CALL PUBLIC HEARING TO ORDER

ROLL CALL

PUBLIC COMMENT/INPUT ON THE PROPOSED AMENDMENTS TO THE COMMERCIAL RESIDENTIAL ZONING DISTRICT

ADJOURNMENT

CALL REGULAR MEETING TO ORDER

APPROVAL OF MINUTES – Public Hearing 09/03/2019, Regular Meeting 09/03/2019, Special Meeting 09/17/2019

TREASURER’S REPORT – BS&A Expenditure Report for period ending 09/30/2019

ADDITIONS OR CHANGES TO THE AGENDA

CONFLICT OF INTEREST

CORRESPONDENCE

PUBLIC COMMENT

ZONING ADMINISTRATOR’S REPORT – September 2019 Report

UNFINISHED BUSINESS
1. Sign Ordinance
2. Commercial Residential Zoning as it pertains to the M22 Corridor

NEW BUSINESS
1. Zoning Ordinance - Article 5: Site Plan Review

COMMITTEE REPORTS

PUBLIC COMMENT

PLANNING COMMISSION MEMBERS AND CHAIRPERSON COMMENTS

ADJOURNMENT

Persons with questions or individuals with disabilities requiring auxiliary aids or services to effectively participate in the meeting should contact the Village of Empire Office at (231) 326-5466, PO Box 253, Empire, MI 49630, or at deputyclerk@villageofempire.com.
Section 4.05 Commercial Residential District

The following provisions shall apply to the Commercial Residential District (CR).

Section 4.05.1 - Intent

The Commercial Residential District (CR) is designed to maintain the unique characteristics of the Village of Empire along Front Street in the Village core that results from a blend of residential and commercial uses which fosters a strong sense of community and encourages pedestrian access. Characteristics common to the CR District include compact development, a density and arrangement of land uses which encourages pedestrian activity and a mix of residential and limited commercial land uses in successful co-existence.

The CR District permits a variety of stores, personal services, offices and residential uses oriented toward pedestrian traffic, while providing for automobile access. Persons entering this district should be able to park once and carry out several errands. Tourist homes in large older residences and offices are compatible uses so long as adequate and convenient off street parking is provided.

Section 4.05.2 - Permitted Uses

2. Two-family dwellings.
3. Accessory dwellings.
5. Child care center/child day care.
6. Retail sales and services within an enclosed building with a maximum floor area of 5,000 square feet (including gross floor area, roofed storage, outdoor retail, and similar commercial uses).
7. Restaurants and taverns.
8. Personal service establishments.
10. Banks and other financial institutions.
11. Hospitals & medical clinics.


14. Outdoor display and sales of merchandise, incidental to a business.

15. Public parks, playgrounds and recreation facilities.

16. Planned Unit Development.

17. Plant materials nursery.


19. Accessory buildings and uses customarily incidental to the above permitted uses.

4.05.3 Specific Standards

1. Allowable Building Types

   a. Single-family dwellings, along with buildings and other structures that are normally considered accessory.

   b. A single attached or detached accessory dwelling not exceeding the size of the principle residence is also allowed on lots, and provided the lot owner lives in one of the dwellings on the lot.

   c. Civic buildings including schools, libraries, day care centers, churches, meeting and recreation halls. Commercial uses as listed, based on size limitations below.

2. Dimensional Standards

   a. Lot Depth ................................. 100’ min.

   b. Lot Width ................................. 50’ min. to 100’ max.

   c. Street Front Setback ............... 5’ min. to 20’ max.

   d. Rear Yard Setback................. 10’ min. from the rear yard lot line. 
      (See footnote f in Section 4.09 Schedule of Regulations).

   e. Side Yard Setback ................. 0’ min. Commercial to commercial, 5’ min commercial to residential, or residential to residential.
f. Minimum Space Between Buildings ……………10’. (See footnote f in Section 4.09 Schedule of Regulations).

g. Primary Structure Height .......... 35’ max.

h. Accessory Building Height......... 25’ or the height of the primary dwelling, whichever is less.

i. No new curb cuts shall be allowed on Front Street, garages and accessory structures shall be accessed from the alley. All off street parking areas shall be located off of the back alley.

j. All trash storage areas for use other than single family residential shall be screened from view, by a fence or vegetation that is a minimum of six (6) feet in height.

3. **Other Specific Standards**

   a. Primary dwellings and commercial buildings shall be primarily oriented toward the front and/or side of the lot.

   b. Maximum Lot Coverage with Impervious Surfaces ………….90% of the gross lot area.

   c. Alley Requirement. All along Front Street lots shall back onto a service alley.

   d. Drive through windows are not allowed.

**Section 4.05.4 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures in the CR District shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of *Article 6: Uses Subject to Special Use Permit* and the applicable portions of *Article 7: Supplemental Site Development Standards*.

1. Schools licensed or chartered by the State of Michigan.

2. Convalescent homes/nursing homes.


4. Hotels, motels and inns.

5. Nursery schools.
6. Veterinary clinics.
7. Pet shops.
9. Funeral homes and mortuaries.
10. Automobile repair.
11. Gasoline service station.
12. Planned Unit Development.
13. Open air business.
14. Accessory buildings and uses customarily incidental to the above special uses.

**Section 4.05.5 - Dimensional Regulations**

Structures and uses in the CR District are subject to the area, height, bulk and placement requirements in *Section 4.09 Schedule of Regulations*.

**Section 4.09 Gateway Corridor District**

The Planning Commission shall recommend to the Village Council that the council approve, or approve with conditions, an application if the Planning Commission finds that the proposal meets all of the following provisions within the Gateway Corridor District.

**Section 4.09.1 - Intent**

The Gateway Corridor (GC) District is designed to maintain the unique characteristics of the Village of Empire along M-22 Highway and M-72 Highway that result in safe, pedestrian friendly access to commerce and which safely connect pedestrians to the Commercial Residential (CR) District, i.e., the Village core along Front St., adjacent and nearby residences, and encourages pedestrian access. Characteristics common to the GC District include compact development, a density and arrangement of land uses which encourages safe pedestrian activity, low profile signage, dark sky protective lighting, and limited commercial land uses in successful co-existence with the community at large.

This GC district permits a variety of stores, personal services, offices and others commercial uses safe for pedestrians, while providing for adequate and safe automobile access and circulation.

**Section 4.09.2 - Permitted Uses**
Permitted uses of lands and premises, and the erection and use of buildings and structures in the GC District shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of Article 5: Site Plan Review.

2. Two-family dwellings.
3. Accessory dwellings.
4. Bed and breakfast establishments
5. Child care center/child day care.
6. Restaurants and taverns.
7. Personal service establishments.
8. Business and professional offices.
9. Banks and other financial institutions.
13. Public parks, playgrounds and recreation facilities.
15. Home occupations.
17. Retail sales and services within an enclosed building with a maximum floor area of 2,999 square feet or less (including gross floor area, roofed storage, outdoor retail, and similar commercial uses).
18. Accessory buildings and uses customarily incidental to the above permitted uses.
Section 4.09.3 - Uses Subject to Special Use Permit

Special use approval of lands and premises, and the erection and use of buildings and structures in the GC District shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of Article 5: Site Plan Review, Article 6: Uses Subject to Special Use Permit, and the applicable portions of Article 7: Supplemental Site Development Standards.

1. Schools licensed or chartered by the State of Michigan.

2. Convalescent homes/nursing homes.


4. Hotels, motels and inns.

5. Nursery schools.

6. Veterinary clinics.

7. Pet shops.


9. Funeral homes and mortuaries.

10. Automobile repair.

11. Gasoline service station.

12. Car wash facilities.

13. Planned Unit Development.

14. Open air business, and outdoor display and sales of merchandise incidental to a business.

15. Retail sales and services within an enclosed building with a maximum floor area of between 3,000 and 5,000 square feet (including gross floor area, roofed storage, outdoor retail, and similar commercial uses).

16. Accessory buildings and uses customarily incidental to the above special uses.
Section 4.09.4 - Specific Standards

1. Allowable Building Types
   
a. Commercial buildings as listed, and other structures that are normally considered accessory and based on size limitations below.

b. Single-family and two-family dwellings.

c. Mixed use commercial buildings, i.e., possessing commercial and residential uses.

d. A single attached or detached accessory dwelling not exceeding the size of the principle residence is also allowed on lots (i.e., provided the lot owner lives in one of the dwellings on the lot).

d. Civic buildings including schools, libraries, day care centers, churches, meeting and recreation halls.

2. Dimensional Standards
   
a. Lot Depth ......................... 100’ min.

b. Lot Width ............................ 50’ min. to 100’ max.

c. Street Front Setback .......... 5’ min. to 20’ max.

d. Rear Yard Setback .............. 10’ min. from the rear yard lot line.
   (See footnote f in Section 4.09 Schedule of Regulations).

e. Side Yard Setback ............... 0’ min. Commercial to commercial,
   5’ min commercial to residential or residential to residential

f. Primary Structure Height ........ 35’ max.

g. Accessory Building Height ...... 25’ or the height of the primary dwelling whichever is less.

h. All dumpsters and trash storage areas for use other than single family residential shall be screened from view, by a barrier, solid fence and/or an effective native conifer screen that is a minimum of six (6) feet in height.
Section 4.09.6 - Additional Standards

1. All buildings shall primarily be oriented toward the front of the lot.

2. Maximum lot coverage with impervious surfaces, i.e., area of roof, parking, walkways, etc. shall not exceed fifty (50%) the gross lot area. A minimum of fifty (50%) percent of the lot shall be maintained as open space.

3. Drive through windows are not allowed.

4. Awnings, overhangs, porches, walls, accessory buildings and structures, etc. shall not encroach into required setbacks.

5. Streetscape requirements
   a. Sidewalk requirements and design - developments within the HC District shall design and install sidewalks in compliance with Section 3.19 - Sidewalks.
   b. Walkways and sidewalks, patios, structures, and areas designated for outdoor storage, parking or loading shall not be included in the open area calculation; provided, however, that pervious surface areas such as brick, stone areas and patios may be included in the required open area.
   c. Pedestrian use of required sidewalks shall not be obstructed or in any way impeded.

6. Landscaping requirements - A minimum of twenty (20%) percent of the lot shall be landscaped and maintained as open area. A landscape plan shall be provided and approved as a part of Site Plan and Special Use Permit Reviews subject to Section 3.21 - Landscaping.

