure of less than thirty-five (35) feet.
5. Location of structures: The proposed location and arrangement of structures shall not be detrimental to existing or prospective development of the neighborhood. Every single family dwelling shall have access to a public street, court, walkway, or other area dedicated to public use. No structure and no group of structures (such as semi-detached dwellings or a row of townhouses) shall be erected within twenty-four (24) feet of any other structure or group of structures.
6. Protection of open spaces: Open spaces between structures, including those spaces being used as public or private recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications, as the City Planning Commission shall specify.
7. Roads and parking areas: The dimensions and construction of roads, alleys, and parking areas within the development, whether or not dedication of them to the City is contemplated, shall conform with all applicable state, county, and city ordinances.

D. Procedure:

1. Before any conditional use permit or building permit is issued for land or a building in a planned unit development, the developer shall obtain approval by the City Planning Commission of an overall plan for development of the land. For this purpose, he shall submit to the City Planning Commission a plan prepared by a registered community planner, or a registered architect which:
 - a. Shall state the acreages to be devoted to specific uses;
 - b. Shall set forth the proposed density of dwelling units;
 - c. Shall include a major thoroughfare plan and a public utility plan;
 - d. And shall include a separate plan showing the location of parks, open recreation areas and other open spaces, schools and other public or community uses.
2. The criteria for approval of any planned unit development shall be those which are included within the Conditional Use Permit Review Procedures Section of this Ordinance in Article 9. These criteria shall include the desirability of the planned unit development's design in terms of traffic safety, health, drain-age, densities, land use relationships or proposed uses to each other and used adjacent to the site and its overall relation to a community development plan if such a plan exists.

3. If the plan is approved by the City Planning Commission, the developer shall thereafter submit a detailed plan, containing all the information required of this Ordinance.
 - a. The City Planning Commission shall review the detailed plan to determine that it complies with this Ordinance and with the overall plan originally submitted by the developer.
 - b. Approval of any detailed plan shall lapse unless construction is started in that section within one (1) year.
 - c. No conveyance of land within the development may be made until the developer has complied with all City regulations.

§11.16 PUBLIC PARKS, GOLF COURSES, COUNTRY CLUBS, TENNIS COURTS, AND SIMILAR RECREATIONAL USES

Public parks, golf courses, country clubs, tennis courts, and similar recreational uses (including restaurants when such use is conducted within an area accessory thereto, is an integral part thereof and is entered from within the main building), and when all buildings are at least one hundred (100) feet from any property line.

§11.17 SEXUALLY ORIENTED BUSINESS

Sexually Oriented Business, provided the building housing a sexually oriented business or parking area serving it, shall not be less than 200' from a Residential 1 or Residential 3 zoning district and shall not be closer than 500' from another sexually oriented business.

A. Definitions:

1. ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, 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 the depicting or describing of "specified sexual activities" or "specified anatomical areas."

2. ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(b) instruments, devices, or paraphernalia which 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 ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

3. ADULT CABARET means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:
 - (a) persons who appear in a state of nudity or semi-nude; or
 - (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - (c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
4. ADULT MASSAGE PARLOR is any place where, for any form or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with "specified sexual activities" or where any person providing such treatment, manipulation or service related thereto, exposes "specific anatomical areas."
5. ADULT MOTEL means a hotel, motel or similar commercial establishment which:
 - (a) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which 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 which advertises the availability of this adult type of photographic reproductions; or
 - (b) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (c) allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

6. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
7. ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
8. EMPLOYEE means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
9. ESCORT means 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.
10. ESCORT AGENCY means 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.
11. ESTABLISHMENT means and includes any of the following:
 - (a) the opening or commencement of any sexually oriented business as a new business;
 - (b) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (c) the additions of any sexually oriented business to any other existing sexually oriented business; or
 - (d) the relocation of any sexually oriented business.
12. HEARING means an appeal process.
13. LICENSEE means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

14. NUDE MODEL STUDIO means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
- (a) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 - (b) where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - (c) where no more than one nude or semi-nude model is on the premises at any one time.
15. NUDITY or a STATE OF NUDITY means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
16. PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.
17. SEMI-NUDE or in a SEMI-NUDE CONDITION means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.
18. SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (b) 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 or semi-nude.

19. SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or massage parlor.

20. SPECIFIED ANATOMICAL AREAS means:

- (a) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (b) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

21. SPECIFIED CRIMINAL ACTIVITY means any of the following offenses:

- (a) prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- (b) for which:
 - (1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- (c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

22. SPECIFIED SEXUAL ACTIVITIES means any of the following:

- (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether clothed or unclothed.

(b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(c) excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

23. SUBSTANTIAL ENLARGEMENT of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.

24. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

(a) the sale, lease, or sublease of the business;

(b) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

B. Classification:

Sexually oriented businesses are classified as follows:

- (1) adult arcades;
- (2) adult bookstores, adult novelty stores, or adult video stores;
- (3) adult cabarets;
- (4) adult motels;
- (5) adult motion picture theaters;
- (6) adult theaters;
- (7) escort agencies;
- (8) nude model studios; and
- (9) sexual encounter centers.
- (10) adult massage parlors

C. License required:

1. It is unlawful:

- a. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this ordinance.

- b. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this ordinance.
 - c. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this ordinance.
2. An application for a license must be made on a form provided by the City.
3. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this ordinance.
4. A person, who wishes to operate a sexually oriented business, must sign the application for a license as an applicant. If a person other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.
5. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
 - a. If the applicant is:
 1. an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age;
 2. a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and submit proof that all parties are at least 18 years of age;
 3. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process and submit proof that all parties are at least 18 years of age. If incorporated in another state, a certificate of authority to do business in the State of Michigan shall also be provided.

- B. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state
 - 1. the sexually oriented business's fictitious name, and
 - 2. submit the required registration documents.
- C. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
- D. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or any other ordinances of the City or other similar sexually oriented business ordinances from another City or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- E. Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another City or county and, if so, the names and locations of such other licensed businesses.
- F. The single classification of license for which the applicant is filing.
- G. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
- H. The applicant's mailing address and residential address.
- I. A recent photograph of the applicant(s).
- J. The applicant's driver's license number,
- K. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

- L. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 500 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 100 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
 - M. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section XIV.
6. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:
- a. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 - b. Age, date, and place of birth;
 - c. Height, weight, hair and eye color;
 - d. Present residence address and telephone number;
 - e. Present business address and telephone number;
 - f. Date, issuing state and number of driver's permit or other identification card information; and
 - g. Proof that the individual is at least eighteen (18) years of age.
7. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
- a. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees or the photographs and fingerprints shall be paid by the applicant.
 - b. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, municipality, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

- c. A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

D. Issuance Of Employee License:

1. Upon the filing of said application for a sexually oriented business employee license, the application shall be referred to the appropriate City departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
 - a. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 - b. The applicant is under the age of eighteen (18) years;
 - c. The applicant has been convicted of a "specified criminal activity" as defined in this ordinance;
 - d. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance; or
 - e. The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section X.
2. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any specified criminal activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section VI.
3. Within 30 days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- a. An applicant is under eighteen (18) years of age.
 - b. An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
 - c. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - d. An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 - e. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance.
 - f. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
 - g. The license fee required by this ordinance has not been paid.
 - h. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.
4. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section III. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
 5. The health official, fire official, and the building official, or representative of said officials, shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.
 6. A sexually oriented business license shall issue for only one classification as found in Section III.

E. Fees:

1. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee to be determined by resolution of the City Commission.

2. In addition to the non-refundable application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee to be determined by resolution of the City Commission, within thirty (30) days of license issuance or renewal.
3. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation fee, and non-refundable license fee to be determined by resolution of the City Commission.
4. All license applications and fees shall be submitted to the Clerk of the City.

