

## Chapter 78 - ZONING

## Footnotes:

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**Editor's note—** *Ord. No. 2075, adopted Feb. 4, 2014, amended Ch. 78 in its entirety to read as herein set out. Former Ch. 78, §§ 78-1—78-877, pertained to similar subject matter. See the Code Comparative Table for a complete history of former Ch. 78. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.*

**Cross reference—** *Buildings and building regulations, ch. 14; community development, ch. 22; land divisions and other subdivisions of land, ch. 30; planning, ch. 46; streets, sidewalks and other public places, ch. 58; telecommunications, ch. 62; vegetation, ch. 74.*

**State Law reference—** *Michigan Zoning Enabling Act, MCL 125.3101 et seq.*

## ARTICLE I. - IN GENERAL

## Sec. 78-1. - Purpose.

The fundamental purpose of this chapter is to promote and safeguard the public health, safety, morals, prosperity and general welfare of the people of this village. The provisions of this chapter are intended to, among other things:

- (1) Encourage the use of lands, waters and other natural resources in the village in accordance with their character and most suitable use.
- (2) Limit the improper use of land and resources.
- (3) Eliminate nonconforming uses as may be provided by law.
- (4) Reduce hazards to life and property.
- (5) Provide for orderly development within the village.
- (6) Avoid overcrowding of the population.
- (7) Provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered.
- (8) Lessen congestion on the public roads and streets.
- (9) Protect and preserve natural recreational areas, agricultural, residential and other areas naturally suited to particular uses.
- (10) Facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements.
- (11) Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

## Sec. 78-2. - Scope.

- (a) It is not intended by this chapter to repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or of any private restrictions placed upon property by covenant, deed or other private agreement. However, where any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations upon the erection of buildings or structures or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any such rules, regulations, permits or easements, then the provisions of this chapter shall govern.
- (b) The provisions of this chapter are to be construed as minimum requirements, and shall in no way impair or affect any covenant or restriction imposing greater requirements.

## Sec. 78-3. - Zoning districts.

- (a) In order to more effectively protect and promote the general welfare and accomplish the aims and objective of the village master plan, the village is divided into zoning districts of such number, boundaries, shape and area and of such common unity of purpose adaptability or use, that are deemed most suitable to provide for the best development of the community, while protecting the common rights and interests of all through associated regulations and restrictions.
- (b) All street, alley and railroad rights-of-way, if not otherwise designated to be in a particular zoning district, shall be considered to be in the same district as the lot or parcel it immediately abuts. When abutting more than one lot or parcel, or when the centerline of such right-of-way serves as a zoning district boundary, the abutting property's district shall be deemed to be the same up to the center of the right-of-way, unless specifically provided for otherwise.

## Sec. 78-4. - Zoning map.

- (a) The official zoning map of the village shall be so identified by the signature of the planning commission chairperson, as attested to by the village clerk, under the following wording:

"This is to certify that this map is the Official Zoning Map of the Village of Middleville, which is a part of the Village of Middleville Zoning Ordinance."

- (b) A record is to be kept by the village zoning administrator of all changes made or required to be made to the official zoning map. The official zoning map is to be kept up to date, accessible to the general public and shall be the final authority as to the current zoning district status of all land and buildings in the village. All zoning districts are subject to the provisions of this chapter.

Sec. 78-5. - Rules of construction.

The following listed rules of construction apply to the text of this chapter:

- (1) The particular shall control the general.
- (2) With the exception of this chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered as enlarging or restricting the terms and provisions of this chapter in any respect.
- (3) The term "shall" is always mandatory and not discretionary. The term "may" is permissive.
- (4) Unless the context clearly indicates to the contrary:
  - a. Words used in the present tense shall include the future tense;
  - b. Words used in the singular number shall include the plural number; and
  - c. Words used in the plural number shall include the singular number.
- (5) A building or structure includes any part thereof.
- (6) The term "person" includes a firm, association, partnership, joint venture, corporation, trust, estate or equivalent entity or a combination of any of them as well as a natural person.
- (7) The terms "used" or "occupied," as applied to any land or building, shall be construed to include the terms "intended," "arranged," or "designed to be used" or "occupied."
- (8) Any word or term not defined in this chapter shall be considered to be defined in accordance with its common or standard definition.

Sec. 78-6. - Reserved.

Sec. 78-7. - Penalty.

Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any term or provision of this chapter, is hereby declared to be a nuisance per se. Any violation of this chapter shall be a municipal civil infraction, for which the fine shall be determined in accordance with the schedule of fees set forth in subsection 1-55(h) of this Code, if applicable; otherwise, the fine shall be not less than \$100.00 nor more than \$500.00 for the first offense and not less than \$200.00 nor more than \$2,500.00 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this chapter committed by the same person within 12 months of a previous violation of the chapter for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense. Any person violating any of the provisions of this article shall, in addition, become liable for any expense, including reasonable attorney's fees, loss, or damage occasioned by reason of such violation. The zoning administrator is hereby authorized to issue citations for municipal civil infractions for violations of this chapter.

Sec. 78-8. - Procedures.

Except where expressly stated otherwise in this chapter, whenever a public hearing on a zoning application is required by this chapter or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered according to the requirements of this section.

- (1) The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the village.
- (2) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the zoning board of appeals involving a specific parcel; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - a. The applicant;
  - b. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
  - c. The occupants of all structures within 300 feet of the property that is the subject of the application.
- (3) If the above-described 300-foot radius extends outside of the village's boundaries, then notice must be provided outside of the village boundaries, within the 300-foot radius, to all persons in the above-stated categories.
- (4) The notice of public hearing shall include the following information:
  - a. A description of the nature of the application or request.
  - b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if 11 or more adjacent properties are being proposed for rezoning.

- c. A statement of when and where the application or request will be considered.
- d. A statement identifying when and where written comments will be received concerning the application or request.
- e. A notice of rezoning or text amendment shall include the place and times at which the proposed text of the amendment and any maps may be examined.

Sec. 78-9. - The effect of zoning.

Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in compliance with this chapter. The provisions of this chapter shall apply to all zoning districts.

Sec. 78-10. - Restoration of unsafe building.

Subject to the provisions in this chapter dealing with nonconforming uses, nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

**Cross reference—** Buildings and building regulations, ch. 14.

Sec. 78-11. - Required area or space.

A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this chapter. If already less than the minimum requirements of this chapter, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.

Sec. 78-12. - Existing lots of record.

- (a) If a lot or parcel in any zoning district which is platted or otherwise of record as of the effective date of this chapter, April 13, 1976, does not comply with the area and/or width requirements of its zoning district, then such lot or parcel may be used only as this chapter may provide for such noncomplying lots or parcels.
- (b) Where two or more such noncomplying lots or parcels are adjacent to each other and in common ownership, such lots or parcels shall be combined so that the lot or parcel created by such combination shall comply with the minimum lot area and lot width requirements of this chapter.

Sec. 78-13. - Building height exceptions.

- (a) The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed 50 feet in height.
- (b) Additions to existing buildings and structures which now exceed the height limitations of their zoning district, up to the height of an existing building or structure on the same lot, are permitted if the lot is large enough to encompass a circular area with a radius equal to at least the height of the structure or the building.

Sec. 78-14. - Basis for determining front yard requirements.

- (a) Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than four feet into required front or rear yard, and may not project into the required side yard.
- (b) Steps, including a landing not to exceed 25 square feet in area, may extend up to five feet into a required yard. The steps may be roofed, but shall otherwise be unenclosed.
- (c) An enclosed or unenclosed, covered or uncovered porch, deck, or balcony located more than eight inches above grade, may not project into a required yard.
- (d) A uncovered porch, terrace or deck which is constructed at or not more than eight inches above ground level may extend into a required yard, but not closer than ten feet to a front lot line, or two feet from any other lot line.

Sec. 78-15. - Essential services.

- (a) The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, sewer lift stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utilities or governmental boards or commissions, or for the public health, safety or general welfare is permitted in any zoning district.

(b) Oxidation ponds or lagoons, owned and operated by governmental units, boards or commissions, for the treatment of wastewater, and related irrigation an equipment and facilities, are permitted in agricultural or industrial zones, but not in other zones, if approved by the state department of public health and b Barry-Eaton District Health Department. Notwithstanding the exceptions contained in the immediately preceding sentence:

- (1) Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six feet high and adequate to obstruct passage of persons or materials; and
- (2) Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

Sec. 78-16. - Required yard or lot.

All lots, yards, parking areas or other spaces created after the effective date of the ordinance from which this chapter derives shall comply with the minimum requirements of the zoning district in which they are located.

Sec. 78-17. - Control of heat, glare, fumes, dust, noise and vibration.

(a) It shall be unlawful to conduct or permit any activity (a) or operation or use of land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established.

- (1) The emission of measurable noise in decibels (dB) from the premises shall not exceed the sound levels outlined below, when measured at any property line. These regulations do not apply to construction activities, maintenance activities, noises of safety signals, or special community events approved by the village.

Source of Sound	Receiving Property		
	Residential	Commercial	Industrial
Residential	50 dB	57 dB	60 dB
Commercial	55 dB	60 dB	65 dB
Industrial	55 dB	65 dB	70 dB

- (2) Machinery shall be so mounted and operated as to prevent transmission of ground vibration perceptible at a residential lot line. Vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses.
- (3) The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- (4) The escape or emission of any gas, which is injurious or destructive or explosive, shall be unlawful and shall be summarily abated, as directed.
- (5) No garbage, filth, refuse, or other obnoxious matter shall be kept in open containers, piled, or laid on the open ground; and all containers shall be stored in such a way so as not to be accessible to animals.
- (6) In commercial and industrial districts, outdoor storage of materials and equipment must be conducted in side or rear yards and screened by a fence of adequate opacity and height to obscure view of the storage area, subject to applicable fencing requirements.

Sec. 78-18. - Temporary uses or structures requiring zoning inspector authorization.

- (a) Upon application under this chapter, the zoning inspector shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six calendar months and shall be renewed by the zoning inspector for four additional successive periods of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- (b) Upon application under this chapter, the zoning inspector shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the period of not more than six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

Sec. 78-19. - Mobile homes.

A mobile home as defined in this Code shall not be considered as an accessory building to any principal building. All mobile homes not located in a licensed mobile home park shall meet requirements of section 78-40. Existing mobile homes that do not meet requirements of section 78-40 are deemed to be a nonconforming structure. Such structures may not be enlarged, extended or altered in any manner nor otherwise modified to extend useful life.

## Sec. 78-20. - Accessory uses.

In any zoning district under this chapter, accessory uses, incidental only to a permitted use, are permitted when located on the same lot; however, such accessory uses shall not involve the conduct of any business, trade or industry.