7. Parking, site circulation and loading - parking and stacking spaces shall be provided subject to Section 13.6 - Off Street Parking Standards.
   a. Parking is required to be off-street subject to Section 3.16.1. Parking shall be shared, and site circulation shall work cooperatively with adjacent land uses where appropriate, and as determined by the Planning Commission.
   b. Parking shall be on-site and within the front and/or side areas of the lot.
   c. Loading spaces shall be provided on the side and/or rear areas of the lot.
   d. Bicycle facilities shall be provided and reviewed in accordance with Section 3.16.1.11.D.
8. **Vehicle access and design** - Access shall comply with Section 3.17 - Access Controls as determined by the Planning Commission. Site access, driveways and curb cuts shall be shared with adjacent land uses to the maximum extent possible. Vehicular and pedestrian traffic within the site shall also be safe and convenient and parking layout will not adversely interfere with the flow, visibility of traffic within the site or to and from the adjacent streets and highways. Safe and adequate access for emergency vehicles to and within the development, and adequate space(s) for turning around at street ends shall be provided. Applicants shall obtain and provide copies of any required permits from the Michigan Department of Transportation and/or Leelanau County Road Commission for any new access, declaration lane, curb cut/driveway, etc.

The use shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting properties, public thoroughfares, and any trails or parks intersecting or abutting such development. Drive through windows are not allowed.

9. **Signs** - signage in the GC District shall comply with and are subject Section 3.12 - Signs for signs in the CR District.

10. **Lighting** - All lighting shall be fully-shielded, downward directed and comply with Section 3.11 - Outdoor Lighting, and shall be compliant with the U.S. Department of Energy’s Exterior Lighting Guide for protection of the dark night sky.¹

11. **Stormwater** - The use shall not result in any increased stormwater runoff to adjacent properties after development than before, and shall utilize innovative stormwater management techniques and systems such as bio-swales, rain gardens, underground storage, and other technologies that result in on-site groundwater infiltration for stormwater disposal.

12. **Phasing** - The use shall be designed such that phases of development, if phased, shall be in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, stormwater drainage or erosion control.

13. The use shall be designed to preserve public views and existing important natural, historical, and architectural features of significance within and adjacent to the development.

14. The proposed use shall not adversely impact the environment.

15. All utilities shall be installed underground.

16. The use shall meet the standards of and obtain permits from all other relevant local, state and/or federal governmental agencies as applicable. Copies of all such permits shall be provided to the Village.

Section 4.09.7 - Additional Requirements

Some or all of the following may be required at the discretion of the Planning Commission.

1. **Economic impact statement** - an economic impact statement, including a detailed analysis of the impact on existing commercial land uses within the Village for the next 20 years, shall be completed and provided by an independent professional to be retained by the Village and compensated at a reasonable cost by the Applicant. The economic impact statement shall also include the proposed days and hours of operation, the character of the surrounding area, and potential impacts to adjacent properties, surrounding neighborhood and community as a whole. The economic impact statement shall be reviewed by the Planning Commission in conjunction with Section 5.03.4.T., *Article 6: Uses Subject to Special Use Permit*, and the applicable portions of *Article 7: Supplemental Site Development Standards*.

2. **Traffic study** - Valid and reliable traffic study(-ies) shall be provided by a licensed traffic engineer to determine the impact of on the existing traffic level of service (LOS) and public safety from the proposed land use.

3. **Decommissioning Plan** - A decommissioning plan shall be provided detailing facility decommissioning and/or demolition after abandonment. A performance guarantee for facility decommissioning shall be provided in accordance with Section 8.06 - Performance Guarantees. The Zoning Administrator shall determine that “abandonment” exists if land uses authorized by a Village Land Use permit in the GC District are determined to have ceased or discontinued for a period of ninety (90) continuous days or more.

3. **Nuisance Prevention** - The use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.
4. **Noise** - Sounds emanating from a use shall not generate noise that because of its volume or frequency results in the unreasonable interference with the comfortable use and enjoyment of properties adjacent to or in the vicinity of the use. Noise, if generated, shall be effectively managed by methods such as, but not limited to, the use of earthen berms, brick walls, ceramic barriers, and/or other noise abatement technologies in conjunction with fencing and/or landscaping, increased setbacks, days of the week and/or limited hours of operation.

5. **Public Services and Facilities** - The use shall not place demands on public services and facilities in significant excess of current capacity, unless planned improvements which will increase the capacity sufficient to service the development have already been scheduled for completion.

6. **Public Safety** - The proposed use shall not unreasonably impact public safety, or unduly burden or exceed the ability of public safety services or facilities to handle the anticipated needs of the community.
Village of Empire Zoning Map
Leelanau County, Michigan

Legend
- Lake
- Village limits
- Parcels
- Zoning Districts
  - General Commercial
  - Mixed Residential
  - Village Residential
  - Commercial Residential
  - Recreation/Conservation
  - Planned Unit Development
  - Light Industrial
  - Road Ownership
    - Private Roads
    - Village Public Streets
    - State Highways

Sources: Michigan Department of Natural Resources, Leelanau County Planning Department, and M.C. Planning & Design

Article 4: Districts
Village of Empire Zoning Ordinance 4-3
Amended: December 8, 2011
Effective: December 29, 2011
The Empire Village Planning Commission (PC) held a public hearing on Tuesday, September 3, 2019 at the Empire Township Hall, 10088 Front Street, Empire, MI.

CALL PUBLIC HEARING ON THE DRAFT MASTER PLAN MEETING TO ORDER – Chair Sue Palmer called the public hearing to order at 6:00 pm.

ROLL CALL – Todd Avis, Sue Palmer, Maggie Bacon, Peter Schous, Rollie Groening, Frank Clements and Phil Deering present. Chris Grobbel, Zoning Administrator, present. Alacia Acton, Recording Secretary absent.

AUDIENCE COMMENTS/INPUT

Bob Scott (Niagara Street)- The plan has good statistics about age of the population and income levels in planning for future development. Wondered if the plan included anything about percentage of about seasonal homes - homes that are occupied through the winter.

    Palmer mentioned the VC Short Term Rental Committee that - while focused on Short Term Rentals - they may also complete some research on the "seasonal" issue.

    Avis mentioned the Housing Units & Seasonal Housing 2010 - 2016 Chart on page 18 that shows a change in Empire of "seasonal housing units" from 113 in 2010 to 131 in 2016.

    Bacon mentioned Page 16 introduces the topic within the text of the Plan and provides the source of the data: "American Community Survey (ACS) counts vacant housing units that are for “seasonal” use. [sic] 36% (131 units) of Empire’s, is classified as seasonal— compared to 6% of the State’s total housing stock. The number of housing units classified as “seasonal” increased by 16% between 2010-2016, compared to only 5% total housing unit growth - likely reflecting a trend of conversion from year-round homes to seasonal housing."

Scott thought the number of vacant properties in the winter would be useful for the PC and VC in the planning process.

Mary Sharry (Michigan Street) - How are the results of the Community Survey reflected in the Master Plan?

    Avis, Schous commented that the survey and subsequent round table discussions contributed to and informed how and what the Master Plan committee focused on in completing the update. Ultimately, many of the statements in the Goals and Objectives (pages 58 - 64) are a reflection of that results of the survey.

Sharry followed up reminding the PC that the issue of sewer/septic systems was included in the survey and asked if the Master Plan included information about the sewer/septic systems?
Bacon indicated the Master Water Committee, its findings and the 3 public comment meetings are noted in the Plan (page 54) as is a statement made by the Council at its October 23, 2018 meeting. That same section of the MP offers the following quote: "Public input and Master Plan Committee discussions throughout the development of the 2019 Master Plan identified questions and issues related to a wastewater system, including costs, impact on development and community support." In addition, page 49, (under infrastructure) refers to the challenges new commercial businesses experience related to meeting the Benzie-Leelanau Health Department.

Schous added that the survey was based on the Goals and Objectives of the previous Master Plan and is available on the website but has not been added as an appendix to the Master Plan itself. However, he reiterated that the data from the survey was used by the Master Plan Committee to define priorities.

Bea Salisbury (M-22) - How does the Master Plan encourage development and ensure the availability of basic services?

Avis referred to Goals and Objectives at the end of the Master Plan (pages 58-64) that set the tone and lay the groundwork for the direction based on the information taken from the survey, public round table discussions and the discussions during the Master Plan meetings. Those pages include action steps to get us from point A to point B. Ultimately, the Village Council (and the Planning Commission) will use this plan - along with the Capital Improvement Plan - as a guidepost for determining future projects. This falls to the Village Council because most projects will need to be funded.

Bacon pointed out page 49 and 50 includes a significant list of basic services that may be needed - specifically - in the commercial areas of the Village. Bacon felt this section sends the message forward of the need to plan for basic services for commercial entities to the Planning Commission and the Village Council. Bacon felt this section was considered as the Goals, Objectives and Action Steps were being written.

Jody Hayden (Grocer's Daughter) - Wanted to acknowledge the importance of the Master Plan, Recreation Plan and Transportation Plan and updating the Zoning Ordinance and to remind the Planning Commission of the limitations the Moratorium has placed on businesses in the M-22 Corridor in terms of renovations or new development. She asked if it was possible to allow existing businesses to renovate?

Public Hearing was adjourned at 6:13 p.m.

Respectfully submitted,

/Maggie Bacon

These minutes will be approved at the October 7th, 2019 Regular Planning Commission meeting.
The Empire Village Planning Commission (PC) held a regular meeting on Tuesday, September 3, 2019 at the Empire Township Hall, 10088 Front Street, Empire, MI.

CALL REGULAR MEETING TO ORDER – Chair Sue Palmer called the meeting to order at 6:15 pm.

ROLL CALL – Todd Avis, Sue Palmer, Maggie Bacon, Peter Schous, Rollie Groening, Frank Clements and Phil Deering present. Chris Grobel, Zoning Administrator, present. Alacia Acton, Recording Secretary absent.

APPROVAL OF MINUTES – Question from Clements to Deering re: Council assigning the updating of the Capital Improvement Plan to the Planning Commission. Deering confirmed. Motion by Avis, second by Schous, to approve August 6, 2019 regular meeting minutes and August 21, 2019 special meeting minutes as presented. All in favor, motion carried.

Treasurer’s Report – Groening presented the treasurer’s report. Groening commented the new reports are easier to read.

Avis commented the FY is March 2019 to February 2020 and we have expended 40% of the budget for meetings (with extra meetings and regular meetings) and have expended more than 40% in Planning expenses. Avis also wanted to ensure the Deputy Clerk is receiving a stipend for her role as Recording Secretary for the PC.

Deering commented we will probably exceed the budget.

Additions/changes to the agenda – Palmer to add under unfinished Business (before the master plan update), the capital improvement plan (CIP) Committee.