F. Inspection:

1. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
2. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

G. Expiration of License:

1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section IV. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
2. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

H. Suspension:

1. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:
 - a. violated or is not in compliance with any section of this ordinance;

- b. refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

I. Revocation:

1. The City shall revoke a license if a cause of suspension in Section IX occurs and the license has been suspended within the preceding twelve (12) months.
2. The City shall revoke a license if it determines that:
 - a. a licensee gave false or misleading information in the material submitted during the application process;
 - b. a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - c. a licensee has knowingly allowed prostitution on the premises;
 - d. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - e. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
 - f. a licensee is delinquent in payment to the City, County, or State for any taxes or fees past due.
 - g. The applicant has had a conviction within the last five years from the date of the application or a pattern of convictions relating to the license that the applicant is applying for or has been granted.
3. When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
4. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek a prompt hearing by the city manager or his or her designee of such administrative action.

J. Hearing:

Depending upon the necessity for prompt action, the hearing shall be held in accordance with one of the following provisions:

1. If there is no immediate threat to the public health, safety or welfare, the hearing shall be held within fifteen (15) days, to determine whether the license or permit should be suspended or revoked. The holder of the license or permit shall be notified of the time, date and place of the hearing and shall be notified of the reason or reasons for the proposed suspension or revocation. The license or the permit holder shall be entitled to be represented by counsel, to submit evidence, to cross examine testifying witnesses and to make arguments concerning the factual and legal issues. The purpose of the hearing is to determine if the City followed correct procedure. The hearing officer or body shall render a written decision stating the reasons for the decision. This written decision shall be rendered within five (5) business days after the hearing.
2. If there is an immediate threat to the public health, safety or welfare, the license or permit may be suspended prior to the hearing. If a license or permit is suspended prior to the hearing, the hearing shall be commenced as soon as is practical, but in no case more than ten (10) days after the suspension. The hearing shall be held to determine whether to terminate or extend the suspension or whether the suspension should be converted into a revocation of the license or permit. The holder of the license or permit shall be notified of the reason or reasons for the already-imposed suspension and for any contemplated future action. The license or permit holder shall be entitled to be represented by counsel, to submit evidence, to cross examine testifying witnesses, and to make arguments on factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision. The purpose of the hearing is to determine if the City followed correct procedure. This written decision shall be rendered within five (5) business days after the hearing.
3. In any hearing held pursuant to the provisions of this ordinance, the rules of evidence shall be followed as far as practicable, but a hearing officer or body may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of facts within the general knowledge of the community.
4. Any licensee or permit holder dissatisfied with the decision of the city manager or other appropriate hearing officer or body may appeal to the City Commission provided that a written request for such an appeal shall be filed within seven (7) days of the date of the decision to be appealed. The City Commission shall schedule a hearing on the appeal to be held within seven (7) days of the receipt of the request for appeal by the City. The hearing shall be held before the City Commission or Committee thereof, as the City shall

determine. The factual record made in the hearing below shall constitute the basic record for the appeal. The City Commission may, but need not, allow the presentation of

additional evidence by a majority vote. Argument as to relevant factual and legal issues shall be permitted. The decision of the City Commission shall be by majority vote. The Commission may affirm, reverse or modify any action taken relative to a license. The decision of the City Commission shall be final.

K. Issuance of Business License:

Where proper application is made for a license or permit and the conditions, requirements and prerequisites for the issuance of the license have been met, the license applied for shall be issued by the City, provided that no cause, as that term is defined herein, exists for denial of the license.

Where proper application is made or permit and such license is denied by the City, the applicant shall have the right to appeal such a denial as provided for by law or in this ordinance. If no such provision is made for an appeal of a denial, the applicant may appeal as set out herein. For purposes of this section, denial of a license shall include refusal to issue an original license or refusal to renew or reissue an existing license. Denial shall be made only for cause as herein defined. Within ten (10) day of notification of denial of a license from the City, an applicant shall file with the City a written notice of appeal. The city manager or the city manager's designee shall set a hearing not later than ten (10) days after the filing of the notice of appeal with the City. The hearing shall be held as herein provided for except that the issue to be determined is whether the denial of the license was proper. The hearing officer shall render a written decision stating the reasons for the decision. This written decision shall be rendered within five (5) business days after the hearing.