## Sec. 78-21. - Accessory buildings.

- (a) In any zoning district under this chapter, accessory buildings may be erected, either detached from the permitted principal building or as a part of the permitted principal building. When erected as a part of the permitted building, an accessory building shall comply with the requirements of this chapter applicable to the permitted principal building.
- (b) The architectural character of all accessory buildings under this chapter shall be substantially compatible with that of the principal building and in residential districts, shall be compatible with the residential nature of the district in terms of color and materials.
- (c) No accessory building under this chapter shall be constructed on any parcel on which there is no principal building.
- (d) Detached accessory buildings under this chapter shall not be located closer than five feet to the rear lot line or in the case of a waterfront lot, closer than 40 feet to the water's edge, except that pump houses may be located within 40 feet from the water's edge if they do not exceed three feet in height.
- (e) Detached accessory buildings in residential zoning districts under this chapter shall not occupy more than 30 percent of any rear yard, provided that in no case shall such buildings exceed a total of 1,500 square feet. No accessory building shall be closer to any side lot line or front lot line than the principal building is permitted to be. Detached accessory buildings shall not be permitted within any front yard. For accessory buildings greater than 800 square feet in area, a setback of one-half the building height shall be provided from the nearest property line.
- (f) The distance between a detached accessory building under this chapter and any principal building shall not be less than ten feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- (g) A garage under this chapter may be located in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this chapter if it is an accessory building and if it is located not less than ten feet from the edge of the street.
- (h) No accessory building or structure under this chapter shall include residential or living quarters, nor shall it constitute or be used as a dwelling, either in whole or in part.
- (i) Accessory buildings 200 square feet or greater shall require a building permit, and all accessory buildings shall require a zoning compliance permit.
- (j) Accessory buildings covered in vinyl, canvas, nylon or other similar membrane materials shall not exceed 150 square feet in ground coverage and such structures shall be securely attached to the ground with approved anchors. Bright contrasting stripes, orange tarp covers, or other carnival-like colors, materials and patterns shall not be permitted. The buildings shall be maintained in a safe and attractive manner; rips, hanging fabric, leaning frame components, and other potential visual detriments that present an unkempt image shall not be permitted. The buildings shall not detract from or undermine the character or quality of a neighborhood by appearing incongruous or transient.

## Sec. 78-22. - Principal building on a lot.

In the RE, R-1, and R-2 residential zoning districts under this chapter, no more than one principal building shall be placed on a lot.

## Sec. 78-23. - Reserved.

## Sec. 78-24. - Double frontage and corner lots.

Buildings under this chapter on lots having frontage on two intersecting or nonintersecting streets shall comply with the front yard requirements on both such streets.

## Sec. 78-25. - Vehicle storage.

- (a) No person, firm or corporation shall store, place or permit to be stored or placed, or allow to remain on any parcel of land for a period of more than 30 days in one calendar year an unlicensed dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed public or private garage or unless approved as part of a junk yard or auto repair facility by the planning commission in accordance with article IV of this chapter.
- (b) Mechanical work on owner-operated vehicles under this chapter is permitted but must be performed entirely within an enclosed building; however mechanical work may be performed outside of an entirely enclosed building for a period of no more than ten consecutive days. Total days shall not exceed 30 days per calendar year. Parts or vehicles not in a legally operative condition shall be stored inside.
- (c) Within a residential district or on a lot used for residential purposes, display for sale of one passenger motor vehicle or recreational vehicle at a time is permitted as an accessory use if the vehicle is owned by a person who currently resides on the property. Not more than two such vehicles may be displayed during a calendar year, and the total time of display shall not exceed 30 days in any calendar year.
- (d) Parking or storage of commercial vehicles, tractor trailers, trucks of more than one-ton capacity, front-end loaders, and similar vehicles and equipment on any roadway or within a road right-of-way is prohibited.
- (e) Recreational vehicles, as defined in this chapter, shall be stored in the rear or side yard, but not in the required setback in any residential zoning district.

This requirement does not include short-term parking in the driveway for purposes of loading/unloading or cleaning of the recreational vehicle.

- (f) Commercial vehicles as defined in the chapter, shall be stored in the rear or side yard, but not in the required side or rear yard setback in any residential zoning district. Commercial vehicles may be stored in front yard setback, as defined in table 78-83(b).

(Ord. No. 2086, § 1, 7-12-2016)

**Cross reference**— Traffic and vehicles, ch. 66.

Sec. 78-26. - Minimum public street frontage.

Every principal building and use under this chapter shall be located on a lot having a minimum of 50 feet of frontage on a public street and having a minimum of 50 feet in width at all locations within the yard of such lot, unless the requirements for frontage set forth in the regulations applicable to a particular district require greater frontage and except for multi-family developments in the R-3 district which may take access from internal access drives.

Sec. 78-27. - Governmental improvements.

The provisions of this chapter shall be applicable to and enforceable against the village itself and all other governmental agencies and units, federal, state or local.

Sec. 78-28. - Health department approval.

- (a) No permit under this chapter shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities by its water supply and/or sewage disposal facilities.
- (b) Notwithstanding any other provision of this chapter, no permit shall be issued for the construction of a building with sanitary facilities, on a lot or parcel in the AG, RE, R-1, R-2, R-3, or R-4 district and not served with public sewer, unless there has been obtained from the county health department and submitted to the village a permit for two separate locations for private septic tank or other private sewage disposal facility on such lot or parcel.

Sec. 78-29. - Additional setbacks for structures adjacent to major streets.

Notwithstanding any other provisions of this chapter, no building or structure shall be located on a lot or parcel abutting State Highway M-37, unless such building or structure has a minimum setback of 50 feet from the existing right-of-way line.

Sec. 78-30. - General lighting and screening requirements.

- (a) The purpose and intent of this section is to maintain the small-town character of the village by promoting the sensible, energy-efficient use of exterior lighting that limits unnecessary light from being directed skyward or onto neighboring properties or roadways. This section is intended to ensure that direct or directly reflected light is confined to each property to prevent light trespass and to avoid glare.
- (b) Outdoor illumination on non-residential property shall be designed, installed, and maintained in accordance with the following:
- (1) All lighting shall be fully shielded and aimed downwards to not create glare onto neighboring properties or public rights-of-way. Lighting fixtures shall have 100 percent cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
  - (2) Except as otherwise provided below, no elevated exterior light fixture, including pole lighting, canopy lights, wall-mounted lights, soffit lights and similar fixtures shall exceed 23 feet in height above grade.
    - a. In the C-1 district pole lighting shall not exceed 18 feet in height from grade.
    - b. In the I-1 and I-2 districts and subject to special land use approval under the provisions of section 78-544 and section 78-30(b)(10) below, pole lighting shall not exceed 38 feet in height from grade where such poles are set back at least 150 feet from lot lines.  
The height of light fixtures required for doors on decks above grade can be measured from the walking surface (i.e. deck) they illuminate.
  - (2) Elevated light fixtures shall be set back from the lot line one foot per every foot of height.
  - (3) As part of the site plan review pursuant to article V of chapter 78, the applicant shall submit a photometric plan, required pursuant to this subsection, the planning commission has the authority to increase, decrease, or otherwise modify the lighting requirements of this chapter via special land use. In doing so the planning commission or shall consider the following criteria:
    - a. The amount of space on the site available for lighting.
    - b. Existing lighting on the site and on adjacent properties.
    - c. The type of use on the site and the size of the development.
    - d. Existing and proposed adjacent land uses.
    - e. The effect that the required lighting would have on the operation of the existing or proposed land use.
- (c) Outdoor illumination on all properties shall be maintained, installed and subject to restrictions in accordance with the following:

- (1) There shall be no lighting of a blinking, flashing or fluttering nature, including changes in light intensity, brightness or color. Search lights, laser source light or similar high-intensity light shall not be permitted except in emergencies as directed by emergency personnel or night road repairs.
- (2) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- (3) Lighting used for agricultural production purposes, up-lit flags and decorative lighting intended and used to illuminate church steeples shall be exempt from the provisions of this section.
- (4) Seasonal holiday lighting, such as for Christmas, is allowed providing it does not create objectionable glare.

(Ord. No. 2086, § 2, 7-12-2016; Ord. No. 2121, § 1, 10-26-2021)

Sec. 78-31. - Fences.

The following standards shall apply to all fences installed after the effective date of this chapter or fences installed to replace fencing present on the effective date of this chapter:

- (1) A fence shall not be placed in any portion of a public road right-of-way or private road easement.
- (2) A fence located in a front yard setback shall not exceed three feet in height and shall not be completely opaque; provided, however, that if the parcel is located in a residential or agricultural district and the fence is to be located within the front yard setback on the street side of a corner lot, the fence may be: (1) a height greater than three feet but not more than six feet, (2) located at a distance not closer than one-half the distance of the required setback, and (3) opaque.
- (3) Fencing located in a side or rear yard shall not exceed six feet in height.
- (4) A fence shall not be located within a clear vision area.
- (5) Fencing is not permitted in any waterfront lot or parcel between the waterfront and the principal building, excluding required swimming pool enclosures to assure safety.
- (6) All fences shall be maintained in good condition.
- (7) Side and rear yard fencing, if opaque, shall be installed with a finished side facing adjoining property or the adjoining street.
- (8) If a fence will be located on a lot line, or near an indeterminable lot line, a certified boundary survey and staking shall be required prior to village approval of the fence.

(Ord. No. 2110, § 1, 9-24-2019)

Sec. 78-32. - Trash, litter or junk in yards.

It shall be unlawful for any person under this chapter to accumulate, place, store, or allow or permit the accumulation, placement or storage of trash, litter or junk on premises in the village, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed eight days storage in watertight storage receptacles designed for the temporary accumulation of trash.

Sec. 78-33. - Basement dwellings.

The use of any portion of a basement under this chapter excluded from the total floor area computations as a dwelling or as sleeping quarters is prohibited in all zones. The use of a basement of a partially constructed or planned building as a dwelling unit is prohibited in all zones.

Sec. 78-34. - Moving of buildings.

The moving of a building under this chapter to a different location shall be considered to be the erection of a new building. All provisions, regulations and requirements of this chapter concerning the erection of a new building shall be equally applicable to such moving of a building to a different location. A performance bond may be required prior to such moving.

Sec. 78-35. - Swimming pools.

An in-ground swimming pool on privately owned property shall be considered an accessory structure for purposes of this chapter and shall require issuance of a zoning permit. All in-ground outdoor swimming pools shall be completely enclosed by a fence, wall or other structure which shall be at least 48 inches in height. The enclosure shall be equipped with a gate that is a self-closing and latching type with the latch on the pool side of the gate. Said gate access shall lead to the shallow end of the pool. If the entire yard area is enclosed, this requirement may be waived. The pool shall be fully enclosed before final approval is given for use of the pool.

Above-ground swimming pools with a depth of 36 inches or more need not be fenced, provided that entry steps or ladder providing access to the pool are secured by an enclosure and a self-closing and latching gate with latch on the pool side of the gate or ladder is removed when not in use. Inflatable, temporary use wading pools less than 18 inches in depth are not regulated in this article, though owners are urged to safeguard small children with adult supervision when wading pool is in use.