Conflict of Interest – None

Public Comments & Correspondence – Erik Foged Correspondence re: Ironman and M-22 and condition of the sidewalks.

Mary Sharry (Michigan Street) - Mary shared her work on getting the 4-way stop installed at M-22. It was a lengthy and time-consuming project (including completing a survey and writing letters to MDOT), but worthwhile, endeavor. The flashing pedestrian crossing signs (solar powered) used in Frankfort seem very effective.

Bob Scott (Niagara Street). Niagara Street residents have asked Council to consider converting Niagara and Union into a 4-way stop.

Clements mentioned the Transportation Plan on page 8 has sidewalk and crossings recommendations that address some of the concerns raised. Page 25 has an action plan so a basis for determining priorities and/or asking for assistance from MDOT is in place. He suggests getting in touch with MDOT to discuss implementation. Grobel suggested MDOT will look for a Village...
Council Resolution on specifics. Clements/PC asked Bacon to carry this forward to VC for further action.

ZONING ADMINISTRATOR’S REPORT – Grobbel distributed the August ZA Report, and summarized the report, and his actions over the month. Grobbel confirmed the current zoning map is correct. New residential development proposals are the rise. The PC briefly discussed the ZA report.

UNFINISHED BUSINESS –

1) Capital Improvement Plan (CIP) Committee Appointments

Palmer commented the CIP Committee will have 1 Village Council Trustee, 2 Planning Commissioners, and 2 members of the general public. Alacia has been asked to post at the Village Office, in the Kiosk, in the Leelanau Enterprise (for 2 weeks) and via the e-mail blast the announcement asking for volunteers for the 2 general public positions.

The original deadline for this committee was November 5, 2019. Commissioners agreed this was unrealistic. Palmer selected Planning Commissioners Frank Clements and Peter Schous for the two planning commission seats. Palmer has requested Beryl Skrocki for the Village Council Trustee seat.

Clements said that Networks Northwest was critical in completing administrative tasks. Schous commented some of the original work in setting up the Excel documents is done. Motion made by Bacon, second by Avis to request the new CIP Committee - as created by the PC chair - complete their work no later than of June 2020. All in favor, motion carried.

2) Master Plan Update - Palmer reviewed the Public Comment made during the public hearing.

Deering asked if all the changes were made with this final version. Palmer and Bacon indicated they had reviewed and believe all of those changes were made. Palmer reviewed the comments made during the Public Hearing. Motion made by Deering, second by Bacon to move the Village of Empire 2019 Master Plan (which includes the Recreation Plan and Transportation Plan and Appendices) on to the Village Council for action. All in favor, motion carried.

3) Commercial/Residential Zoning as it pertains to the M22 Corridor

Palmer reviewed various documents provided to the Planning Commissioners: Commercial/Residential District changes provided by the Village Planner, Peter Schous provided information re: formula business restrictions (Palmer provided same to Attorney Figura for his advice and opinion re: Village zoning). Palmer mentioned receiving additional information from Mr. Jim Bagaloff re: formula business restrictions. Figura indicated he had reviewed formula business restrictions and felt the implementation would provide for a limitation of chains or big box stores. He added he was not sure the implementation would stand up to a challenge. He discussed two cases cited in the documentation provided by Palmer that had different outcomes. He had some concerns about the Village using this type of zoning.
Discussion occurred about restricting size of building to NEW construction in the commercial/residential district only. A quick review of square footage of various buildings in the Village was discussed. Grobel thought about 25% of the buildings would be grandfathered should the PC change the zoning restricting buildings of more than 5,000 sq. feet.

Grobel provided the following recommendation as food for thought for the Planning Commission: Put a maximum square footage on new commercial buildings in the Commercial/Residential area – 5,000 sq. feet or less would be a permitted use with the review handled by the Zoning Administrator. Any new building larger than 5,000 sq. feet, would trigger a special use permit. An additional recommendation (map provided at the August meeting) to split the Commercial/Residential into Downtown Core (from the intersection of M-22 and M-72 down to Lake Street along Front Street – this is an area where some buildings currently exceed that 5,000 sq. feet), and the M-22 corridor (being called Highway Commercial for now). Encouraged the PC to consider longer term options such as form-based zoning and architectural standards to be included in the next Master Plan update. As a Planner, Grobel recommends a applying more hard and fast rules re: identifying maximum square footage (i.e., a limit on the size of a building – such as no building larger than 5,000 sq. ft).

Significant discussion occurred re: renovations of old buildings that exceed the 5,000 sq. ft. Technically, if a someone pulls a new permit for some kind of change in use, they must comply with the zoning ordinance in place at the time. This could force that business into a requesting a dimensional variance from the ZBA or conditional rezoning request (see Article 9 in the Zoning Ordinance for criteria). Grobel felt the Village of Empire ZBA has been consistent and thoughtful in reviewing those types of requests and, if the request makes sense, they are quite likely to be approved. It is more process and adds expense for the business. Figura reminded the PC the importance of the ZBA record of findings.

Additional questions revolved around the special use permit requirements should a business submit a site plan for a building greater than 5000 sq. foot. What will be the basis for denying the special use? For example, if some architectural standards were in place, that business would have to meet them. Grobel explained that the special use criteria includes questions such as – does it fit? Is this type of special use allowed in the zoning district? Is it compatible with adjacent land? (see Article 6, 6.02, sub section 3 for a complete list Standards for grant Special use permits).

Palmer asked if the PC has a consensus on splitting the Commercial Residential into Commercial Residential Core and Highway Commercial Residential. Answer: Yes.

Groening asked for a consensus to remove the opportunity for any type of drive-thru (including no: allowing them even with a special use permit) in any CR area in Empire. He felt that would reduce possible traffic issues and ensures the public safety. Answer: Yes.

Grobel reminded PC that both Commercial Residential areas are pedestrian friendly. The core CR is pedestrian-based commercial use and the Highway CR is pedestrian friendly and safe for traffic coming into the Village from the south on M-22. And, that the two CR areas connect.

Palmer asked for consensus on the size of 5,000 sq. ft or less up to Zoning Administrator. Sounded like yes.
Palmer asked for clarification re: setbacks. Other changes were discussed and agreed upon. Core CR will restrict buildings to 5,000 sq. ft or less.

Grobbel will do some additional research on ZBA authority/regulations for the meeting on September 17, 2019.

School House and Lakeshore Inn will be included in the Highway Commercial district.

Highway Commercial Residential District. Grobbel led a review of 24 different things to consider in this area as a starting point that was included in the packet. Questions and comments included a concern that some of the things on the list (impact study, traffic study) would be a barrier to for “mom and pop” business development (which was a primary focus at one time in the MP process). Small business would find it difficult to obtain a surety bond. Front facing requirement also caused some concern. Clements provided clarification on the term “front facing”. Grobbel reminded PC that sq. ft limitations can be employed in this area as well. Clements was able to identify specifics size options per parcel in the area because he has studied this area for a variety of reasons. Another question was how would those issues impact a residential development?

Planner recommendation would include a maximum size building even in the Highway commercial district. May need to include additional restrictions on noise or other nuisances. Grobbel will investigate appropriate setbacks for the Highway Commercial Residential District.

NEW BUSINESS

1) OPEN MEETING ACT AND FOIA TRAINING – Village Council will be setting up a training session on the Open Meetings Act and Freedom of Information. Planning Commission and Village staff will be invited and encouraged to attend. Session will be approximately 3 hours.

COMMITTEE AND VILLAGE COUNCIL REPORTS –

Bacon reported Drainage District Engineer and Village Engineer will be meeting to discuss the South Bar Lake outlet. Village Engineer will remain on site for a discussion about the “3rd circle” (northern most parking lot area) and the wall collapse. Streets Committee is working on a response to the email re: Ironman and sidewalks. In addition, committee members will be looking more closely at the sidewalk issues in September. Some state monies may be available for sidewalk repair and maintenance.

Avis reported the Short-Term Rental Committee will be meeting at 5:30 on September 17 – prior to the Planning Commission meeting.

PUBLIC COMMENTS

Meg Walton expressed concern over too great a focus on business development concerns over preserving the small-town character.
PLANNING COMMISSION MEMBERS AND CHAIRPERSON COMMENTS. Congratulations to the MP Committee on seeing the plan through to this stage. Palmer mentioned, during the meeting, that Alacia was ill and we wish her a speedy recovery.

ADJOURNMENT – There being no further business, Deering moved that the meeting be adjourned at 9:23 pm. The meeting was adjourned.

Respectfully submitted,

/Maggie Bacon

These minutes will be approved at the Village of Empire Planning Commission October 7th, 2019 Regular Meeting.
EMPIRE VILLAGE PLANNING COMMISSION
SPECIAL MEETING MINUTES
TUESDAY, September 17, 2019

The Empire Village Planning Commission (PC) held a regular meeting on Tuesday, September 17, 2019 at the Empire Township Hall, 10088 Front Street, Empire, MI.

CALL REGULAR MEETING TO ORDER – Chair Sue Palmer called the meeting to order at 7:00 pm.

ROLL CALL – Todd Avis, Sue Palmer, Peter Schous, Frank Clements, Rollie Groening and Phil Deering present. Alacia Acton, Recording Secretary, and Chris Grobbel, Zoning Administrator, present. Maggie Bacon present, arriving at 7:03 pm.

ADDITIONS/CHANGES TO THE AGENDA – NONE

CONFLICT OF INTEREST – NONE

PUBLIC COMMENTS & CORRESPONDENCE –

Empire Business Association Letter re: Master Plan Update and M22 Corridor Zoning Moratorium - Palmer read the Empire Business Association Letter written by Paul Skinner that in is in support of the updated master plan and temporary moratorium.

Mary Sharry – Agrees with Paul Skinner’s letter. Sharry believes that 5,000 sq ft is the appropriate number for the maximum floor area of retail establishments along the Gateway Corridor. Sharry is concerned that the security lighting of a larger retail business will negatively impact its residential neighbors and Dark Sky regulations.

UNFINISHED BUSINESS

CIP COMMITTEE – ANNOUNCEMENT OF COMMITTEE MEMBERS

Palmer has selected CIP Committee members as follows: Frank Clements (PC), Peter Schous (PC), Beryl Skrocki (VC), Meg Walton (Public), Tom Isleib (Public). Committee will begin meeting as soon as it’s organized and is scheduled to end June 2020. Motion by Avis, supported by Bacon to approve the CIP committee as listed above. All ayes, motion passes. CIP committee chair to be assigned later.

OMA AND FOIA TRAINING

Figura Law Office will hold OMA and FOIA training for Village Council, Planning Commission and office staff on October 17th, 6-9PM at the Empire Township Hall. Training will be noticed as an open meeting and will be open to the public.