L. Transfer of License:

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

M. Location of Sexually Oriented Businesses:

1. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than C-2 or I, as defined and described in the Clio City Zoning Code.
2. A person commits an offense if the person operates or causes to be operated a sexually oriented business within 100 feet of:

- a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - c. A boundary of a residential district as defined in the Clio City Zoning Code;
 - d. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of the City park and recreation authorities;
 - e. The property line of a lot devoted to a residential use as defined in the Clio City Zoning Code;
 - f. An entertainment business which is oriented primarily towards children or family entertainment; or
 - g. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.
3. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 500 feet of another sexually oriented business.
 4. A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
 5. For the purpose of subsection B of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection B. Presence of a City, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

6. For purposes of subsection C of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
7. Any sexually oriented business lawfully operating on February 21, 2005 that is in violation of subsection A through F of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 500 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.
8. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection B of this Section within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

N. Additional Regulations for Adult Motels:

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a presumption that the establishment is an adult motel as that term is defined in this ordinance.
2. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or sub rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub rents the same sleeping room again.
3. For purposes of subsection (B) of this section, the terms "rent" or "sub rent" means the act of permitting a room to be occupied for any form of consideration.

O. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms:

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one

hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- a. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The City may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- b. The application shall be sworn to be true and correct by the applicant.
- c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.
- d. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- f. It shall be the duty of the licensee to ensure that the view area specified in subsection (5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this Section.

- g. No viewing room may be occupied by more than one person at any time.
 - h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.
 - i. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
 - j. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
 - k. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
 - l. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
 - m. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
 - n. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, composition board or other porous material shall be used within forty eight (48") inches of the floor.
2. A person having a duty under Subsection (1) through (14) of Subsection (A) above commits a misdemeanor if he knowingly fails to fulfill that duty.

P. Additional Regulations for Escort Agencies:

1. An escort agency shall not employ any person under the age of 18 years.
2. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Q. Additional Regulations for Nude Model Studios:

1. A nude model studio shall not employ any person under the age of 18 years.
2. A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio.

3. A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.
4. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

R. Additional Regulations Concerning Public Nudity:

1. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
2. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.
3. It shall be a misdemeanor for an employee, while semi-nude or nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude or nude in a sexually oriented business.
4. It shall be a misdemeanor for an employee, while nude or semi-nude, to touch a customer or the clothing of a customer.

S. Prohibition Against Children in a Sexually Oriented Business:

A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

T. Hours of Operation:

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of ten o'clock (10:00) P.M. and ten o'clock (10:00) A.M. on weekdays and Saturdays, and ten o'clock (10:00) P.M. on Saturdays and 12:00 noon on Sundays.

U. Exemptions:

1. It is a defense to prosecution under Section XVII that a person appearing in a state of nudity did so in a modeling class operated:
 - a. by a proprietary school, licensed by the State of Michigan; a college, junior college, or university supported entirely or partly by taxation;

- b. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or,
- c. in a structure:
 - 1. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - 2. where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - 3. where no more than one nude model is on the premises at any one time.

V. Injunction:

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of Section XII of this ordinance is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of \$500.00 and/or ninety-three day (93) days imprisonment. Each day a sexually oriented business so operates is a separate offense or violation.

§11.18 SHOPPING CENTERS

Shopping centers, subject to a minimum lot area of two (2) acres, and provided that the general plan for the shopping center shall include specific evidence and facts showing that the developer has considered and made provision for, and the development shall be executed in accordance with the following essential conditions:

- A. The proposed development shall be constructed in accordance with an overall plan, shall be designed as a complete project covering the total area, with appropriate landscaping, and shall provide initially for the construction of a minimum of seven thousand five hundred (7,500) square feet of floor area.
- B. All structures shall be arranged in an integral development.
- C. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the center without undue congestion to or interference with normal traffic flow.
 - 1. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
- D. No part of any parking access and/or service area may be located closer than twenty-five (25) feet of any property line adjacent to a residential district.
- E. Parking, loading, or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center and shall be physically separated from public streets.