Sec. 78-36. - Outdoor storage and waste disposal.

- (a) All outdoor storage of goods and equipment, except display areas associated with lawful activities, utilized in connection with nonresidential activities under this chapter shall be enclosed by a solid fence or wall of not less than six feet and no more than ten feet in height which is adequate to conceal such facilities from adjacent properties and from public view.
- (b) If materials or wastes are stored outside which might cause fumes, odors and dust or which constitute a fire hazard or which may be edible by rodents or insects, then such materials shall be stored only in closed containers and screened from public view and adjacent properties.
- (c) No materials or wastes shall be deposited on a lot or property in such form or manner that they may be moved off the lot or property by natural causes or forces.
- (d) Waste materials shall not be allowed to accumulate on a lot or property in such a manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.
- (e) All outdoor storage facilities for fuel, raw materials and products located less than 100 feet from any other property shall be enclosed by a solid fence or wall of not less than six feet nor more than ten feet high.
- (f) Within any multiple-family residential, office, commercial or industrial use property, all outdoor refuse containers shall conform to the following placement requirements:
  - (1) Such containers may not be located closer to any property line than required for an accessory structure.
  - (2) When located on a site adjacent to single-family residential use, the container may not be located closer than 20 feet to the common lot line.
  - (3) A six-foot high opaque wall, fence, or earth berm shall enclose each container. Such enclosure shall not be composed of chain link fence and woven fabric. Such enclosure may be constructed of wood, masonry, or earth berm planted with evergreen plant material. The enclosure shall have an access gate and separate pedestrian access.
  - (4) All refuse container enclosures shall be maintained in good condition and appearance and kept free of debris.
  - (5) This section shall not apply to refuse containers in temporary use on an active construction site.

Sec. 78-37. - Satellite dish antennas.

Satellite dish antennas are permitted in all zoning districts, subject to the following conditions:

- (1) No such antennas shall be placed in a front yard or side yard.
- (2) No such antennas located on the roof of a structure shall extend more than 36 inches above the roof of the structure.
- (3) No such antennas installed on the ground shall exceed 15 feet in height, from the ground to the top of the satellite dish antennas.

Sec. 78-38. - Standards for discretionary decisions.

In addition to any specific standards under this chapter which may be applicable, the following standards and guidelines shall serve as the basis for decisions involving special land uses, planned unit developments and other discretionary decisions set forth in this chapter. The proposed uses shall:

- (1) Be compatible with adjacent uses of land;
- (2) Be consistent with, and promote the intent and purpose of this chapter;
- (3) Be compatible with the natural environment;
- (4) Be consistent with the capacities of public services and facilities affected by the proposed use; and
- (5) Protect the public health, safety and welfare.

Sec. 78-39. - Reversion of rezoned lands.

If no construction has commenced and been diligently pursued within one year from the effective date of rezoning any residentially zoned land to a commercial, industrial or higher density residential use, the planning commission may initiate action to rezone such land back to the designation which existed prior to such rezoning in the manner provided herein for amending this chapter.

Sec. 78-40. - Single-family dwelling.

Any single-family dwelling under this chapter erected or placed on a lot or parcel of land shall satisfy all of the following minimum requirements:

- (1) It shall have a minimum 24-foot square core area of original manufacture.
- (2) Foundations for single-family dwellings shall be frost-free and shall conform to requirements of the building code in effect within the village.
- (3) All single-family dwellings shall have a pitched roof of not less than one foot vertical to three feet horizontal (one to three).
- (4) Each single-family dwelling unit shall have exterior wall finishes similar to and compatible with existing dwellings in the vicinity.
- (5) Ceiling height for all single-family dwellings shall not be less than required by the building code in effect within the village.
- (6) Each single-family dwelling shall be connected to a public sanitary sewer system and public water supply system and if not served, by a public system shall be served by a system, approved by the county health department or other agency with jurisdiction.



- (7) All new single-family dwellings located in the village shall comply with the building code in effect within the village or as otherwise regulated by laws of the United States.

Sec. 78-41. - Resubmission of matters to planning commission.

For a period of one year following a decision by the planning commission, no reconsideration of a decision shall be undertaken unless the planning commission in its sole discretion determines that there has been a material change in the applicable facts and circumstances.

Sec. 78-42. - Maps, drawings and renderings.

Whenever under the terms of this chapter the planning commission may be considering or reviewing a proposed land use or activity, the planning commission may require the submission of maps, drawings, renderings and such other information as will assist the planning commission in its consideration and review of the proposed land use or activity.

Sec. 78-43. - Roadside market stands.

Roadside market stands shall be permitted in the AG district and shall comply with the terms of this section.

- (1) The operation constitutes a "farm market" as defined by the generally accepted agricultural and management practices ("GAAMPs") for farm markets promulgated by the Michigan Commission of Agriculture and Rural Development, and is operated in compliance with those GAAMPs.
- (2) Any temporary or permanent structure shall comply with minimum yard requirements for the district.
- (3) Off-street parking spaces, in the number required by the zoning ordinance, shall be provided with a surface in compliance with the GAAMPs. Driveway locations shall be approved by the village, county road commission, or Michigan Department of Transportation, as applicable.
- (4) Any signage shall comply with the village zoning ordinance.
- (5) Activities and services designed to attract and entertain customers are prohibited, except to the extent authorized by the GAAMP, or otherwise by this chapter.

Sec. 78-44. - Driveways.

- (a) No building or structure under this chapter shall be erected, used, enlarged or maintained unless all of the following requirements are satisfied with respect to such building or structure or the use, enlargement or maintenance thereof:
- (1) Every private drive or driveway which provides or may provide access to or from a public right-of-way for more than one building, structure, enlargement or residential unit in a multiple family dwelling, but less than five such buildings, structures, enlargements or residential units in multiple dwellings, shall:
    - a. Be constructed in a good and workmanlike manner upon and parallel to the centerline of an easement by which is established by duly recorded conveyance and which is not less than 66 feet in width.
    - b. Be constructed so as to sufficiently control stormwater runoff and permit effective stormwater drainage, such as by means of ditches constructed parallel to and on either side of the drive, by sloping the sides of the drive from the center thereof, or by other effective and standard construction methods.
    - c. Have a sand and gravel base of not less than ten inches in depth of which not less than six inches in depth shall be only gravel.
    - d. Have a roadbed not less than 12 feet wide.
    - e. Be constructed over adequate culverts where necessary.
  - (2) Every private drive or driveway which provides access to or from a public right-of-way for five or more buildings, structures, enlargements or residential units in multiple dwellings, shall:
    - a. Be constructed in a good and workmanlike manner upon and parallel to the centerline of an easement which is established by duly recorded conveyance and which is not less than 66 feet in width;
    - b. Be constructed so as to sufficiently control stormwater runoff and permit effective stormwater drainage, such as by means of ditches constructed parallel to and on either side of the drive, by sloping the sides of the drive from the center thereof, or by other effective methods;
    - c. Have a sand and gravel base of not less than ten inches in depth of which not less than six inches in depth shall be only gravel;
    - d. Have a roadbed not less than 24 feet wide;
    - e. Be constructed over adequate culverts where necessary;
    - f. Be covered with bituminous blacktop paving material of not less than one and one-half inches in depth at any point and of not less than 18 feet in width; and,
    - g. Include adequate turnaround area for emergency vehicles.
- (b) Prior to the issuance of a building permit under this chapter, there shall be submitted to the zoning administrator an approved driveway permit from the state highway department and the county road commission, in all cases where either of such permits is required.
- (c) Prior to the issuance of a building permit, the applicant for such permit shall submit plans, drawings and specifications showing that any private drive

used to provide access from a public right-of-way to a proposed building, structure, enlargement, or residential unit in a multiple dwelling will be fully in compliance with this section at the time of use and occupancy of the proposed building, structure, enlargement or residential unit in a multiple dwelling.

- (d) The construction, use or occupancy of any building, structure, enlargement or residential unit in a multiple dwelling shall not be lawful:
- (1) Where such construction, use or occupancy would increase to more than one but less than five, the total number of buildings, structures, enlargements or residential units in multiple dwellings which are or may be provided access to or from a public right-of-way by a private drive or driveway, unless such private drive or driveway is constructed so as to comply with subsection (a)(1) of this section.
  - (2) Where such construction, use or occupancy would increase to five or more the total number of buildings, structures, enlargements or residential units in multiple dwellings which are or may be provided access to or from a public right-of-way by a private drive or driveway, unless such private drive or driveway is constructed so as to comply with subsection (a)(2) of this section.
- (e) No building or structure which, when completed, will have access to and from a public right-of-way by means of a private drive or driveway shall be erected, used, occupied, enlarged or maintained, nor shall any permit for such purpose be issued, where such building or structure will, when completed, constitute at least the second building or structure to have access to or from a public right-of-way by means of the same private drive or driveway, unless the owner of such building or structure:
- (1) First, submits to the zoning administrator, and obtains approval of, a written, signed agreement whereby all of the owners, and their successors and assigns, of all such buildings or structures agree always to maintain, and, when appropriate, improve, such drive or driveway in good and readily passable condition, reasonably free of ice, snow, debris, flooding waters and all other obstructions to public and emergency vehicle traffic and other motor vehicle traffic necessary or appropriate for the public safety and general welfare.
  - (2) Such agreement, stated in subsection (e)(1) of this section, shall, when completed, be recorded in the records of the county register of deeds, may be in a form provided by the zoning administrator and shall be enforceable by the village as well as by the owners of all buildings and structures served by the private drive or driveway.
  - (3) Proof of the recording of the agreement shall be given to the zoning administrator and building inspector before the issuance of a building permit.
  - (4) Before the erection, use or occupancy of public right-of-way by means of a private drive or driveway which is already the subject of a maintenance agreement such as that required by the terms of this subsection, the owner of such subsequent building or structure shall join in such agreement by the execution of an amendment thereof.
  - (5) Such amendment shall be recorded with the county register of deeds and proof thereof shall be given to the zoning administrator and building inspector before the issuance of a building permit.
- (f) All existing, lawful private driveways that do not meet the aforementioned private driveway standards at the time of adoption of the zoning ordinance shall be considered a legal nonconforming use. Any new development or activity that will increase a private driveway's degree of nonconformance with this section shall be required to follow the procedures of subsection 78-702(b).

#### Sec. 78-45. - Sidewalks and pedestrian facilities.

Sidewalks are determined to be necessary to offer a pedestrian friendly setting for village residents. Residents of all ages must be given the opportunity to walk safely in all areas of the village. The regulations in this section are intended to establish uniform standards for sidewalk construction within the village.