SIGN ORDINANCE

Bacon expressed her concerns on the portion of the ordinance on page 5, Section 6, items 7 & 8 that covers event signs and signs associated with elections or votes. Bacon noted that Figura Law has advised the Village not to adopt this section as it may violate Constitutional First Amendment rights. Bacon asked Grobbel to clarify Figura Law’s difference of opinion. Grobbel stated that the goal was to produce a content-neutral sign ordinance. He believes by only regulating when a sign for an event or election can go up/down is content-neutral, as it does not regulate what the sign says. Grobbel explained that an earlier
PC consensus led him to believe that this part of the sign ordinance was to move forward as-is. As it stands, the sign ordinance has been given to the Village Council for approval. If VC does not approve, they can change it as they see fit or send it back to the PC. Grobel stated that if VC does not pass the new sign ordinance, the one that is in place now is considered content-based, which puts the Village at risk.

COMMERCIAL/RESIDENTIAL ZONING AS IT PERTAINS TO THE M22 CORRIDOR
PC members reviewed DRAFT Commercial District Version 2.

CR along Front Street in the Village Core
Schous asked about outdoor commercial use areas along Front Street. Grobel suggested that it be moved from special to permitted use. Drive through windows will not be allowed. PC agreed that Maximum Lot Coverage with Impervious Surfaces (pg. 3) will change from 70% to 90% with Grobel’s recommendation. Members discussed the strikeouts under special uses. Grobel mentioned that the Village is headed towards restrictive zoning, meaning unless it is stated as a permitted or special use, it is not allowed. It is impractical to have to think of and list every use without creating an extremely massive zoning ordinance.

PC members discussed at length what the retail sales and services permitted use maximum floor space square footage number should be. Clements asked Grobel to describe the impact this number will have on the existing buildings that fall above that square footage number. Grobel explained these buildings are grandfathered in until substantial changes are made. A change in use is a substantial change that will affect most, and those changes will have to go through the ZBA process. PC members reached a consensus to make the permitted use maximum floor space 5,000 sq. ft along Front Street in the Village core.

Highway Commercial District (Gateway Corridor)
PC members reached a consensus to change Highway Commercial District to Gateway Corridor. Deering requested that the NPS Building be colored green on the zoning map. Drive through windows are not allowed will be added to additional standards and removed in all other places. Outdoor display and sales of merchandise, incidental to a business will move to a special use. PC discussed how moving 6 retail sales and services, within an enclosed building, and without a drive through window from a permitted use to a special use will create barriers of entry for mom and pop small businesses. Grobel suggested adding retail sales and services of 3,000 sq. ft. or less as a permitted use. Which means that the zoning administrator will be the one to approve these land use permits.

For reference, Grobel gave the approx. square footage of these current buildings:
Bank – 3,600
Office Space next to bank – 6,000
Medical clinic – 5,000
Gas station – 2,750
Empire Outdoors – 2,000
Shipwreck Café – 1,000
Office next to Shipwreck – 2,400
Grocer’s Daughter – 2,000
Old Hardware – 2,500
Insurance Building – 2,275
Mall – 3,500
Diane’s Hairstyling – 1,000
Village Inn – 3,300
Aylsworth storefront/storage building – 3,840 (number from LUP)
PC members reached a consensus to change the following:

- Retail sales and services within an enclosed building with a maximum floor area of less than 3,000 sq. ft. as a permitted use.
- Retail sales and services within an enclosed building with a maximum floor area of 3,000-5,000 sq. ft. as a special use.

Bacon addressed the street front setback number along the Gateway Corridor. Grobbel explained that having a smaller setback number is a traffic calming strategy because it slows automobile traffic by offering a sense of arrival/destination. Other minor and wording changes were discussed and worked through in the Gateway Corridor section.

Section 4.09.7 Additional Requirements-
Clements read from a prepared statement that he would like inserted into 1. Impact Statement. Bacon clearly stated that she would like 1. Impact statement, 2. Traffic study and 3. Decommissioning Plan removed explaining that the PC has been very clear that they wanted to remove roadblocks for small mom and pop businesses. Members agreed, except for Bacon, that these additional requirements are optional and will be left to the PC at the time of site plan review and SUP process to decide which requirements are necessary. Grobbel stated that he feels the most important additional requirement is 2. Traffic Study. Clements recommends these additional requirements and feels that they are common sense and help protect the village’s health, safety and welfare. 1. Impact statement- Title can be confusing as is it an economic study. Grobbel will change title to reflect that. Consensus reached to make additional requirements, items 1-6, as optional requirements at the discretion of the Planning Commission.

Clements commented on the Zoning Ordinance, Article 5, Site-Plan Review. He would like verbiage added to this section stating all proposed commercial development in the Gateway Corridor, regardless of size, be subject to planning commission review. Schous agrees with Clements. Grobbel reminded members that this contradicts the new proposed amendments to the commercial residential zoning districts that separate permitted from special uses. Permitted uses go to the zoning administrator for approval and special uses go in front of the PC for public process. Grobbel went on to explain not everything should go through the planning commission, it is only necessary when there is a potential elevated impact (special use) that warrants it. Village attorney, Dick Figura commented that he agrees with Grobbel that there are certain uses that are permitted outright which the zoning administrator ensures compliance. And there are special uses that will require the PC to approve. Figura stated that some ordinances require a site plan review for all commercial properties, noting that site plan reviews do not have to be done by the PC, but many are done by the zoning administrator. Grobbel read what uses currently require site plan review. Palmer recommends the PC tackle Article 5 on the meeting agenda.

Next steps for DRAFT Commercial District Version 2. Grobbel will make changes and distribute Version 3. Next regular PC meeting and Public Hearing on the proposed CR amendments will be held on October 7th, 2019 if Township Hall is available. Acton will properly notice the public hearing. After PC public hearing, the amendments will go to County Planning and Village Attorney for comment. After that, the finished document will be sent to VC to approval or public hearing.

COMMITTEE REPORTS – NONE

VILLAGE COUNCIL REPORT – NONE
PUBLIC COMMENTS – NONE
PLANNING COMMISSION MEMBERS AND CHAIRPERSON COMMENTS – NONE

ADJOURNMENT – Motion to adjourn. The meeting was adjourned at 9:18 pm.

Respectfully submitted,

Alacia Acton, Recording Secretary
Village of Empire Planning Commission

These minutes will be approved at the October 7th, 2019 Village of Empire Planning Commission Meeting.
## Expenditure Report for Village of Empire

### Period Ending 09/30/2019

### Fund 101 - General Fund

#### Expenditures

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**Total Dept 721 - Planning Commission**

|               |                        | 20,860.00                | 11,731.86               | 2,952.74                     | 9,128.14         | 56.24        |

**Total Expenditures**

|               |                        | 20,860.00                | 11,731.86               | 2,952.74                     | 9,128.14         | 56.24        |

**Fund 101 - General Fund**

**Total Expenditures**

|               |                        | 20,860.00                | 11,731.86               | 2,952.74                     | 9,128.14         | 56.24        |
VILLAGE OF EMPIRE
Zoning Administrator’s Report

September 2019

Reviewed and conditionally approved a Land Use Permit (LUP #015-19) for new residence and detached garage at S. Watch Hill Dr., Storm Hill, Parcel No. 45-041-450-005-00 (C. Coffman). Landscape plan is pending.

Reviewed parcel rezoning records back to 1989 to verify Village of Empire Zoning Map accuracy.

Reviewed an approved Temporary Outdoor Use/Mass Gathering and Vendor Permits for Hops & Harvest Festival, (10/5 through 10/6/19), Front St., (Empire Chamber of Commerce/P. Skinner).

Reviewed and commented on proposed site plan revisions regarding landscaping and signage at the Front St. entrance of the Glen Lake Community Library (L. Marszalek).

Reviewed/approved Land Use Permit (LUP #016-19) for new residence at 11566 S. Sunset Dr., Sunset Subdivision Lot #23, Parcel No. 041-500-023-00 (Cornerstone Homes, TC).

Reviewed/approved Land Use Permit (LUP #017-19) for new residence at 11552 S. Sunset Dr., Sunset Subdivision Lot #24, Parcel No. 041-500-024-00 (Cornerstone Homes, TC).

Reviewed/approved Land Use Permit (LUP #018-19) for new residence at 11546 S. Sunset Dr., Sunset Subdivision Lot #25, Parcel No. 041-500-025-00 (Cornerstone Homes, TC).

Reviewed/approved Land Use Permit (LUP #019-19) for new residence at 11534 S. Sunset Dr., Sunset Subdivision Lot #26, Parcel No. 041-500-026-00 (Cornerstone Homes, TC).

Reviewed/approved Land Use Permit (LUP #020-19) for new residence at 11528 S. Sunset Dr., Sunset Subdivision Lot #27, Parcel No. 041-500-027-00 (Cornerstone Homes, TC).

Reviewed/approved Land Use Permit (LUP #021-19) for new residence at 9948 W. Wilce St. in the New Neighborhood Lot #1, Parcel No. 041-550-001-00 (C. Clark/Rembrandt Construction).

Reviewed/approved Land Use Permit (LUP #022-19) for remodel of and addition to existing residence at 12079 Wood St. (formerly S. LaCore St.), Parcel No. 041-730-003-00 (B. Paladino).

Reviewed/approved Land Use Permit (LUP #023-19) for new residence at 9970 & 9962 W. Ottawa Ave., Sunset Subdivision Lots #51-52, Parcel No.s (combined) 041-500-051-00 & 041-500-052-00 (Cornerstone Homes, TC).

Respectfully submitted,

/s/Christopher P. Grobbel, Zoning Administrator
Village of Empire
Hi Village of Empire PC,

Just in, and please review this before Monday evening’s PC meeting. Thanks all.

Christopher P Grobbel, PhD
GROBBEL ENVIRONMENTAL & PLANNING ASSOCIATES
PO BOX 58
Lake Leelanau, MI 49653
231-499-7165

Chris,

A marked-up version of the ordinance is attached.

**Content based regulation**

Sections 6.7 and 6.8 are potentially problematic, as they both would regulate signs based on their content.

In the case of 6.7, you would need read the sign in order to determine what event is being advertised. As a result, enforcement of this section would be based on the content of the sign. For example, a sign that advertises an Anchor Day event more than two weeks before Anchor Day would be a violation, and this violation would be due to the content of the sign message. If subjected to a legal challenge, I don’t believe that this provision would be upheld.

Likewise, an election sign under 6.8 is also regulated on the basis of its message, and may not withstand a legal challenge.