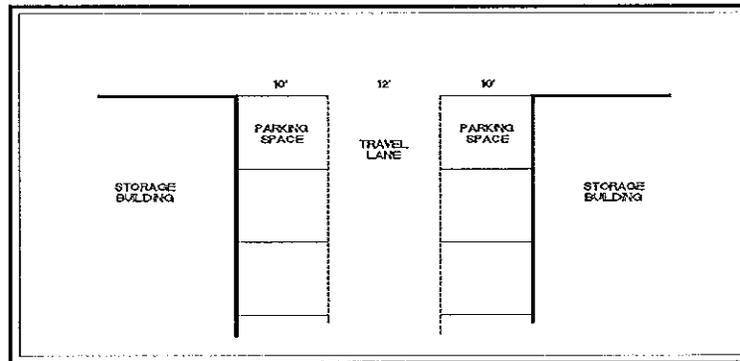
- F. Any shopping center development adjoining any residential district shall be provided with a buffer of at least fifteen (15) feet which buffer shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes. A landscaped planting area shall also be provided along all street frontage which shall not be less than ten (10) feet in width. All plantings shall be approved by the City Planning Commission.
- G. All shopping center developments shall have direct access to a primary road as determined by the City Planning Commission. No regular public access shall be made through a residential local street.
- H. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
- I. Lighting facilities shall be required where deemed necessary for the safety and convenience of shoppers and employees. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.

§11.19 STORAGE FACILITIES

Storage facilities (excluding outdoor storage) are permitted by right in the I district and by Conditional Use Permit in the C-2 zoning districts; storage facilities (with outdoor storage) are permitted by Conditional Use Permit in the I zoning districts provided:

- A. Minimum parcel area for the entire development is four (4) acres.
- B. Access to the facility shall be from a Village major street or state highway.
- C. All outdoor storage areas shall be appropriately screened from surrounding property, as determined by the Planning Commission.
- D. Maximum building height shall be nineteen (19) feet.
- E. Parking for the storage leasing office and a caretakers residence shall be as outlined under this Ordinance's parking regulations. A ten (10) foot wide parking strip shall be required in front of each row of storage units and a twelve (12) foot wide travel lane provided between buildings (see Figure 11-1).

Figure 11-1



- F. Only signage related to the storage facility is permitted. Signs identifying names of businesses owning individual units are prohibited.
- G. The individual units are for storage purposes only. Other uses of the units including parts assembly, carpentry, etc. is prohibited. No overnight storage of vehicles is permitted.
- H. The storage of hazardous or flammable materials is not permitted.

§11.20 TEMPORARY USES

- A. Nothing in this Ordinance shall prevent the use of a travel trailer, a mobile home, or other similar structure, in any district as a temporary construction field office for a period not to exceed one (1) month after the structure is completed or one (1) year, whichever comes first; provided, however, such structure is not used for overnight sleeping accommodations and adequate arrangements for sanitary facilities are made; and provided further, that the temporary field office has been certified as such and conforming to this Ordinance by the Building Inspector.
- B. Circuses, carnivals, and other transient amusement enterprises may be permitted in any district, upon approval by the City Planning Commission based upon review procedures as outlined in Article 9 of this Ordinance and a finding that the location of such an activity will not adversely affect adjoining properties, nor adversely affect public health, safety, morals, and the general welfare; provided, however, the City Planning Commission may require the posting of a bond running to the City in an amount sufficient to hold the City free of all liabilities incidental to the operation of such activity and to indemnify any adjoining land owner for any damages resulting from the operation of such activity, and which damages shall be provable before a court having jurisdiction over the premises on which the damages occurred and payable through such court.

§11.21 SMALL STRUCTURE MOUNTED WIND ENERGY TURBINES

- A. This Ordinance applies to all SSMWET proposed to be constructed after the effective date of this Ordinance.

B. All SSMWETs constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; however, any physical modification to an existing WET that materially alters the size, type, equipment, or location shall require a permit under this Ordinance.