- (1) *Sidewalks.* All new sidewalks installed in the village shall have a width of five feet (60 inches), be four inches thick of concrete with well-drained base material and be placed one foot inside the street right-of-way line. Sidewalks shall be placed on both sides of each new public street or private common access street or drive aisle within large-capacity parking lots as required hereinafter, unless an alternative, comparable design is approved by the planning commission.
- (2) *Pathways.* Pathways, if approved as an alternative to sidewalks by the planning commission, shall be not less than eight feet in width and be constructed of three inches of bituminous pavement with well-drained base material. Location and placement of pathways shall be at the discretion of the planning commission, if other than one foot inside the street right-of-way line.
- (3) *When required.* Sidewalks or alternative pathways shall be required in all forms of land development occurring within the village, including but not limited to (a) a plat developed under terms of the Subdivision Control [Act], being Act 288 of 1967, as amended, (b) a land division under terms of Act 591 of 1996, as amended, (c) a site condominium or conventional condominium developed under term of the Condominium Act, being Act 59 of 1978, as amended, (d) all office, commercial or industrial developments and (e) all PUD planned unit developments.
- (4) *Sidewalk or pathway easements.* Whenever a sidewalk is located outside of a public street right-of-way, dedication of a public easement having a width two feet wider than the sidewalk located therein shall be required. Such dedication shall be in the form of a sidewalk easement in favor of the Village of Middleville. Said easement shall be based on a surveyed description of the easement in which the sidewalk is to be placed. The dedication of the easement shall occur prior to occupancy of the first building on site.
- (5) *Large-capacity parking lots.* For all new parking areas serving non-industrial uses having a capacity in excess of 50 parking spaces, dedicated pedestrian sidewalks shall be provided within the parking lot generally running perpendicular to the face of the building they serve and located between each parking bay. Concrete face curbs shall protect these sidewalks. Such sidewalks shall be a minimum of five feet in width.
- (6) *Street frontage not served with sidewalk.* For all types of land development, if a parcel of land currently does not have sidewalks along the public street frontage, sidewalks along said street frontage shall be required as an element of said development.

- (7) *Conflicting provisions.* Whenever the provisions of this section conflict with another section of this Code, the provisions of this section shall govern.
- (8) *Deferred implementation.* The owner or developer may, at the discretion of the planning commission, provide the village with a performance bond, irrevocable letter of credit or cash in the estimated cost of constructing sidewalks on the property, based on the approved site plan. Said performance guarantee shall be valid for a period of not less than one year. If the sidewalks are not installed within six months of the date of final site plan approval, the village may use the performance guarantee to install the sidewalks to be constructed on the site, based on the approved final site plan.

(Ord. No. 2086, § 3, 7-12-2016)

Sec. 78-46. - Finished grades and related matters.

For any lot on which a principal residential building is constructed, a final occupancy permit under terms of the building code in effect shall not be issued until and unless the following items are completed and approved by the zoning administrator or his agent:

- (1) Finished grades for the entire yard area have been established, and
- (2) Finished grades shall not cause surface water to exit across any lot line, unless such surface water is discharged directly into an approved stormwater basin or drainage easement, and
- (3) Eave gutters and downspouts, which collect roof water, shall be installed and located so that water discharge does not exit the lot except into an approved stormwater basin or drainage easement. Such roof drains shall not be connected to the sanitary sewer, and
- (4) The entire lot shall be covered with not less than two inches of top soil, and
- (5) The entire lot shall be seeded and mulched or similar measures undertaken to prevent erosion of soil onto adjacent property, and
- (6) The water service value height is adjusted to finished grades and located within one foot of the edge of sidewalk toward the home and not situated in a paved driveway, and
- (7) Any required sidewalk is installed along the entire distance between side lot lines, and
- (8) The installing plumber shall provide the village a to-scale site map depicting the location of water and sanitary sewer service leads and any sanitary sewer cleanouts as installed, and
- (9) A permanent house number, visible from the street, shall be placed on the dwelling or mail box adjacent to the street, and
- (10) A fence, wall or shrubbery shall not obstruct access to the remote water meter reader, and
- (11) In lieu of placing top soil, seed and mulch on the lot due to seasonal considerations only, an amount of money determined by the planning commission shall be placed on deposit with the village to guarantee installation. If the installation is not completed within six months of the date on which a certificate of occupancy is issued, the funds on deposit shall be used by the village to require the required installation on said lot.

Neither the zoning administrator nor the building inspector shall approve occupancy of any dwelling on any lot that fails to meet all requirements herein. Whenever a lot or parcel fails to meet these requirements, the zoning administrator shall issue the owner a list of items necessary, provided all other requirements found in other parts of this article have been met, if a lot meets the above requirements, the zoning administrator shall issue written approval and occupancy may be permitted by the building inspector.

Sec. 78-47. - Flood-resistant construction.

Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Act 230 of the Public Acts of 1972, as amended, Professional Code Inspections of Michigan (PCI) or successor building code official and the village zoning administrator are hereby designated to discharge the responsibility of the village under said Act, State of Michigan. The village assumes responsibility for the administration and enforcement of said Act within the corporate limits of the village.

- (1) Pursuant to the provisions of the Michigan Construction Code, appendix G shall be enforced by PCI and the zoning administrator within the village.
- (2) The Federal Emergency Management Agency (FEMA) flood insurance study (FIS) entitled Barry County Flood Insurance Study and dated May 4, 2009, and the flood insurance rate map (FIRM) panel number 00175C for community #260356 and dated May 4, 2009, is adopted by reference for the purpose of administration of the Michigan Construction Code, and declared to be a part of section 1612.3 of the Michigan Building Code, and to provide the content of the "flood hazards" section of table 12301.2 of the Michigan Residential Code.

Sec. 78-48. - Floodplain management.

The village zoning administrator is hereby designated as the floodplain manager. The administrator shall prevent placement of new buildings or structures within any floodplain or land area susceptible to being inundated by water from any source and areas within the zone A as shown on the flood hazard boundary map (FHBM) issued by FEMA, unless otherwise allowed by law.

The administrator shall review all zoning permits, plats, site condominiums, site plans, planned developments, land divisions and zoning variances to minimize flood hazard, property damage, injury to persons and to assure the availability of flood insurance under the National Flood Insurance Program (NFIP).

Sec. 78-49. - Reserved.

Ord. No. 2119, § 1, adopted Aug. 24, 2021, repealed § 78-49, which pertained to the prohibition of marihuana facilities and establishments, and derived from Ord. No. 2104, § 1, adopted April 23, 2019.

Secs. 78-50—78-80. - Reserved.

ARTICLE II. - DISTRICTS

DIVISION 1. - GENERALLY

Sec. 78-81. - Zoning districts.

For the purposes of this chapter, the village is divided into the following zoning districts:

AG	Agricultural
RE	Residential Estate Single-Family
R-1	Low Density Single-Family
R-2	Medium Density Single-Family
R-3	Multiple-Family Residential
R-4	Mobile Home Residential
C-1	Central Business
C-2	Highway Commercial
I-1	Light Industrial
I-2	Heavy Industrial
NR	Natural River
WP	Wellhead Protection Overlay
PUD	Planned Unit Development

Sec. 78-82. - Zoning map.

- (a) The locations and boundaries of the descriptions in section 78-81 are hereby established on a map entitled "The Zoning Map of the Village of Middleville" which is hereby adopted and declared to be a part of this chapter.
- (b) Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
  - (2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
  - (3) Boundaries indicated as approximately following village boundaries shall be construed as following village boundaries.
  - (4) Boundaries indicated as approximately following the shoreline of a lake or other body of water shall be construed as following such shoreline, and in the event of change in the location of the shoreline shall be construed as moving with the actual shoreline.
  - (5) Boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
  - (6) Boundaries indicated as approximately following property, section lines, or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey shall be construed to follow such boundary lines.

Sec. 78-83. - Uses and dimensional standards.

Regulations affecting the use of buildings and land, and the bulk arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in this chapter.

- (1) The list of permitted and special land uses presents the uses that are permitted in each zoning district in the Village of Middleville. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this chapter. In the event of a discrepancy between the table and the text of the chapter, the text shall prevail. Moreover, all uses, buildings and structures shall conform to the other requirements of this chapter.

List of Permitted and Special Land Uses — Village of Middleville Zoning Ordinance

P = Permitted Use SU = Special Land Use

Uses	AG	RE	R-1	R-2	R-3	R-4	C-1	C-2	I-1	I-2
	Agricultural	Residential Estate Single-Family	Low Density Single-Family	Medium Density Single-Family	Multiple-Family Residential	Mobile Home Residential	Central Business	Highway Commercial	Light Industrial	Heavy Industrial
Adult business							SU	SU		
Adult foster care facility					SU					
Ambulance services							P	P		
Animal hospital								P		
Art studio							P	P		
Bakery/coffee/ice cream shop							P	P		
Bed and breakfast	SU	SU	SU	SU	SU					
Car wash								P		
Catering/banquet facility							P	P		
Church	SU	SU	SU	SU	SU	SU				
Community center				SU	SU	SU				
Community facilities	P	P	P	P	P		P	P		
Contractor's yard									P	P
Contractor's yard, major										P
Day care center							SU	SU		
Day care, family home	P	P	P	P	P	P	P			
Day care, group home	SU	SU	SU	SU	SU	SU				

Distribution/packaging center									P	P
Drive-in facility								SU		
Drugstore							P	P		
Dry cleaning plant										SU
Dwelling, single-family	P	P	P	P	P	P	P			
Dwelling, multiple-family					P		P	P		
Dwelling, two-family				SU	P		P			
Educational facility							P	P		
Farm	P									
Financial institution							P	P		
Funeral home/mortuary			SU	SU			P	P		
Gas station								SU		
Golf course/country club	SU									
Grocery store								P	P	
Hardware store								P	P	
Home occupation, major	SU	SU	SU	SU	SU	SU				
Home occupation, minor	P	P	P	P	P	P				
Hotel/motel							P	P		
Junkyard										SU
Kennel	SU									
Landscaping company									P	P
Laundromat							P	P		
Library	SU	SU	SU	SU	SU	SU				
Manufactured home dealer						P				

Manufactured housing community						P				
Manufacturing facility	P							P	P	P
Manufacturing facility, heavy										SU
Massage parlor							SU	SU		
Medical clinic							P	P		
Medical marihuana provisioning center								SU		
Mining operation	SU									
Mixed use				SU			P	SU		
Motor vehicle repair, minor								P		
Motor vehicle repair, major								SU	SU	SU
Motor vehicle sales								P		
Museum	SU	SU	SU	SU	SU	SU				
Nursing home				SU				SU		
Office			SU	SU	SU		P	P	P	P
Parcel delivery station							P	P		
Park	P	P	P	P	P	P	P	P		
Personal service establishment							P	P		
Pet groomers							P	P		
Pet shop							P	P		
Print shop							P	P		
Private club or organization	P						P	P		
Private wind energy facility	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU
Recreation establishment, indoor							SU	SU	SU	SU

Recreation establishment, outdoor								SU		
Recreational marihuana grower (Class A-C)									SU	SU
Recreational marihuana processor								SU	SU	SU
Recreational marihuana secure transporter								SU	SU	SU
Recreational marihuana safety compliance facility								SU	SU	SU
Recreational marihuana retailer								SU		
Recreational marihuana microbusiness								SU		
Research/training facility									P	P
Restaurant							P	P		
Retail establishment							P	P		
Roadside market stand	P									
School	SU	SU	SU	SU	SU	SU				
Self-storage facility								SU	P	P
Slaughterhouse										SU
State licensed residential facility		P	P	P	SU					
Tattoo parlor							SU	SU		
Tavern							P	P		
Taxidermist							P	P		
Theater							P	P		
Warehouse									P	P



Wholesale establishment, minor									P	P
Wholesale establishment, major	P									P

Dwellings are permitted in the C-1, central business district by right, subject to specific standards, as outlined in [section 78-292\(28\)](#).