The safest course of action would be to consider both of the above sign types when setting the number of signs that are allowed under section 6.1 of the ordinance. Section 4.1 allows “One (1) non-illuminated sign per property not to exceed four (4) square feet of sign surface.” Since section 10 allows two signs with a total of 8 square feet in the residential districts, perhaps the matter could be addressed by increasing the allotment in section 4.1 to two signs.

If the Village wishes to explore other ways to limit temporary signs, I am including excerpts from the Traverse City Sign Ordinance, which is a part of their Building and Housing Code. I can’t say that this ordinance language would withstand a legal challenge either, but I believe that it is a bit safer than
the existing sections 6.7 and 6.8. In particular, you will note that the ordinance does not mention political signs at all. That being said, I believe that this section also regulates signs based on their content.

“1476.04 - Definitions.

…

Sign, temporary means a sign intended to be displayed for a limited period and associated with a temporary event and one which is without permanent foundations or attached to the exterior of a building.”

“1476.06 – Signs authorized without a sign permit.

Subject to any other applicable requirements and permits, the following are authorized without a sign permit:

…

(11) Temporary signs such as those associated with construction projects, real estate sales or leases and other such temporary signs in connection with:

a. Commercial, industrial, multiple family, recreational and institutional uses. These signs shall not be illuminated, are limited to two per parcel and limited to a maximum area of 32 square feet and eight feet high each. These signs shall be set back ten feet from the front property line. These signs shall be removed within 14 days after the conclusion of the project, sale or event.

b. One and two-family residential uses. These signs shall not be illuminated, are limited to a maximum area of six square feet each and 42 inches in height. These signs shall be located on private property. These signs shall be removed within 14 days after the conclusion of the project, sale or event.

c. Temporary signs shall not be arranged to create a sign with a single message exceeding the size and area requirement of this section.

d. Temporary signs shall be adequately secured and must be taut or made of a rigid material.”

The Supreme Court will eventually revisit Reed v. Gilbert, and we will hopefully get more clarity on these issues. My guess is that the issue that gets the attention of the Supreme Court will be related to political signs.

Other concerns

Section 8 allows grandfathering of nonconforming signs. This is fine- but I recall in prior conversation that the Village did not intend to grandfather existing signs.

Last, I recommend removing from the definition of Sign the following passage: “...on behalf of or for
the benefit of any product, place activity, individual, firm, corporation, institution, profession, association, business or organization.”. When enforcing the ordinance, the Village will need to determine whether the definition of “sign” is met. This language would add an unnecessary burden to the Village’s enforcement of the ordinance.

Please let us know if we may assist further,

Timothy J. Figura, Esq.

FIGURA LAW OFFICE
11470 S. Leelanau Hwy, Ste. 105
PO Box 447
Empire, MI 49630
231-326-2072

“Working for a better community through law”

Of counsel to Simen, Figura & Parker, PLC, Flint, MI
The Village of Empire ordains:

**Part I:** Village of Empire hereby replaces Ordinance #142 - Village of Empire Code of Ordinances as follows:

**Section 1. Sign Regulations Established:** These regulations shall apply and govern in the Village of Empire. No sign shall be erected or maintained unless it complies with this Ordinance.

**Section 2. Purpose:** This Ordinance is intended to preserve the desirable character of the Village of Empire, as well as to recognize the need for certain signage to promote safe traffic flow and pedestrian safety. At the same time, the Village of Empire recognizes that excessive signage may create a less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this Ordinance.

**Section 3. Definitions:** As used in this Ordinance, the following words shall have the meanings:

- **Accessory Sign:** A sign that is not for a principal use of the property on which it is located, including warning signs.

- **Animated Sign:** A sign that uses movement, spins or changes of lighting to depict action or create a special effect or scene.

- **Awning/Canopy Sign:** A sign that is part of or attached to the surface of an awning/canopy.

- **Banner:** A sign printed or displayed upon cloth or other flexible material, excepting national, state, or municipal flags.

- **Changeable Copy Sign:** A sign or a portion of a sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance.

- **Corner Lot Sign:** Signs placed facing both public streets on corner lots.

- **Display area:** The entire space used for lettering and symbols on one vertical plane.

- **Flag Sign:** Any cloth or bunting attached to a staff.
**Flashing Lighted Sign:** An illuminated sign that intermittently and repeatedly flashes on and off, and/or creates an illusion of a flow of lights.

**Freestanding or Ground Sign:** A sign supported by permanent uprights or braces in the ground.

**Identification Sign:** A sign that identifies a building or street address.

**Illuminated Sign:** A sign rendered visible during the period from sunset to sunrise by means of an internal light source or by means of an exterior light source directed on to, or in the vicinity of the sign.

**Marquee Sign:** A permanent overhang or roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the buildings, and are generally designed and constructed to provide protection from the weather.

**Marquee Surface Sign:** A sign attached to or made part of a marquee.

**Multi-Business Plaza:** Those structures that contain more than one enterprise, leased under separate ownership, and may have a common entrance or multiple entrances.

**Nonconforming Sign:** Any existing sign on the effective date of this Ordinance, as amended, which does not at that time comply with all of the provisions of this Ordinance and any amendments.

**Portable Sign/Trailered Sign/Sandwich Board:** A sign that is designed to be transported, including but not limited to signs:

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

**Projecting Sign:** A sign attached to or erected on the exterior wall or surface of a building, which projects twelve (12) inches or more from the wall or surface.
**Roof Sign:** A sign mounted on or over the roof of a building and is wholly or partially supported by the building. Mansard roof signage shall be considered wall signage for the purpose of calculating allowable footage.

**Sign Enforcement Officer (SEO):** The Zoning Administrator or such other person as shall be designated by the Village Council.

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

**Surface Sign:** That portion of a sign excluding its base, foundation and erection supports on which message is displayed pertaining to a product, use, occupancy, function, service, or activity is displayed.

**Temporary Event Sign:** A display sign, banner, flag, or device with or without a structural frame intended for a limited period of display, associated with a temporary event, and is without permanent foundations or attached to the exterior of a building, including displays for holidays, public events, elections, etc.

**Wall Sign:** A sign that is affixed to or placed flat against the exterior wall or surface of a building or structure, with no portion projecting more than twelve (12) inches from the building or structure wall.

**Section 4. Permit Application:** The following application requirements shall apply to all signs requiring a permit pursuant to the provisions of this Ordinance.

1) Application for a permit, on a form supplied by the Village of Empire, shall be required to erect, alter, or reconstruct a sign, unless otherwise noted. The completed application, together with all plans and specifications, shall be submitted to the SEO. Approval shall not be given until the application complies with all provisions of this Ordinance. If the application is approved, a permit to erect, alter, relocate, or post the sign shall be issued.

2) A non-refundable permit fee shall be submitted with the application. Fees for sign permits shall be established, from time to time, by resolution of the Village Council and shall be remitted to the Village.

3) The application shall contain or have attached the following:

   a) Name, address, and telephone number of owner, where the sign is to be erected and the owner of the sign.
b) Location of building, structure, or lot where the sign is to be attached or erected.
c) Position of the sign in relation to nearby buildings or structures.
d) A sketch or scale drawing with the dimensions, specifications of the display area, color, method of construction, lighting and if applicable, method of attachment to the building or ground.
e) Name of person, firm, or corporation erecting the sign.
f) Any Leelanau County construction permit required and issued for the sign.
g) Other details the SEO shall require establishing conformance with this Ordinance.

4) Issuance of a sign permit in no way indicates any responsibility by the Village of Empire for structural adequacy of a sign or the right to construct the sign.

5) A sign permit shall be null and void if the sign has not been installed within ninety (90) days from the date of approval.

6) Public service and non-profit agencies must apply for a permit, but the fee may be waived by the SEO.

7) In addition to the limitations stated in Sections 5, 9 and 10, the following conditions shall apply to all signs in any use zoning district:

   a) Except for the signs authorized without a sign permit pursuant to Section 6, no sign, except non-illuminated identification sign, shall be erected or altered until approved by the SEO or authorized by the Village of Empire Planning Commission as part of an approved site plan. After approval, the required sign permit shall be issued by the SEO.

Section 5. General Provisions: The following regulations shall apply to all signs:

1) Signs must be constructed of durable materials, maintained in good condition, and shall not be allowed to become dilapidated.

2) No sign shall be permitted for any business or service not available at that location. When a business is abandoned the sign must be removed within thirty (30) days. A business shall be considered abandoned if determined by the Zoning Administrator to have been suspended or halted for a continuous period of one (1) year.
Section 6. – Signs Not Requiring a Sign Permit: The following signs may be placed in any zoning district without a sign permit, provided such signs comply with all applicable federal or state law or regulation and are located to not cause a nuisance or safety hazard:

1) **Two (2) One (1) non-illuminated signs** per property not to exceed **sixteen (16) four (4)** square feet of sign surface.

2) Signs erected or approved by state, county or village agencies when necessary to give proper directions or to safeguard the public.

3) Accessory signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to road hazards, high voltage, fire danger, explosives, and severe visibility.

4) Signs posted near property boundaries, provided the sign surface does not exceed the maximum size of one (1) square foot.

5) Signs marking a historically significant place, building or area when sanctioned by a national, state, township, village or local historical organization provided the sign surface does not exceed the maximum allowed size of sixteen (16) square feet or the maximum size allowed in the zoning district whichever is less.

6) Signs required by federal or state agencies in connection with federal or state grant programs that have been approved in conjunction with a valid site plan or land use permit.

7) Event signs—**one (1) sign not exceeding twenty-four (24) square feet in sign face** indicating a event such as marathons, competitions, festivals, or similar events is allowed. Such signs may be erected no sooner than two (2) weeks before the event, and must be removed no later than three (3) days after the event.

8) Signs associated with elections or votes shall not exceed the maximum size for the applicable district, shall not be placed on properties within the Village of Empire more than thirty (30) days prior to the election or vote, and must be removed within three (3) days after the election or vote.

7) **Temporary signs such as those associated with construction projects, real estate sales or leases and other such temporary signs in connection with:**

   a. Commercial, industrial, multiple family, recreational and institutional uses. These signs shall be illuminated, are limited to two (2) per parcel and limited to a maximum area of thirty-two (32) square feet and eight (8) feet high each. These signs shall be setback ten (10) feet from the front property line. These signs shall be
placed no more than thirty (30) days prior to and removed within fourteen (14) days after the conclusion of the project, sale or event.

b. One and two-family residential uses. These signs shall not be illuminated, are limited to a maximum area of six (6) square feet each and forty-two (42) inches in height. These signs shall be located on private property. These signs shall be no more than thirty (30) days prior to and removed within fourteen (14) days after the conclusion of the project, sale or event.

c. Temporary signs shall not be arranged to create a sign with a single message exceeding the size and area requirements of this Section.

d. Temporary signs shall be adequately secured and must be taut or made of rigid material.