C. Definitions

1. Ambient Sound Level is the amount of background noise at a given location prior to the installation of a WET(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American Standards Institute.
2. Anemometer is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
3. Decibel is defined as unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American Standards Institute.
4. Decommissioning is the process of terminating operation and completely removing a *SSMWET(s)* and all related buildings, structures, foundations, access roads, and equipment.
5. Net-Metering is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.
6. Occupied Building is a residence, school, hospital, church, public library, business, or other building used for public gatherings.
7. Owner is the individual or entity, including their respective successors and assigns, that have an equity interest or own the *Small Structure Mounted Wind Energy Turbine (SSMWET)* in accordance with this ordinance.
8. Rotor Diameter is the cross-sectional dimension of the circle swept by the rotating blades of a WET.

9. Shadow Flicker is the moving shadow, created by the sun shining through the rotating blades of a *SSMWET*. The amount of shadow flicker created by a *SSMWET* is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.
10. Structure is any building or other structure, such as a municipal water tower that is a minimum of twelve (12) feet high at its highest point of roof and is secured to frost-footings or a concrete slab.
11. Small Structure –Mounted Wind Energy Turbine (*SSMWET*) *including vertical wind turbines* electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A *SSMWET* is attached to a structure's roof, walls, or other elevated surface. The *SSMWET* has a nameplate capacity that does not exceed ten (10) kilowatts. The Total Height does not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.
12. Total Height is the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of the blade, or the maximum height reached by any part of the Wind Energy Turbine (*WET*).
13. Wind Energy Turbine (*WET*) is any structure mounted, small, medium, or large wind energy conversion system that converts wind energy into electricity through the use of a Wind Generator and includes the nacelle, rotor, tower, and pad transformer, if any.

D. Temporary Uses

The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable *WET* regulations.

1. Anemometers

- a. The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- b. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements, and decommissioning that correspond to the size of the *WET* that is proposed to be constructed on the site.
- c. An anemometer shall be permitted for no more than thirteen (13) months for a *SSMWET*.

E. Permitted Uses

A Small Structure-Mounted Wind Energy Turbine (SSMWET) shall be considered a permitted use in all zoning districts and shall not be erected, constructed, installed, or modified as provided in this Ordinance unless a building permit & electrical permit has been issued to the Owner(s) or Operator(s).

All SSMWETs are subject to the following minimum requirements:

A. Siting and Design Requirements:

1. "Upwind" turbines shall be required.
2. Visual Appearance
 - a. A SSMWET including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower, and ancillary facility shall be maintained throughout the life of the SSMWET.
 - b. A SSMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
 - c. SSMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
3. Ground Clearance: The lowest extension of any blade or other exposed moving component of a SSMWET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty [30] feet of the base of the tower) and, in addition at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SSMWET.
4. Noise: Noise emanating from the operation of a SSMWET(s) shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. to 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a SSMWET(s) shall not exceed, at any time, the lowest ambient noise level plus 5 dBA that is present between the hours of 9:00p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel. *As a condition of obtaining the permit, a noise level test may be required.*
5. Vibration: Vibrations shall not be produced which are humanly perceptible beyond the property on which the SSMWET is located.
6. Guy Wires: Guy wires shall not be permitted as part of the SSMWET.
7. In addition to the Siting and Design Requirements listed previously, the SSMWET shall also be subject to the following:
 - a. Height: The height of a SSMWET shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

- b. **Setback:** The setback of the SSMWET shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof, or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.
- c. **Location:** The SSMWET shall not be affixed to the wall on the side of a structure facing a road.
- d. **Quantity:** No more than three (3) SSMWETs shall be installed on any parcel of property.
- e. **Separation:** If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

B. Permit Application Requirements (*Permit needed is available at City Hall*)

- 1. Name of property owner(s), address, and parcel number.
- 2. A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads and contours. The site plan must also include adjoining properties as well as the location and use of all structures.
- 3. The proposed type and height of the SSMWET to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- 4. Documented compliance with the noise requirements set forth in this Ordinance.
- 5. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- 6. Proof of applicant's liability insurance.
- 7. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- 8. Other relevant information as may be reasonably requested.
- 9. Signature of applicant.
- 10. In addition to the Permit Application Requirements previously listed, the SSMWET Application shall also include the proposed number of SSMWET(s).