- (2) The table of dimensional standards provides an overview of the dimensional requirements of this zoning ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this chapter. In the event of a discrepancy between the table and the text of the chapter, the text shall prevail. Moreover, all uses, buildings and structures shall conform to the other requirements of this chapter.

Summary of Dimensional Standards — Village of Middleville Zoning Ordinance

District		Minimum Setback in Feet			Minimum Lot Size	Minimum Lot Width in Feet
		Front Yard	Side Yard <sup>(1)</sup>	Rear Yard		
AG	Agricultural	40	20/50	45	20,000 sq ft	125
RE	Residential Estate Single Family	40	10/25	35	20,000 sq ft	100
R-1	Low Density Single Family	30	7/14	25	10,000 sq ft <sup>(2)</sup>	85
R-2	Medium Density Single Family	30	7/14	25	7,250 sq ft <sup>(3)</sup>	85
R-3	Multiple Family Residential—Single or Two Family Dwelling	30	10/20	25	6,000 sq ft	150
R-3	Multiple Family Residential	30	15/30	25	12,000 sq ft	100
R-4	Mobile Home Residential	30	20/40	25	15,000 sq ft	100
C-1	Central Business	<sup>(4)</sup>	0/25	10/25	n/a	n/a
C-2	Highway Commercial	50 <sup>(5)</sup>	10/25 <sup>(6)</sup>	10/25	n/a	n/a
I-1	Light Industrial	50	20/50	40/75	1 acre	175 feet
I-2	Heavy Industrial	50	25/75	50/100	1 acre	175 feet

<sup>(1)</sup> In many districts, there shall be total side yards of at least the larger number, but no side yard shall be less than the smaller number.

<sup>(2)</sup> Non-sewered lots in the R-1 district shall have a minimum of 20,000 square feet and a lot width of 100 feet.

(3) Non-sewered lots in the R-2 district shall have a minimum of 12,000 square feet and a lot width of 100 feet. For two-family dwellings, the minimum lot size and width shall be 13,000 square feet and 100 feet, respectively and for two-family dwellings on non-sewered lots, 20,000 square feet and 120 feet, respectively.

(4) In the C-1 district, buildings shall be located at the public street right-of-way or at the established building setback on the block face. Side yard setbacks apply when abutting parcel zoned residential.

(5) In the C-2 district, when developed lots within 150 feet of and on either side of the subject property have an established setback, the average depth of such established setback shall be the minimum required front yard.

(6) In the C-2 district, side yards of 40 feet are required on the street side of a corner lot.

(7) The maximum building height in all districts is 35 feet or two and one-half stories, whichever is the lesser height, except where noted otherwise. Provided, there shall be no maximum building or structure height limit in the I-1 district.

(8) Maximum permitted building height in residential districts is 35 feet or two and one-half stories, whichever is the lesser height; 35 feet in the commercial districts; and 45 feet in the industrial districts unless a greater height is approved as a special land use.

(9) In the I-1 and I-2 districts, there shall be a maximum lot coverage of 50 percent.

(Ord. No. 2086, §§ 4, 5, 7-12-2016; Ord. No. 2110, § 2, 9-24-2019; Ord. No. 2119, § 2, 8-24-2021)

Secs. 78-84—78-100. - Reserved.

## DIVISION 2. - AG AGRICULTURAL

### Footnotes:

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**Cross reference**— *Animals, ch. 10.*

Sec. 78-101. - Description and purpose.

The AG agricultural district is intended to preserve and enhance the somewhat larger tracts of land within the community which are presently being used for limited agricultural activities, single-family dwellings or are primarily rural in character.

Sec. 78-102. - Uses permitted by right.

The following uses shall be permitted by right in the AG agricultural district:

- (1) Community facilities.
- (2) Day care, family home.
- (3) Dwelling, single-family.
- (4) Farm.
- (5) Home occupation, minor.
- (6) Park.
- (7) Roadside market stand.
- (8) State licensed residential facilities as provided by Section 206 of the Zoning Enabling Act.

(Ord. No. 2086, § 6, 7-12-2016)

Sec. 78-103. - Uses permitted by special use.

The following uses may be allowed as special uses in the AG agricultural district in accordance with article IV of this chapter:

- (1) Bed and breakfast.
- (2) Church.
- (3) Day care, group home.
- (4) Golf course/country club.
- (5) Home occupation, major.
- (6) Kennel.
- (7) Library.

- (8) Mining operation.
- (9) Museum.
- (10) Private wind energy facility.
- (11) School.

(Ord. No. 2086, § 7, 7-12-2016)

Sec. 78-104. - Other uses.

Other uses in the AG agricultural district shall be:

- (1) Signs as are provided for in article VII of this chapter.
- (2) Accessory uses as are provided for in section 78-20 and section 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures requiring zoning inspector authorization as provided for in section 78-18.

Sec. 78-105. - Height regulations.

No building or structure in the AG agricultural district shall exceed 35 feet in height or two and one-half stories, whichever is the lesser height.

Sec. 78-106. - Area regulations.

No building or structure nor any enlargement thereof in the AG agricultural district shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements:

- (1) *Front yard.* There shall be a front yard of not less than 40 feet.
- (2) *Side yard.* There shall be total side yards of not less than 50 feet, however, no side yard shall be less than 20 feet.
- (3) *Rear yard.* There shall be a rear yard of not less than 45 feet, however, in the case of lake front lots, the rear yard shall not be less than 75 feet.
- (4) *Lot area and width.* The minimum lot area and lot width shall be 20,000 square feet and 125 feet, respectively.

Sec. 78-107. - Minimum floor area.

Each one story dwelling unit in the AG agricultural district shall have a minimum of 1,200 square feet of usable floor area. Each dwelling unit of more than one story shall have a minimum of 1,600 square feet of usable floor area with a minimum of 800 square feet on the ground floor.

Secs. 78-108—78-130. - Reserved.

DIVISION 3. - RE RESIDENTIAL ESTATE SINGLE-FAMILY

Sec. 78-131. - Description and purpose.

The RE residential estate single-family zoning district is intended for low density single-family residential uses, together with associated recreational and religious uses, and schools.

(Ord. No. 2089, § 1, 11-22-2016)

Sec. 78-132. - Uses permitted by right.

The following uses shall be permitted by right in the RE residential estate single-family district:

- (1) Community facilities.
- (2) Day care, family home.
- (3) Dwelling, single-family.
- (4) Home occupation, minor.
- (5) Park.

Sec. 78-133. - Uses permitted by special use.

The following uses may be allowed as special uses in the RE residential estate single-family district in accordance with article IV of this chapter.

- (1) Bed and breakfast.
- (2) Church.

- (3) Day care, group home.
- (4) Home occupation, major.
- (5) Library.
- (6) Museum.
- (7) Private wind energy facility.
- (8) School.

(Ord. No. 2086, § 8, 7-12-2016)

Sec. 78-134. - Other uses.

Other uses in the RE residential estate single-family zoning district shall be:

- (1) Signs as are provided for in article VII of this chapter.
- (2) Accessory uses as are provided for in section 78-20 and section 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures requiring zoning inspector authorization as provided for in section 78-18.

Sec. 78-135. - Height regulations.

No building or structure in the RE residential estate single-family zoning district shall exceed 35 feet in height or two and one-half stories, whichever is the lesser height.

Sec. 78-136. - Area regulations.

No building or structure nor any enlargement thereof in the RE residential estate single-family zoning district shall be erected except in conformance with the following yard, lot area and building requirements:

- (1) *Front yard.* There shall be a front yard of not less than 40 feet.
- (2) *Side yard.* There shall be total side yards of not less than 25 feet; however, no yard shall be less than ten feet.
- (3) *Rear yard.* There shall be a rear yard of not less than 35 feet; however, in the case of lakefront lots, the rear yard shall not be less than 75 feet.
- (4) *Lot area and width.* The minimum lot area and lot width shall be 20,000 square feet and 100 feet, respectively.

Sec. 78-137. - Minimum floor area.

Each one story dwelling unit in the RE residential estate single-family zoning district shall have a minimum of 1,200 square feet of usable floor area. Each dwelling unit of more than one story shall have a minimum of 1,600 square feet of usable floor area with a minimum of 800 square feet on the ground floor.

Secs. 78-138—78-160. - Reserved.

DIVISION 4. - R-1 LOW DENSITY SINGLE-FAMILY

Sec. 78-161. - Description and purpose.

The R-1 low density single-family zoning district is intended for low density single-family residential uses, together with associated recreational and religious uses, and schools.

(Ord. No. 2089, § 2, 11-22-2016)

Sec. 78-162. - Uses permitted by right.

The following uses shall be permitted by right in the R-1 low density single-family district:

- (1) Community facilities.
- (2) Day care, family home.
- (3) Dwelling, single-family.
- (4) Home occupation, minor.
- (5) Park.

Sec. 78-163. - Uses permitted by special use.

The following uses may be allowed as special uses in the R-1 low density single-family district in accordance with article IV of this chapter:

- (1) Bed and breakfast.
- (2) Church.
- (3) Day care, group home.
- (4) Funeral home/mortuary.
- (5) Home occupation, major.
- (6) Library.
- (7) Museum.
- (8) Office.
- (9) Private wind energy facility.
- (10) School.

(Ord. No. 2086, § 9, 7-12-2016)

Sec. 78-164. - Other uses.

Other uses in the R-1 low density single-family district shall be:

- (1) Signs as are provided for in article VII of this chapter.
- (2) Accessory uses as are provided for in section 78-20 and section 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures requiring zoning inspector authorization as provided for in section 78-18.

Sec. 78-165. - Height regulations.

No building or structure in the R-1 low density single-family district shall exceed 35 feet in height or two and one-half stories, whichever is the lesser height.

Sec. 78-166. - Area regulations.