Section 7. Prohibited Signs. The following signs are prohibited:

1) A sign not expressly permitted is prohibited.

2) Signs imitating warning signals are prohibited. No sign shall display intermittent lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles.

3) Revolving, moving, animated, mechanical, electronic simulated motion, and flashing signs are prohibited, except for rotating/revolving barbershop poles.

4) Signs within a village street or highway right-of-way are prohibited. No signs (except those established and maintained by the village, township, county, state, or federal governments) are to be located in, projected into, or located overhead within a public right-of-way or dedicated public easement, unless the sign has been issued a permit by the agency having jurisdiction over that right-of-way.

5) Signs higher than eight (8) feet, measured from ground level are prohibited, except for projecting signs and signs fully attached to the face of a building.

6) A sign which is part of a canopy or an awning.

7) Stake or wire signs, other than those allowed in Section 6 Signs Not Requiring a Sign Permit.

8) Bench signs.

9) Mansard roof signs shall be considered as wall signage.
10) Off-premise signs for businesses.

Section 8. Alteration or re-establishment of nonconforming signs. Any existing sign which, on the effective date of this ordinance, does not at that time comply with all of the provisions of this ordinance and any amendments shall not:

1) Be changed to another type of sign which is not in compliance with this Ordinance.

2) Be structurally altered so as to prolong the life of the sign or so to change the shape, size, type, or design of the sign.

3) Be re-established after the activity, business or usage to which it relates has been discontinued for a period of one (1) year.

4) Be re-established after damage or destruction, ordinary wear or obsolescence, if the estimated cost of the reconstruction or renovation exceeds fifty (50) percent of the replacement sign cost as determined by the Zoning Administrator.

5)Ever be placed, maintained, or displayed by someone other than the person who owned the premises on the date of adoption of the ordinance or ordinance amendment from which this Ordinance is derived.

6) Be supplemented by new additional signs. On parcels that contain a legal nonconforming sign, no new additional sign shall be erected until all such nonconforming sign or signs on the parcel are brought into compliance with this Ordinance.

Section 9. Signs Allowed in Zoning Districts: The following signs are allowed in the specified Village zoning districts, subject to a sign permit:

1) Residential (R), Mixed Residential (MR), and Village Residential (VR) Districts
   Only signs not requiring a permit shall be allowed.

2) Commercial-Residential (CR) and Light Industrial (LI) Districts
   Any sign not requiring a permit, and approved signs in accordance with Sections 9 and 10.

3) Recreation/Conservation (RC) District
   Any sign not requiring a permit. Also, for nature areas consisting of over thirty (30) acres in the R/C district, may have on the property not more than two (2) identifying signs, each not to exceed 12 square feet and not more than 8 feet in height. One (1) 32 square foot kiosk is also allowed with a height limitation of 8 feet.
4) **Planned Unit Developments (PUD)**

Any sign not requiring a permit. Commercial uses within a PUD, shall be allowed approved signs in accordance with Section 10.

Section 10. Permitted Sign Types, Allowable Dimensions and Specific Requirements:

1) **Allowable number and total square footage of signage by district:**

   - Residential Districts (GR, MR, VR) 2 signs - 8 square feet
   - Commercial Residential District 2 signs - 32 square feet
   - Light Industrial 2 signs - 24 square feet
   - Recreation/Conservation 2 signs - 24 square feet
   - PUD 2 signs - 24 square feet

2) **Sign size limits based on sign type.** If a sign is a double-faced sign, only one side shall be used in calculating compliance with the total allowable square footage.

3) **Corner lots.** Signs may be placed facing both public streets on corner lots within the Commercial-Residential (CR), Light Industrial (LI) Districts, and Planned Unit Developments (PUD) districts. All other requirements of this Ordinance must be met.
<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Max. Sign Surface Area</th>
<th>Other regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Either freestanding marquee sign (or other)</td>
<td>24 square feet</td>
<td>The number of freestanding signs shall not exceed 1 sign/100 ft lot along M-22 in C/R district, or 1 sign/50 ft lot in remainder of C/R. Max. height allowed is 8 ft.</td>
</tr>
<tr>
<td>Identification sign</td>
<td>4 square feet</td>
<td></td>
</tr>
<tr>
<td>Illuminated sign</td>
<td>24 square feet</td>
<td>Signs may be illuminated only during hours of operation by a direct light source. Light source shall be shielded and downward directed. No direct rays or glare emanating from the light sources shall be visible from a public right of way or from an abutting property.</td>
</tr>
<tr>
<td>Projecting sign</td>
<td>20 square feet</td>
<td>Maximum projection allowed shall be five (5) feet from a building; not to extend over a public sidewalk, street or alley; shall not exceed the height of a building’s roof line; and with a maximum height of fifteen (15) feet.</td>
</tr>
<tr>
<td>Portable sign</td>
<td>2 feet wide by 4 feet height (8 square feet). Signs transported by trailer or wheels 4 feet height by 8 feet length (32 square feet)</td>
<td>If intended to direct attention to a specific event, may be displayed for up to fourteen (14) days prior to the event, and must be removed within three (3) days after the event.</td>
</tr>
<tr>
<td>Banner sign</td>
<td>24 square feet</td>
<td>May be erected two (2) weeks prior to an event, and removed within three (3) days following an event.</td>
</tr>
<tr>
<td>Wall sign</td>
<td>32 square feet</td>
<td>1 sign/street facade, not to exceed 32 square feet if multiple businesses within the building they shall share the total 32 square feet.</td>
</tr>
<tr>
<td>Alley sign</td>
<td>4 square feet</td>
<td>1 sign/alley facade. If multiple businesses within the building they are to share the 4 sq. ft.</td>
</tr>
<tr>
<td>Multiple business/plaza entrance sign</td>
<td>48 square feet</td>
<td>All businesses within a common structure will share a common entrance sign.</td>
</tr>
<tr>
<td>Individual businesses within a multiple business building</td>
<td>1 square foot/lineal feet building length facing public street</td>
<td>The total lineal street frontage divided by the # of businesses/units within a building, not to exceed twelve (12) square feet/business. Signs shall comply with all other provisions of the Ordinance.</td>
</tr>
</tbody>
</table>
**Ordinance II. Administration; Annual Inspection; Enforcement; Sanctions.** The SEO, or designee, shall administer and enforce the provisions of this Ordinance. The SEO shall inspect signs on a yearly basis. In the case of a sign that poses an immediate danger to the public health or safety, the Village or its employee may remove the sign immediately and without notice. Neither the Village nor any of its employees shall be held liable for any damage of the sign or building when a sign is removed under this Ordinance.

**Part II. Severability**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. Should any part, clause, sentence, paragraph or section of this Ordinance be found invalid or unconstitutional for any reason by any court of competent jurisdiction, any such decision shall not affect the validity of the remainder of this Ordinance.

**Part III. Conflict and Interpretation**

The standards and provisions of this Ordinance shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Ordinance imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Ordinance shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Ordinance by the SEO or the designee, the Village Council shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the SEO or designee. The concurring vote of a majority of the Village Council shall be necessary to reverse any interpretation of this Ordinance by the SEO or designee.

**Part IV. Savings Clause**

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**Part V. Effective Date**

The provisions of this Ordinance are ordered to take effect thirty (30) days after publication (as the full text or as a summary thereof) in a newspaper of general circulation in the Village of Empire.

**Part VI. Adoption**

This Ordinance was duly adopted by the Village of Empire Council at its regular meeting called and held on the ____ day of __________, 2019.
Part VII. Publication

The Village Clerk shall cause this Ordinance or summary of this Ordinance to be published in a newspaper of general circulation within Village of Empire within thirty (30) days after adoption.

_________________________________________
Wayne Aylsworth, President, Village of Empire

_________________________________________
Derith Smith, Clerk, Village of Empire

Adoption date:
Publication date:
Effective date:

CERTIFICATION

I, Derith Smith, the Clerk for Village of Empire, Leelanau County, Michigan, do hereby certify that the foregoing is a true and complete copy of this Ordinance adopted by the Village of Empire Council at a regular meeting held on ____________, 2019. The following members of the Village of Empire Council were present at the meeting: ________________________________.

The Ordinance was adopted by the Village of Empire Council with ___ members of the Council voting in favor (______________________________) and ___ voting against (______________________________).

A copy of the Ordinance or a summary thereof was published in the Leelanau Enterprise and the Traverse City Record Eagle on ________________.

___________________________________
Derith Smith, Clerk, Village of Empire


Section 4.05 Commercial Residential District

The following provisions shall apply to the Commercial Residential District (CR).

Section 4.05.1 - Intent

The Commercial Residential District (CR) is designed to maintain the unique characteristics of the Village of Empire along Front Street in the Village core that results from a blend of residential and commercial uses which fosters a strong sense of community and encourages pedestrian access. Characteristics common to the CR District include compact development, a density and arrangement of land uses which encourages pedestrian activity and a mix of residential and limited commercial land uses in successful co-existence.

The CR District permits a variety of stores, personal services, offices and residential uses oriented toward pedestrian traffic, while providing for automobile access. Persons entering this district should be able to park once and carry out several errands. Tourist homes in large older residences and offices are compatible uses so long as adequate and convenient off street parking is provided.

Section 4.05.2 - Permitted Uses


2. Two-family dwellings.

3. Accessory dwellings.


5. Child care center/child day care.

6. Retail sales and services within an enclosed building with a maximum floor area of 5,000 square feet (including gross floor area, roofed storage, outdoor retail, and similar commercial uses, etc.).

7. Restaurants and taverns.

8. Personal service establishments.


10. Banks and other financial institutions.

11. Hospitals & medical clinics.


14. Outdoor display and sales of merchandise, incidental to a business.

15. Public parks, playgrounds and recreation facilities.

16. Planned Unit Development.

17. Plant materials nursery.


19. Accessory buildings and uses customarily incidental to the above permitted uses.

4.05.3 Specific Standards

1. Allowable Building Types

   a. Single-family dwellings, along with buildings and other structures that are normally considered accessory.

   b. A single attached or detached accessory dwelling not exceeding the size of the principle residence is also allowed on lots, and provided the lot owner lives in one of the dwellings on the lot.

   c. Civic buildings including schools, libraries, day care centers, churches, meeting and recreation halls. Commercial uses as listed, based on size limitations below.