11. A building permit fee shall be established by resolution of the Clio City Commission and shall be paid by the applicant at the time the building permit is issued to the applicant.

C. Safety Requirements:

1. If the SSMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
2. The SSMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
3. A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET.
4. The structural integrity of the SSMWET shall conform to the design standards of the International Electrical Commission, specifically IEC-61400-1, "Wind Turbine Safety and Design" and/or IEC 61400-2, "Small Wind Turbine Safety", IEC 61400-22 "Wind Turbine Certification", and IEC 61400-23 "Blade Structural Testing" or any similar successor standards.

D. Signal Interference:

1. The SSMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

E. Decommissioning:

1. The SSMWET Owner(s) or Operator(s) shall, complete decommissioning within *six (6)* months after the end of the useful life. Upon request of the owner(s) or assigns of the SSMWET and for a good cause, the City of Clio Commission may grant a reasonable extension of time. The SSMWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of *six (6)* months. All decommissioning expenses are the responsibility of the Owner(s) or Operator(s).
2. If the SSMWET Owner(s) or Operator(s) fails to complete decommissioning within the period prescribed above, the City of Clio Commission may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the SSMWET is not owned by the property owner(s), a bond must be provided to the City of Clio for the cost of decommissioning each SSMWET.

F. Public Inquiries & Complaints:

1. Should an aggrieved property owner allege that the SSMWET is not in compliance with the noise requirements of this Ordinance, the procedure shall be as follows:

a) Noise Complaint

- i. Notify the City of Clio Administrator in writing regarding concerns about noise level.
- ii. If the complaint is deemed sufficient by the City of Clio Administrator to warrant an investigation, the City of Clio Administrator will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this Ordinance.
- iii. If the test indicates that the noise level is within Ordinance noise requirements, the City of Clio will use the deposit to pay for the test.
- iv. If the SSMWET Owner(s) is in violation of the Ordinance noise requirements, the Owner(s) shall reimburse the City of Clio for the noise level test and take immediate action to bring the SSMWET into compliance which may include ceasing operation of the WET until Ordinance violations are corrected. The City of Clio will refund the deposit to the aggrieved property owner.

§11.22 RELIGIOUS INSTITUTIONS AND OTHER PLACES OF ASSEMBLY; PUBLIC, PRIVATE AND PAROCHIAL SCHOOLS

Religious institutions and other places of assembly, and public, private and parochial schools shall comply with the following regulations (to the extent permitted by Michigan state law):

- A. Lot Width. The minimum lot width shall be one hundred fifty (150) feet.
- B. Lot Area. The minimum lot area shall be two (2) acres.
- C. Parking Setback. Off-street parking shall be prohibited in the front setback area and within fifteen (15) feet of the rear or side property lines.
- D. Building Setbacks and Height. Such uses shall comply with the following building setback requirements for principal and accessory buildings:
 1. Front Yard: 50 feet (A front yard setback shall be required on all sides of a building where there is a public entrance.)
 2. Side Yards: 25 feet
 3. Rear Yard: 50 feet

The maximum height of the principal building shall not exceed thirty (30) feet in residential districts and fifty (50) feet in nonresidential districts. The required setbacks shall be increased by one (1) foot for each foot that a principal building exceeds these height requirements.

Steeple may exceed the maximum height requirement for the districts in which they are located and are not subject to the setback requirements in the previous paragraph. For the purposes of this section, a steeple is defined as a tower attached to and rising above the main structure of a building, usually capped with a spire.

- E. Frontage and Access. Religious institutions and other places of assembly shall be located on and have access to a major thoroughfare as designated on the City's Future Land Use Map.
- F. Landscaping. Religious institutions and other places of assembly shall comply with the landscaping requirements in Article 10. In addition, a greenbelt buffer shall be planted in the setback where a parking lot or service area (such as a trash collection area) abuts a residentially-zoned or used property. The greenbelt shall consist of evergreen trees planted a maximum of 15 feet apart.
- G. Accessory Building and Uses. Accessory buildings and uses for religious institutions and other places of assembly shall comply with the regulations in Section 3.11.C.