No building or structure nor any enlargement thereof in the R-1 low density single-family district shall be erected except in conformance with the following yard, lot area and building coverage requirements:

- (1) *Front yard.* There shall be a front yard of not less than 30 feet.
- (2) *Side yard.* There shall be total side yards of not less than 14 feet; however no yard shall be less than seven feet.
- (3) *Rear yard.* There shall be a rear yard of not less than 25 feet; however, in the case of lakefront lots, the rear yard shall not be less than 75 feet.
- (4) *Lot area and width:*
  - a. Sewered. The minimum lot area and lot width shall be 10,000 square feet and 85 feet, respectively.
  - b. Nonsewered. The minimum lot area and width for lots not served with public sewer shall be 20,000 square feet and 100 feet, respectively.
  - c. Any lot or parcel which is platted or otherwise of record as of the effective date of the ordinance from which this subsection was derived and is serviced with public sanitary sewer may be used for one single-family dwelling if it has a minimum area of 7,500 square feet and a minimum width of 60 feet.

Sec. 78-167. - Minimum floor area.

Each one story dwelling unit in the R-1 low density single-family zoning district shall have a minimum of 1,040 square feet of usable floor area. Each dwelling unit of more than one story shall have a minimum of 1,200 square feet of usable floor area with a minimum of 600 square feet on the ground floor.

Secs. 78-168—78-190. - Reserved.

DIVISION 5. - R-2 MEDIUM DENSITY SINGLE-FAMILY

Sec. 78-191. - Description and purpose.

The R-2 medium density single-family zoning district is intended for medium density single-family residential and associated uses.

Sec. 78-192. - Uses permitted by right.

The following uses shall be permitted by right in the R-2 medium density single-family district:

- (1) Community facilities.
  - (2) Day care, family home.
- (3) Dwelling, single-family.
- (4) Home occupation, minor.
- (5) Park.

Sec. 78-193. - Uses permitted by special use.

The following uses may be allowed as special uses in the R-2 medium density single-family district in accordance with article IV of this chapter:

- (1) Bed and breakfast.
- (2) Church.
- (3) Community center.
- (4) Day care, group home.
- (5) Dwelling, two-family.
- (6) Funeral home/mortuary.
- (7) Home occupation, major.
- (8) Library.
- (9) Mixed use.
- (10) Museum.
- (11) Office.
- (12) Private wind energy facility.
- (13) School.

(Ord. No. 2086, § 10, 7-12-2016)

Sec. 78-194. - Other uses.

Other uses in the R-2 medium density single-family zoning district shall be:

- (1) Signs as provided for in article VII of this chapter.
- (2) Accessory uses as are provided for in section 78-20 and section 78-21.
- (3) Essential services as are provided for in section 78-15.
- (4) Temporary uses or structures requiring zoning inspector authorization as provided for in section 78-18.

Sec. 78-195. - Height regulation.

No building or structure in the R-2 medium density single-family zoning district shall exceed 35 feet in height or two and one-half stories, whichever is the lesser height.

Sec. 78-196. - Area regulations.

No building or structure nor any enlargement thereof in the R-2 medium density single-family zoning district shall be erected except in conformance with the following yard, lot area and building coverage requirements:

- (1) *Front yard.* There shall be a front yard of not less than 30 feet.
- (2) *Side yard.* For single-family and two-family dwellings, there shall be total side yards of not less than 14 feet; however, no side yard shall be less than seven feet.
- (3) *Rear yard.* There shall be a rear yard of not less than 25 feet; however, in the case of lakefront lots, the rear yard shall not be less than 75 feet.
- (4) *Lot area and lot width (single-family):*
  - a. Sewered. The minimum lot area and width for a single-family dwelling shall be 7,250 square feet and 85 feet, respectively.
  - b. Nonsewered. The minimum lot area and width for lots not served with public sewer shall be 12,000 square feet and 100 feet, respectively.
  - c. Any lot or parcel which is platted or otherwise of record as of the effective date of the ordinance from which this subsection was derived and is serviced with public sanitary sewer may be used for one single-family dwelling if it has a minimum area of 7,000 square feet and a minimum width of 60 feet.
- (5) *Lot area and width (two-family):*
  - a. Sewered. The minimum lot area and width for a two-family dwelling shall be 13,000 square feet and 100 feet, respectively.

b. Nonsewered. The minimum lot area and width for lots not served with public sewer shall be 20,000 square feet and 120 feet, respectively.

Sec. 78-197. - Minimum floor area.

The following shall be the minimum floor areas for the R-2 medium density single-family zoning district:

- (1) *Single-family*. Each dwelling unit shall have a minimum of 960 square feet of usable floor area with a minimum of 600 square feet on the ground floor for units of more than one story.
- (2) *Two-family*. Each dwelling unit shall have a minimum of 750 square feet of usable floor area.

Secs. 78-198—78-220. - Reserved.

#### DIVISION 6. - R-3 MULTIPLE-FAMILY RESIDENTIAL

Sec. 78-221. - Description and purpose.

- (a) The R-3 multiple-family residential district is provided in recognition of sections of the village that are developed with multiunit structures and to allow similar development on land which appears appropriate for such development. Among these sections is land served by public water and sewer adequate to handle higher density residential development for purposes of protecting the health, convenience and safety of the inhabitants, land served by public thoroughfares designed to adequately handle traffic volume, and land served by or provided with suitable developed recreation space adequate to handle higher density residential development.
- (b) The R-3 multiple-family residential district is intended to allow multiunit dwellings as a principal use of land. Attractiveness, order, efficiency, convenience and safety shall be encouraged by allowing a density of development appropriate for the use of public water and sewer facilities, public through areas, public recreation areas and other public facilities while maintaining a suitable density for the permitted dwelling types with adequate space for light and air.
- (c) It is intended that areas for multiunit dwellings in the R-3 multiple-family residential district be located on the edge of residential areas of a lower density, usually along a major traffic artery in a manner to encourage comprehensive development of the whole residential area with sustained livability and without overtaxing essential public services and facilities.

Sec. 78-222. - Uses permitted by right.

The following uses shall be permitted by right in the R-3 multiple-family residential district:

- (1) Community facilities.
- (2) Day care, family home.
- (3) Dwelling, multiple-family.
- (4) Dwelling, single-family.
- (5) Dwelling, two-family.
- (6) Home occupation, minor.
- (7) Park.

Sec. 78-223. - Uses permitted by special use.

The following uses may be allowed as special uses in the R-3 multiple-family residential district in accordance with article IV of this chapter:

- (1) Adult foster care facility.
- (2) Bed and breakfast.
- (3) Church.
- (4) Community center.
- (5) Day care, group home.
- (6) Funeral home/mortuary.
- (7) Home occupation, major.
- (8) Library.
- (9) Museum.
- (10) Nursing home.
- (11) Office.
- (12) Private wind energy facility.

(13) School.

(Ord. No. 2086, § 11, 7-12-2016)

Sec. 78-224. - Other uses.

Other uses in the R-3 multiple-family residential district shall be:

- (1) Signs as are provided for in article VII of this chapter.
- (2) Accessory uses as are provided for in section 78-20 and section 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures requiring zoning inspector authorization as provided for in section 78-18.
- (5) Parking and loading requirements as required in article VIII of this chapter.

Sec. 78-225. - Height regulations.

No building or structure in the R-3 multiple-family residential district shall exceed 35 feet in height or two and one-half stories, whichever is the lesser height.

Sec. 78-226. - Area regulations.

Area regulations for the R-3 multiple-family residential district shall be as follows:

- (1) *Front yard*. There shall be a front yard of not less than 30 feet.
- (2) *Side yard*. There shall be total side yards as follows:
  - a. For single-family attached and two-family dwellings, the total side yards shall not be less than 20 feet; however, no side yard shall be less than ten feet. The street side yard of a corner lot shall not be less than 25 feet.
  - b. For multiple-family dwellings and all other permitted uses, the total side yards shall not be less than 30 feet; however, no side yard shall be less than 15 feet. The street side yard of a corner lot shall not be less than 25 feet.
- (3) *Rear yard*. There shall be a rear yard of not less than 25 feet; however, in the case of waterfront lots, the rear yard shall not be less than 75 feet.
- (4) *Lot area and width (single-family attached)*:
  - a. Sewered. The minimum site area requirement shall be one acre and the minimum lot area per unit shall be 6,000 square feet. A minimum site width of 150 feet is required.
  - b. Nonsewered. The minimum site area requirement shall be one acre and the minimum lot area per unit shall be 10,000 square feet. A minimum site width of 150 feet is required.
- (5) *Lot area and width (two-family)*:
  - a. Sewered. The minimum lot area and width for a two-family dwelling shall be 12,000 square feet and 90 feet, respectively.
  - b. Nonsewered. The minimum lot area and width for lots not served with public sewer shall be 20,000 square feet and 120 feet, respectively.
- (6) *Lot area and width (multiple-family)*:
  - a. Sewered. The minimum lot area for each multiple-family dwelling unit shall be 4,500 square feet. Minimum lot width of 100 feet is required.
  - b. Nonsewered. The minimum lot area for each multiple-family dwelling unit shall be 10,000 square feet. Minimum lot width of 100 feet is required.
- (7) *Lot area and width (other permitted uses)*:
  - a. Sewered. The minimum lot area and width for other permitted uses shall be 15,000 square feet and 100 feet, respectively.
  - b. Nonsewered. The minimum lot area and width for other permitted uses shall be 20,000 square feet and 120 feet, respectively.
- (8) *Lot coverage*. Not more than 30 percent of each R-3 area may be occupied by dwellings or structures.
- (9) *Additional setbacks*. There shall be a setback from any property zoned for agricultural or residential purposes, which the development abuts, of not less than 50 feet, and from any property zoned for commercial or industrial purposes of not less than 75 feet.
- (10) *Distance between buildings*. The horizontal distance between parallel elements of buildings forming courts and courtyards shall not be less than twice the height of the taller building.

Sec. 78-227. - Minimum floor area.

The minimum floor areas for the R-3 multiple-family residential district shall be as follows:

- (1) *Single-family attached and two-family*. Each dwelling unit shall have a minimum of 750 square feet of usable floor area.
- (2) *Multiple-family*. Each dwelling unit shall have a minimum usable floor area as follows:
  - a. One bedroom unit, 650 square feet per unit.
  - b. Two bedroom unit, 750 square feet per unit.



- c. Three bedroom unit, 900 square feet per unit.
- d. For each additional bedroom, an additional 100 square feet of usable floor area shall be provided.

Sec. 78-228. - Mandatory site plan review.

All residential and nonresidential uses in the R-3 multiple-family residential district that require more than four parking spaces per lot or parcel shall be subject to mandatory site plan review in accordance with article V of this chapter.

Secs. 78-229—78-250. - Reserved.

#### DIVISION 7. - R-4 MOBILE HOME RESIDENTIAL

Sec. 78-251. - Description and purpose.

- (a) The R-4 mobile home residential district is provided in recognition that certain land in the community may be appropriately developed as areas of moderate population concentration with special consideration for the location and provision of facilities for mobile homes if properly related to the existing and potential development character of the vicinity and if adequate public services and facilities can be provided.
- (b) The R-4 mobile home residential district is intended to allow the development of mobile home parks in association with other residential development types while maintaining a reasonable population density and by providing for the unique requirements for this type of development. To this end, the site development and arrangement in relation to other areas together with the provision of associated facilities shall be an important consideration in achieving an attractive residential environment of sustained desirability with all development in harmony to promote stability, order, and efficiency of the mobile home park and adjacent areas.