2. Dimensional Standards

   a. Lot Depth ......................... 100’ min.

   b. Lot Width .......................... 50’ min. to 100’ max.

   c. Street Front Setback .......... 5’ min. to 20’ max.

   d. Rear Yard Setback.............. 10’ min. from the rear yard lot property line edge. (See footnote f in Section 4.09 Schedule of Regulations).

   e. Side Yard Setback .............. 0’ min. Commercial to commercial, 5’ min commercial to residential, or residential to residential.
f. Minimum Space Between Buildings ...........10’. (See footnote f in Section 4.09 Schedule of Regulations).

g. Primary Structure Height ........ 35’ max.

h. Accessory Building Height .......... 25’ or the height of the primary dwelling, whichever is less.

i. No new curb cuts shall be allowed on Front Street, garages and accessory structures shall be accessed from the alley. All off street parking areas shall be located off of the back alley.

j. All trash storage areas for use other than single family residential shall be screened from view, by a fence or vegetation that is a minimum of six (6) feet in height.

3. **Other Specific Standards**

a. Primary dwellings and commercial buildings shall be primarily oriented toward located to the front and/or side of the lot.

b. Maximum Lot Coverage with Impervious Surfaces ...........90% of the gross lot area.

c. Alley Requirement. All along Front Street lots shall back onto a service alley.

d. Drive through windows are not allowed.

**Section 4.05.4 - Uses Subject to Special Use Permit**

Special approval use of lands and premises, and the erection and use of buildings and structures in the CR District shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of *Article 6: Uses Subject to Special Use Permit* and the applicable portions of *Article 7: Supplemental Site Development Standards*.

1. Schools licensed or chartered by the State of Michigan.

2. Convalescent homes/nursing homes.


4. Hotels, motels and inns.

5. Nursery schools.
6. Veterinary clinics.

7. Pet shops.


9. Funeral homes and mortuaries.

10. Automobile repair.

11. Gasoline service station.

12. Any use permitted in the Commercial Residential District

13. Planned Unit Development.

13. Open air business.

14. Accessory buildings and uses customarily incidental to the above special uses.

Section 4.05.5 - Dimensional Regulations

Structures and uses in the CR District are subject to the area, height, bulk and placement requirements in Section 4.09 Schedule of Regulations.

Section 4.09 Gateway Corridor (GC) Highway Commercial (HC) District

The Planning Commission shall recommend to the Village Council that the council approve, or approve with conditions, an application if the Planning Commission finds that the proposal meets all of the following provisions within the Gateway Corridor (GC) Highway Commercial (HC) District.

Section 4.09.1 - Intent

The Gateway Corridor (GC) Highway Commercial (HC) District is designed to maintain the unique characteristics of the Village of Empire along M-22 Highway and M-72 Highway that result in safe, pedestrian friendly access to commerce and which safely connect pedestrians to the Commercial Residential (CR) District, i.e., the Village core along Front St., adjacent and nearby residences, and encourages pedestrian access. Characteristics common to the GC HC District include compact development, a density and arrangement of land uses which encourages safe pedestrian activity, low profile signage, dark sky protective lighting, and limited commercial land uses in successful co-existence with the community at large.
This GC HC district permits a variety of stores, personal services, offices and others commercial uses safe for pedestrians, while providing for adequate and safe automobile access and circulation.

**Section 4.09.2 - Permitted Uses**

Permitted uses of lands and premises, and the erection and use of buildings and structures in the GC HC District shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of *Article 5: Site Plan Review.*

Drive through windows are not allowed.

2. Two-family dwellings.
3. Accessory dwellings.
5. Child care center/child day care.
6. Restaurants and taverns.
7. Personal service establishments.
8. Business and professional offices.
9. Banks and other financial institutions.
13. Public parks, playgrounds and recreation facilities.
15. Home occupations.

17. **Retail sales and services within an enclosed building with a maximum floor area of 2,999 square feet or less (including gross floor area, roofed storage, outdoor retail, and similar commercial uses).**

18. Accessory buildings and uses customarily incidental to the above permitted uses.

**Section 4.09.3 - Uses Subject to Special Use Permit**

Special use approval of lands and premises, and the erection and use of buildings and structures in the **GC District** shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Article 5: Site Plan Review, Article 6: Uses Subject to Special Use Permit**,** Article 7: Supplemental Site Development Standards**.

1. Schools licensed or chartered by the State of Michigan.

2. Convalescent homes/nursing homes.


4. Hotels, motels and inns.

5. Nursery schools.

6. Veterinary clinics.

7. Pet shops.


9. Funeral homes and mortuaries.

10. Automobile repair.

11. Gasoline service station.

12. Car wash facilities.

13. Any use permitted in the Commercial Residential (CR) District

13. Planned Unit Development.
14. Open air business, and outdoor display and sales of merchandise incidental to a business.

15. Retail sales and services within an enclosed building with a maximum floor area of between 3,000 and 5,000 square feet (including gross floor area, roofed storage, outdoor retail, and similar commercial uses).

16. Accessory buildings and uses customarily incidental to the above special uses.

Section 4.09.4 - Specific Standards

1. Allowable Building Types
   a. Commercial buildings as listed, and other structures that are normally considered accessory and based on size limitations below.
   b. Single-family and two-family dwellings.
   c. Mixed use commercial buildings, i.e., possessing commercial and residential uses.
   c. A single attached or detached accessory dwelling not exceeding the size of the principle residence is also allowed on lots (i.e., provided the lot owner lives in one of the dwellings on the lot).
   d. Civic buildings including schools, libraries, day care centers, churches, meeting and recreation halls. Commercial uses.

2. Dimensional Standards
   a. Lot Depth ......................... 100’ min.
   b. Lot Width .........................50’ min. to 100’ max.
   c. Street Front Setback ............5’ min. to 20’ max.
   d. Rear Yard Setback...............10’ min. from the rear yard lot property line edge. (See footnote f in Section 4.09 Schedule of Regulations).
   e. Side Yard Setback ...............0’ min. Commercial to commercial,
     5’ min commercial to residential or residential to residential
   f. Primary Structure Height ........ 35’ max.
   g. Accessory Building Height ...... 25’ or the height of the primary dwelling whichever is less.
h. All dumpsters and trash storage areas for use other than single family residential shall be screened from view, by a barrier, solid fence and/or an effective native conifer screen vegetation that is a minimum of six (6) feet in height.

Section 4.09.6 - Additional Standards

1. All buildings shall primarily be oriented toward the front of the lot.

2. Maximum lot coverage with impervious surfaces, i.e., area of roof, parking, walkways, etc. shall not exceed fifty (50%) of the gross lot area. A minimum of fifty (50%) percent of the lot shall be maintained as open space.

3. Drive through windows are not allowed.

4. Awnings, overhangs, porches, walls, accessory buildings and structures, etc. shall not encroach into required setbacks.

5. Streetscape requirements
   a. Sidewalk requirements and design - developments within the HC District shall design and install sidewalks in compliance with Section 3.19 - Sidewalks.
   b. Walkways and sidewalks, patios, structures, and areas designated for outdoor storage, parking or loading shall not be included in the open area calculation; provided, however, that pervious surface areas such as brick, stone areas and patios may be included in the required open area.
   c. Pedestrian use of required sidewalks shall not be obstructed or in any way impeded.

6. Landscaping requirements - A minimum of twenty (20%) percent of the lot shall be landscaped and maintained as open area. A landscape plan shall be provided and approved as a part of Site Plan and Special Use Permit Reviews subject to Section 3.21 - Landscaping.

7. Parking, site circulation and loading - parking and stacking spaces shall be provided subject to Section 13.6 - Off Street Parking Standards.
   a. Parking is required to be off-street subject to Section 3.16.1. Parking shall be shared, and site circulation shall work cooperatively with adjacent land uses where appropriate, and as determined by the the Planning Commission.
   b. Parking shall be on-site and within the front and/or side areas of the lot.
   c. Loading spaces shall be provided on the side and/or rear areas of the lot.
d. Bicycle facilities shall be provided and reviewed in accordance with Section 3.16.1.11.D.

8. **Vehicle access and design** - Access shall comply with Section 3.17 - Access Controls as determined by the Planning Commission. Site access, driveways and curb cuts shall be shared with adjacent land uses to the maximum extent possible. Vehicular and pedestrian traffic within the site shall also be safe and convenient and parking layout will not adversely interfere with the flow, visibility of traffic within the site or to and from the adjacent streets and highways. Safe and adequate access for emergency vehicles to and within the development, and adequate space(s) for turning around at street ends shall be provided. Applicants shall obtain and provide copies of any required permits from the Michigan Department of Transportation and/or Leelanau County Road Commission for any new access, declaration lane, curb cut/driveway, etc.

The use shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting properties, public thoroughfares, and any trails or parks intersecting or abutting such development. Drive through windows are not allowed.

9. **Signs** - signage in the GC HC District shall comply with and are subject Section 3.12 - Signs for signs in the CR District.

10. **Lighting** - All lighting shall be fully-shielded, downward directed and comply with Section 3.11 - Outdoor Lighting, and shall be compliant with the U.S. Department of Energy’s Exterior Lighting Guide for protection of the dark night sky.¹

11. **Stormwater** - The use shall not result in any increased stormwater runoff to adjacent properties after development than before, and shall utilize innovative stormwater management techniques and systems such as bio-swales, rain gardens, underground storage, and other technologies that result in on-site groundwater infiltration for stormwater disposal.

12. **Phasing** - The use shall be designed such that phases of development, if phased, shall be in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, stormwater drainage or erosion control.

13. The use shall be designed to preserve public views and existing important natural, historical, and architectural features of significance within and adjacent to the development.

14. The proposed use shall not adversely impact the environment.

15. All utilities shall be installed underground.

16. The use shall meet the standards of and obtain permits from all other relevant local, state and/or federal governmental agencies as applicable. Copies of all such permits shall be provided to the Village.

Section 4.09.7 - Additional Requirements

Some or all of the following may be required at the discretion of the Planning Commission.

1. Economic impact statement - An economic impact statement, including a detailed analysis of the economic impact on existing commercial land uses within the Village for the next 20 years, shall be completed and provided by an independent professional to be retained by the Village and compensated at a reasonable cost by the Applicant. The economic impact statement shall also include the proposed days and hours of operation, the character of the surrounding area, and potential impacts to adjacent properties, surrounding neighborhood and community as a whole. The economic impact statement shall be reviewed by the Planning Commission in conjunction accordance with Section 5.03.4.T., Article 6: Uses Subject to Special Use Permit, and the applicable portions of Article 7: Supplemental Site Development Standards.

2. Traffic study - Valid and reliable traffic study(-ies) shall be provided by a licensed traffic engineer to determine the impact of on the existing traffic level of service (LOS) and public safety from the proposed land use.