Sec. 78-252. - Uses permitted by right.

The following uses shall be permitted by right in the R-4 mobile home residential district:

- (1) Day care, family home.
- (2) Dwelling, single-family.
- (3) Home occupation, minor.
- (4) Manufactured home dealer, provided the sale of mobile homes by individual resident owners, and the sale of mobile home model units by a licensed dealer/broker on individual mobile home sites when same are blocked, leveled, skirted, and otherwise appear to be completely installed on site, shall be permitted. The establishment of a commercial sales lot offering mobile homes for placement on sites other than the mobile home park where offered for sale shall not be permitted.
- (5) Manufactured housing community.
- (6) Park.
- (7) Accessory facilities used for management offices and maintenance facilities for the operation of a manufactured housing community shall be permitted subject to the provisions of this division.

Sec. 78-253. - Uses permitted by special use.

The following uses may be allowed as special uses in the R-4 multiple-family residential district in accordance with article IV of this chapter:

- (1) Church.
- (2) Community center.
- (3) Day care, group home.
- (4) Home occupation, major.
- (5) Library.
- (6) Museum.
- (7) Private wind energy facility.
- (8) School.

(Ord. No. 2086, § 12, 7-12-2016)

**Editor's note**— Ord. No. 2086, § 12, adopted July 12, 2016, repealed the former § 78-253, and enacted a new § 78-253 as set out herein. The former § 78-253 pertained to special uses and derived from this Code as originally published.

Sec. 78-254. - Other uses.

Other uses in the R-4 mobile home residential district shall be:

- (1) Signs as are provided in article VII of this chapter.
- (2) Accessory uses as are provided for in sections 78-20 and 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures requiring zoning inspector authorization as provided for in section 78-18.
- (5) Parking and loading requirements as are required in article VIII of this chapter.

Sec. 78-255. - Height limitations (other permitted uses).

Notwithstanding any other requirement of this chapter, no building or structure in the R-4 mobile home residential district shall exceed 35 feet in height or two and one-half stories, whichever is the lesser height.

Sec. 78-256. - Area regulations (other permitted uses).

Area regulations for other permitted uses in the R-4 mobile home residential district shall be:

- (1) *Front yard*. There shall be a front yard of not less than 30 feet.
- (2) *Side yard*. There shall be total side yards of not less than 30 feet; however, no side yard shall be less than 20 feet. The street side yard of a corner lot shall not be less than 25 feet.
- (3) *Rear yard*. There shall be a rear yard of not less than 25 feet; however, in the case of waterfront lots, the rear yard shall not be less than 75 feet.
- (4) *Lot area and width (other permitted uses)*:
  - a. Sewered. The minimum lot area and width for other permitted uses shall be 15,000 square feet and 100 feet, respectively.
  - b. Nonsewered. The minimum lot area and width for other permitted uses shall be 20,000 square feet and 120 feet, respectively.
- (5) *Lot coverage*. Not more than 30 percent of each R-4 area may be occupied by dwellings or structures.
- (6) *Additional setbacks*. There shall be a setback from any property zoned for agricultural or residential purposes, which the development abuts, of not less than 50 feet, and from any property zoned for commercial or industrial purposes of not less than 75 feet.

Sec. 78-257. - Mandatory site plan review.

All residential and nonresidential uses in the R-4 mobile home residential district, other than mobile home parks, that require more than four parking spaces per lot or parcel shall be subject to mandatory site plan review in accordance with article V of this chapter.

Sec. 78-258. - Mobile home park regulations.

All mobile home parks in the R-4 mobile home residential district shall comply with the applicable requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.); provided further that such developments meet the standards and conditions of the following sections 78-259—78-263 and all other provisions as established in this division.

Sec. 78-259. - Site location standards.

Site location standards in the R-4 mobile home residential district shall be:

- (1) *Access*. Each mobile home park shall have one access street that enters from a state highway, village primary or village local street.
- (2) *Minimum park size*. The minimum size for a mobile home park shall be 15 contiguous acres.
- (3) *Utilities*. Public water and sanitary sewer shall be required in mobile home parks, if available. When at such time public water and/or sanitary sewer becomes available, the mobile home park shall promptly connect to such utilities.

Sec. 78-260. - Site development standards.

Site development standards in the R-4 mobile home residential district shall be:

- (1) *Mobile home site dimensions*. A mobile home park shall be developed with mobile home sites averaging 5,500 square feet per mobile home unit.
  - a. This 5,500 square feet for any one mobile home site may be reduced by 20 percent provided that the individual mobile home site shall be equal to at least 4,400 square feet.
  - b. For each square foot of land gained through the reduction of a mobile home site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space.
  - c. In no case shall the open space and distance requirements be less than that required under mobile home commission regulations.
- (2) *Setbacks*.
  - a. In addition to the restrictions of the mobile home commission, each mobile home shall be no less than 20 feet from any part of an attached or

- detached structure of an adjacent mobile home which is used for living purposes and shall be located no closer than ten feet from an internal road.
- b. A mobile home, accessory building, utility building or mobile home park office building shall not be located closer than 50 feet to a public right-of-way, other than an internal road dedicated to the public.
- (3) *Screening.* The following regulations for screening shall apply:
- a. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
- b. If the park abuts a nonresidential development, the park need not provide screening.
- c. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.
- d. The landscaping shall consist of evergreen trees or shrubs of a five-foot height minimum which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be approved by the planning commission if they conceal the mobile home park as effectively as the required landscaping provided above.
- (4) *Open space.* Open space areas, as required by these regulations and under mobile home commission rules, shall comply with the following:
- a. Each mobile home park shall contain an open space area or areas equal in size to no less than two percent of the mobile home park's gross acreage.
- b. In order to be considered an open space area, the area must be at least 15 feet in width and must contain not less than 500 contiguous square feet.
- c. Open space areas shall not include required setback or buffer zones, nor any existing and proposed street rights-of-way, parking areas, mobile home sites, or nonrecreational buildings.
- d. Open space areas may be located within the 100-year floodplain, and within areas used for stormwater detention.
- e. All open space areas shall be accessible to all residents of the mobile home park.
- (5) *Ground cover.* All unpaved ground surfaces in a mobile home park must be planted with trees, grass, or shrubs, or ground cover capable of preventing soil erosion. A minimum of one shade tree shall be provided for each two mobile home sites. Such shade trees shall have at least a one and one-half inch caliper when planted.
- (6) *Drainage.* The ground surface in all parts of a mobile home park shall be graded and equipped to drain all surface water in a safe and efficient manner. The mobile home park shall also comply with the state department of public health standards for drainage.
- (7) *Storage of recreational vehicles.*
- a. If a mobile home park contains a storage area for recreational vehicles, the storage of these vehicles shall be permitted only in the area designated by the owner/operator of the mobile home park.
- b. This storage area shall be completely screened around its entire perimeter by a solid-type screening device at least six feet in height or by plantings of sufficient size to provide a similar screen.
- (8) *Recreational areas.* If a recreational area is to be provided in a mobile home park, such area shall be designated on the preliminary plan, and if so designated, must be developed and maintained. Such area shall be protected from streets, drives, and parking areas. The development and maintenance of each recreational area shall be the responsibility of the park manager.
- (9) *Utilities.* If available, public sanitary sewer and water shall be connected to all mobile home or manufactured housing units located in the mobile home park according to the applicable regulations of the mobile home commission. The homes in a mobile home park do not have to be separately metered, although the park itself must be metered. Such utilities for mobile or manufactured homes located in the mobile home park shall be designed, installed, operated and maintained in accordance with mobile home commission regulations and the state department of public health.
- (10) *Lighting.* The lighting system in a mobile home park shall provide sufficient lighting to illuminate all parking areas, streets and sidewalks within the mobile home park in accordance with mobile home commission regulations.
- (11) *Signs.* Signs in the mobile home park shall conform to the requirements of article VII of this chapter and the requirements of the mobile home commission.
- (12) *Street requirements.*
- a. All two-way streets in a mobile home park shall have a minimum pavement width of 21 feet where no on-street parking is permitted, 31 feet where parallel parking is permitted along one side of the street, and 41 feet where parallel parking is permitted along both sides of the street.
- b. All one-way streets in a mobile home park shall have a minimum pavement width of 13 feet where no on-street parking is permitted, 23 feet where parallel parking is permitted along one side of the street, and 33 feet where parallel parking is permitted along both sides of the street.
- c. All streets in a mobile home park shall be constructed in accordance with current construction standards and specifications of the American Association of State Highway and Transportation Officials (AASHTO).
- (13) *Parking requirements.* Two parking spaces shall be provided for each mobile home lot.
- a. If on-site vehicle parking is provided, the parking spaces may be either in tandem or side by side.
1. If in tandem, the width shall not be less than ten feet and the combined length shall not be less than 40 feet.

2. If side by side, the combined width of the two parking spaces shall not be less than 19 feet and the combined length shall not be less than 20 feet.
  3. In either method, the length shall be measured from the curb or inner walkway.
  - b. Each parking space shall be conveniently located in relation to the mobile home for which it is provided and shall similarly be constructed in accordance with AASHTO standards.
- (14) *Paving.* All streets and parking areas in a mobile home park shall at a minimum be paved with a hard surface which complies with the requirements of the state mobile home commission.
- (15) *Sidewalks.* Paved sidewalks, if provided on any street in a mobile home park other than a public street, shall be at least three feet in width and shall otherwise comply with the requirements of the state mobile home commission regulations. Such sidewalks shall be required to be provided on one side of all two-way streets functioning as main collector streets within the mobile home park.

Sec. 78-261. - Building and structure requirements.

Building and structure requirements in the R-4 mobile home residential district shall be:

- (1) *Maximum height.* The maximum height for any building or structure in a mobile home park shall not exceed the lesser of 35 feet or two and one-half stories.
- (2) *Minimum floor area.* The minimum floor area for any dwelling in a mobile home park shall be 720 square feet, exclusive of garage, basement or porch.
- (3) *Mobile home foundation.* Mobile home parks shall be in compliance with mobile home commission standards for provision of a home site in a mobile home park.
- (4) *Installation.* Each mobile home shall be installed pursuant to the manufacturer's set up instructions and pursuant to state mobile home commission regulations. Each mobile home shall be secured to the premises by an anchoring system or device compatible with state mobile home commission regulations.
- (5) *Accessory buildings.*
  - a. One accessory building for private use may be placed on each mobile home site, not to exceed 120 square feet in area and 15 feet in height.
  - b. Detached storage sheds shall be permitted only in the rear or side yard of the mobile home site, and shall in no event be placed forward of the rear half of any mobile home lot.
  - c. On-site detached storage sheds shall be a minimum of three unobstructed feet from the mobile home it serves, unless the wall adjacent to the mobile home is lined with class A fire-resistant material.
  - d. Attached or detached structures or accessories of a mobile home that are not used for living space shall be a minimum distance of ten feet from an adjacent mobile home or its adjacent attached or detached structures.
- (6) *Skirting.* All mobile homes located in a mobile home park shall be skirted in accordance with state mobile home commission Rule 604.
- (7) *Anchoring.* All mobile homes shall be anchored in accordance with state mobile home commission Rules 605—608.
- (8) *Unit certification.* Any mobile home built since 1976 must be certified by HUD (Department of Housing and Urban Development). Mobile homes or modular dwelling units constructed prior to 1976 shall meet all the requirements and specifications of the state construction code, the ANSI Code, or any other applicable code.