3. Decommissioning Plan - A decommissioning plan shall be provided detailing facility decommissioning and/or demolition after abandonment. A performance guarantee for facility decommissioning shall be provided in accordance with Section 8.06 - Performance Guarantees. The Zoning Administrator shall determine that “abandonment” exists if land uses authorized by a Village Land Use permit in the GC HC District are determined to have ceased or discontinued for a period of ninety (90) continuous days or more.

3. Nuisance Prevention - The use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or
welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.

4. **Noise** - Sounds emanating from a use shall not generate noise that because of its volume or frequency results in the unreasonable interference with the comfortable use and enjoyment of properties adjacent to or in the vicinity of the use. Noise, if generated, shall be effectively managed by methods such as, but not limited to, the use of earthen berms, brick walls, ceramic barriers, and/or other noise abatement technologies in conjunction with fencing and/or landscaping, increased setbacks, days of the week and/or limited hours of operation.

5. **Public Services and Facilities** - The use shall not place demands on public services and facilities in significant excess of current capacity, unless planned improvements which will increase the capacity sufficient to service the development have already been scheduled for completion.

6. **Public Safety** - The proposed use shall not unreasonably impact public safety, or unduly burden or exceed the ability of public safety services or facilities to handle the anticipated needs of the community.
Article 5: Site Plan Review

Section 5.01 – Purpose

The purpose of this article is to specify the documents and/or drawings required, to ensure that a proposed land use or development activity is in compliance with this ordinance. Nothing herein shall relieve the applicant from complying with all applicable local ordinances, and state and federal statues and regulations. Furthermore, its purpose is to ensure that development taking place within the Village is properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts.

Section 5.02 – Plot Plan

The Zoning Administrator shall require that all applications for Land Use Permits, which do not require a site plan, be accompanied by plans and specifications including a Plot Plan, drawn to scale, showing the following:

1. The shape, location and dimensions of the lot, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this ordinance. When deemed necessary by the Zoning Administrator, a survey may be required.

2. The location, shape and size of all buildings or other structures to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to measure the height of the proposed structures.

3. The location and configuration of the lot access and driveway, drawn to scale.

4. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.

5. Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed.

Section 5.03 – Site Plan Review (All Districts)

Required site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical changes in the property meet with local approval and that development actually occurs as it was planned and represented by the developer.

1. Approval Authority/Responsibility: Site plan approval is required as specified below:

   A. Except as specified in subsection B. below, the Planning Commission shall be responsible for reviewing and approving site plans as follows:
1) For those uses requiring Special Use Permits as specified in each zoning district.
2) For all Condominium Subdivisions and PUD developments.

B. The Zoning Administrator shall be responsible for reviewing and approving site plans for any use authorized by right in any district, where the requirements of the ordinance are met, all others shall be the responsibility of the Planning Commission.

2. Circumstances Requiring a Site Plan: Site plans are required for the following uses:

A. All new uses and/or structures except one-family or two-family residential units and except associated accessory structures to one-family or two-family residential units.

B. Expansion or renovation of an existing use, other than one-family or two-family residential use, which increases the existing floor space more than twenty five (25) percent.

C. Changes of use for an existing structure or lot.

D. Any use requiring special approval.

E. Other uses as required by this Ordinance.

3. Pre-application Conference: The Zoning Administrator, Planning Commission Chair Planning Commission members, and/or Consultants, shall have the authority to conduct one non-binding pre-application meeting with the applicant/developer to assist them in understanding the Site plan review process, and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission. No engineered plans will be accepted at or before the pre-application meeting.

This conference shall not be mandatory, but is recommended of small and large projects alike. It is recommended for large projects that a pre-application conference be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

4. Site Plan Data Required: Each site plan submitted shall contain the following information unless specifically waived, in whole or in part, by the Village Planning Commission or Zoning Administrator. The Planning Commission or Zoning Administrator can waive any or all of the below site plan requirements when it finds those requirements are not applicable to the proposed development.

A. The name and address of the property owner.

B. The date, north arrow, scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = fifty (50) feet for parcels under three (3) acres. For parcels greater than three (3) acres, the portion of the property pertaining to the application, plus two hundred (200) feet in each direction, shall be at a scale of at least one (1) inch = fifty (50) feet (area
enlargement). The full property shall be drawn to scale, and shall indicate the location of the area of enlargement.

C. A certified survey of the property prepared and sealed by a professional licensed surveyor, showing at a minimum the boundary lines of the property, to include all dimensions and legal description.

D. The location of all existing structures and all proposed uses or structures on the site, including proposed drives, walkways, signs, exterior lighting, adequate parking for the proposed uses (show the dimensions of a typical parking stall and parking lot), loading and unloading areas, if necessary, common use areas and recreational areas and facilities. An elevation drawing of the proposed building(s) shall be required in order to review the proposed building bulk and verify height.

E. The location and width of all abutting rights-of-way, easements and utility lines within or bordering the subject project.

F. The location of existing natural and environmental features, such as watercourses, wetlands, shorelines, man-made drains, mature specimen trees, wooded areas or any other unusual environmental features.

G. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public street.

H. The location and identification of all existing structures, lighting, signs, ingress drives, roads, and parking within a two hundred (200) foot radius of the site, including road names.

I. The existing zoning district in which the site is located and the zoning of adjacent parcels.

J. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.

K. The location, size and slope of all surface and subsurface drainage facilities.

L. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, carports or garages, employees by shift, amount of recreational open space, type of recreation facilities to be provided, and related information as may be pertinent or as may otherwise be required by this Ordinance.

M. Summary tables, cross-sections and/or floor plans should be included with site plans for proposed structures, giving the following information:

1) The number of units proposed, by type, including a typical floor plan for each unit.
2) The area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
3) Typical elevation drawings of the front and rear of each building.
N. The topography of the existing and finished site shall be shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.

O. Generalized soil analysis data, which may include data prepared by the Leelanau County Soil Conservation District regarding the soils and their adaptability to the use. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of soils.

P. All site plans shall comply with the terms of the Leelanau County Soil Erosion Sedimentation and Storm Water Runoff Control Ordinance. It shall be the applicant’s responsibility to provide documentation of compliance of this County Ordinance.

Q. Anticipated hours of operation for proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.

R. Project completion schedule.

S. Such other information as is necessary to enable the Planning Commission or Zoning Administrator to determine whether the site plan will conform with the provisions of this Ordinance.

T. Impact Statement
The statement shall address itself to the following as applicable to the type of use:

1) A complete description of the proposed development including: areas of the site, the number of lots or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related information as applicable.

2) Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.

3) Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

4) Statement relative to the impact of the proposed development on the Village tax base.

5. Application Submittal Procedures:

A. Ten (10) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator’s office by the
petitioner or property owner or his designated agent at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. The Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.

B. The Zoning Administrator or Planning Commission, whichever is the officer or body to approve the site plan may distribute the site plan to any agency deemed appropriate for comment prior to consideration for approval.

C. Application fees as determined pursuant to Section 8.05 of this Ordinance shall be paid when the application and site plan are submitted to cover the estimated review costs.

D. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted, or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.

E. The applicant or his/her representative shall be present at each scheduled review or the matter shall be tabled for a maximum of two consecutive meetings due to lack of representation.

6. Standards for Granting Site Plan Approval:

A. The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance, the Village Master Plan and other Village planning requirements, and other applicable ordinances and the standards listed below, unless the Planning Commission waives a particular requirements upon a finding that the requirement and/or standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance. The Planning Commission’s decision shall be in writing and shall include findings of fact, based on evidence presented on each standard.

B. All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

C. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.

D. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
E. All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to as many of the sides as feasible.

F. Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use.

G. Pedestrian walkways or sidewalks, shall be provided separate from the streets or roads wherever reasonably possible.

H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a fence or wall meeting the requirements of Section 3.09 or vegetative screening no less than six feet in height.

I. Exterior lighting shall comply with the requirements of Section 3.11.

J. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.

K. All streets shall be developed in accordance with any Village street/road standards and specifications.

L. Site plans shall conform to all applicable requirements of state and federal statutes and the Village of Empire Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits before the actual land use permit authorizing the special land use is granted.

M. The Planning Commission may seek the recommendations of the Fire Chief, the Village Street Department, the County Health Department, and the Michigan Department of Natural Resources, Michigan Department of Environmental Quality or other agencies as appropriate.

7. **Approval Site Plan:** If approved by the Planning Commission, three (3) copies of the site plan shall be signed and dated by both the applicant and Zoning Administrator or Planning Commission Chair. One signed and dated site plan shall be provided to the applicant; one shall be retained by the Zoning Administrator as part of the Village’s permanent zoning file, and one copy shall be made part of the Planning Commission’s permanent record of proceedings on the site plan.

8. **Conformity to Approved Site Plan Required.** Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved site plan. Failure to do so shall be deemed a violation of this Ordinance.

9. **Amendment of Approved Site Plan:** Amendment of an approved site plan shall be permitted only under the following circumstances:
A. The owner of property for which a site plan has been approved shall notify the Zoning Administrator of any desired change to the approved site plan. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

1) Reduction of the size of any building and/or sign.
2) Movement of buildings and/or signs by no more the ten (10) feet.
3) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
4) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
5) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
6) Changes related to item 1) through 5) above, required or requested by the Village of Empire, Leelanau County, or other state of federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
7) All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.

B. An amendment to an approved site plan that cannot be processed by the Zoning Administrator under subsection (A) above shall be processed in the same manner as the original site plan application.

10. **Expiration of Site Plan:**

A. The site plan shall expire unless construction of an approved site plan improvement has begun and steady progress being made within 365 days of approval. Thirty days prior to expiration of an approved final site plan, an applicant may make application to the Planning Commission for a one year extension of the site plan at no fee. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the site plan approval have not changed since the approval.

B. Any subsequent re-submittal shall be processed as a new request with new fees.

C. The exterior of any building approved as part of a site plan approval shall be finished within eighteen (18) months of the site plan approval or any authorized extension.
11. **Conditional Approvals.** The Planning Commission may impose reasonable conditions with the approval of a final site plan, pursuant to Section 8.03 of this Ordinance.

12. **Performance Guarantee Required.** The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a final site plan, pursuant to Section 8.06 of this Ordinance.

13. **As-Built Site Plan.** Upon completion of the installation of required improvements as shown on the approved final site plan, the property owner shall submit to the Zoning Administrator 2 copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate persons for review to insure conformity with the approved final site plan and other Village of Empire requirements. Once those persons have approved the as built plans the Zoning Administrator may make the final inspection prior to the County issuance the Occupancy Permit.