Sec. 78-262. - Site plan review.

- (a) Application for the construction, alteration, or extension of a mobile home park in the R-4 mobile home residential district shall be accompanied by a site plan of the proposed park and all permanent buildings.
- (b) The site plan referred to in subsection (a) of this section shall be in conformance with the provisions and requirements of article V of this chapter which requirements and procedures thereof shall not be allowed to usurp the requirements of the mobile home commission. Additionally, the site plan shall conform with the following requirement: A public hearing shall be held by the planning commission before approval of any site plan for a mobile home park in accordance with the notice requirements of [section 78-873](#).

Sec. 78-263. - Variances.

A request for a variance from the regulations of [section 78-258](#) shall comply with the requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

Secs. 78-264—78-290. - Reserved.

DIVISION 8. - C-1 CENTRAL BUSINESS

Footnotes:

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**Cross reference—** *Businesses, ch. 18.*

## Sec. 78-291. - Description and purpose.

- (a) The C-1 central business district forms the community's center for commercial, financial, professional, and cultural activities. This district is provided in recognition of the need to promote a convenient and efficient distribution of a broad range of retail goods and services to meet consumer demands, to achieve stable and compatible urban land use pattern, and to encourage a visually pleasing traditional downtown.
- (b) The C-1 central business district is intended to encourage the concentration of a broad range of individual commercial establishments which together constitute the downtown for the village. These regulations are intended to protect and improve the central business district for performance of its primary functions, and to discourage uses not requiring a central location and which would be incompatible with other use in the central business district. The proper development of commercial uses in this district is essential to assure an economically vital village center.

## Sec. 78-292. - Uses permitted by right.

The following uses shall be permitted by right in the C-1 central business district.

- (1) Ambulance services.
- (2) Art studio.
- (3) Bakery/coffee/ice cream shop.
- (4) Catering/banquet facility.
- (5) Community facilities.
- (6) Day care, family home.
- (7) Drugstore.
- (8) Educational facility.
- (9) Financial institution.
- (10) Funeral home/mortuary.
- (11) Grocery store.
- (12) Hardware store.
- (13) Hotel/motel.
- (14) Laundromat.
- (15) Medical clinic.
- (16) Mixed use.
- (17) Parcel delivery station.
- (18) Park.
- (19) Personal service establishment.
- (20) Pet groomers.
- (21) Pet shop.
- (22) Print shop.
- (23) Private club or organization.
- (24) Office.
- (25) Restaurant.
- (26) Retail establishment.
- (27) Tavern.
- (28) Taxidermist.
- (29) Theater.
- (30) Dwellings, subject to the following standards:
  - a. Dwellings shall not occupy so-called storefront or street level floor space nor basement spaces, unless unit fronts and takes access from a side street (not Main Street), as defined in this Code.
  - b. Each dwelling shall have minimum useable floor area as follows:
    1. Efficiency unit, 450 square feet.
    2. One-bedroom unit, 600 square feet.
    3. Two-bedroom unit, 800 square feet.
    4. Three-bedroom unit, 900 square feet.

- c. Parking shall be provided as required in sections 78-661 through 78-667, however based on subsection 78-666(f), the village council based on advice planning commission may waive parking requirements or consider parking alternatives.
- d. Each dwelling established in this district shall meet all requirements of the building code then in effect.

(Ord. No. 2110, § 3, 9-24-2019)

Sec. 78-293. - Uses permitted by special use.

The following uses may be allowed as special uses in the C-1 central business district:

- (1) Adult business.
- (2) Day care center.
- (3) Massage parlor.
- (4) Private wind energy facility.
- (5) Recreation establishment, indoor.
- (6) Tattoo parlor.

Sec. 78-294. - Other uses.

Other uses in the C-1 central business district shall be:

- (1) Signs as provided for in article VII of this chapter.
- (2) Accessory uses as provided for in sections 78-20 and 78-21.
- (3) Essential services as provided for in section 78-15.

Sec. 78-295. - Required conditions.

- (a) All business, service or processing in the C-1 central business district shall be conducted wholly within a completely enclosed building, except for motor vehicle parking, off-street loading, and outdoor dining for restaurant facilities. Restaurant facilities shall require a special use permit.
- (b) If goods in the C-1 central business district are produced on the premises for sale at retail, more than 50 percent of the quantity of such goods sold at retail shall be sold on the premises where produced. Goods may be displayed for sale along storefront facing Main Street outside of completely enclosed building, provided pedestrian access is not impeded upon public sidewalk. The zoning administrator shall determine if location of goods creates hazard for pedestrians.
- (c) There shall be a required minimum 16-inch pilaster or wall surface every 20 feet to 40 feet along the building facade facing a street or public sidewalk. On ground floor frontage of new buildings in the C-1 District, a minimum of 80 percent of the frontage shall be transparent in the form of clear glass. The definition of ground floor frontage shall be the lowest level of the building facing the public street or public sidewalk, between two feet and ten feet in height from grade. Existing buildings that do not meet the minimum 80 percent clear glass requirement of this subsection will not be required to increase the amount of clear glass unless site plan review is required per section 78-583. If site plan review is required, the building shall have a minimum of transparent clear glass equal to 50 percent of ground floor frontage. Entry door transparency shall be included as part of this requirement. Building entries shall be located at the principal frontage of the building.
- (d) Side yards and rear yards in the C-1 central business district adjoining any lot in the RE, R-1, R-2, R-3 or R-4 zoning district shall be screened by a compact hedge of deciduous or evergreen trees which reach a minimum of five feet in height and five feet in width after one growing season or by an opaque wall or opaque fence six feet in height.
- (e) No accessory building in the C-1 central business district shall be located closer than five feet from the rear lot line.
- (f) All uses in the C-1 central business district shall be subject to the site plan review provisions of article V of this chapter.
- (g) In commercial and industrial districts, outdoor storage of materials and equipment must be conducted in side or rear yards and screened by a fence of adequate opacity and height to obscure view of the storage area, subject to applicable fencing requirements.
- (h) Driveways shall be located along side streets, being High Street, Church Street or Railroad Street.

(Ord. No. 2086, § 13, 7-12-2016; Ord. No. 2110, § 4, 9-24-2019)

Sec. 78-296. - Height regulations.

No building or structure in the C-1 central business district shall exceed 35 feet in height.

Sec. 78-297. - Area regulations.

Area regulations in the C-1 central business district shall be:

- (1) *Front yard*. All structures shall be located zero feet from the nearest public street right-of-way or at the established building setback on the block face in which they are located.

(2) *Side yard.*

- a. Where the side yard of a lot abuts the side yard of a lot in the RE, R-1, R-2, R-3, or R-4 zoning district, each side yard shall not be less than 25 feet.
- b. No side yard shall be required when the land in question directly abuts other commercial uses, land included in a C-1, C-2, I-1 or I-2 zoning district or a public alley way or parking lot.

(3) *Rear yard.*

- a. Where the rear yard of a lot abuts or faces the rear yard of a lot in the RE, R-1, R-2, R-3 or R-4 zoning district, each rear yard shall not be less than 25 feet, except when abutting a public alley way or parking lot.
- b. In all other cases, there shall be a rear yard of not less than ten feet.

- (4) *Lot area and width.* No minimum lot size is required; however, lot size shall be adequate to provide the yard space required by this article. No minimum lot width is required; however, all lots shall abut a lawfully developed public street and have adequate width to provide the yard space required by this article.

Secs. 78-298—78-320. - Reserved.

## DIVISION 9. - C-2 HIGHWAY COMMERCIAL

*Footnotes:*

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**Cross reference—** *Businesses, ch. 18.*

Sec. 78-321. - Description and purpose.

- (a) The C-2 highway commercial district is provided in recognition of the space needs of those commercial enterprises which cater primarily to the motoring public and therefore require locations with reasonable access to automobile traffic and for which adequate space is needed and provided for the parking of automobiles on the site of the establishment.
- (b) The C-2 highway commercial district is also provided in recognition of the space needs of those commercial enterprises which do not fit harmoniously with other commercial enterprises due to certain characteristics such as noise, heavy vehicular traffic, or customer loading space requirements and, therefore, should be allocated space separate from the community's central commercial district.
- (c) The C-2 highway commercial district is intended for the service, repair and certain processing establishments primarily serving the motoring public. It is the intent of these district regulations that establishments desiring location along major traffic routes be grouped with appropriate and adequate access ways provided.
- (d) Because these establishments in the C-2 highway commercial district are particularly subject to the public view, which is a matter of important concern to the whole community, they should provide an appropriate appearance and suitable landscaping.
- (e) It is further intended that establishments in the C-2 highway commercial district be separated from other less intense land use areas by physical barriers or adequate space and screening.
- (f) The intent of the C-2 highway commercial district regulations are to provide space for these uses while discouraging the development of unnecessary, unsightly and uneconomical strip-commercial development.

Sec. 78-322. - Uses permitted by right.

The following uses shall be permitted by right in the C-2 highway commercial district:

- (1) Ambulance services.
- (2) Animal hospital.
- (3) Art studio.
- (4) Bakery/coffee/ice cream shop.
- (5) Car wash.
- (6) Catering/banquet facility.
- (7) Community facilities.
- (8) Drugstore.
- (9) Dwelling, multiple family.
- (10) Educational facility.
- (11) Financial institution.
- (12) Funeral home/mortuary.

- (13) Grocery store.
- (14) Hardware store.
- (15) Hotel/motel.
- (16) Laundromat.
- (17) Manufacturing (north of Arlington Street only).
- (18) Medical clinic.
- (19) Motor vehicle repair, minor.
- (20) Motor vehicle sales.
- (21) Office.
- (22) Parcel delivery station.
- (23) Park.
- (24) Personal service establishment.
- (25) Pet groomers.
- (26) Pet shop.
- (27) Print shop.
- (28) Private club or organization.
- (29) Restaurant.
- (30) Retail establishment.
- (31) Tavern.
- (32) Taxidermist.
- (33) Theater.

Sec. 78-323. - Uses permitted by special use.

The following uses may be allowed as special uses in the C-2 highway commercial district.

- (1) Adult businesses.
- (2) Day care center.
- (3) Drive-in facility.
- (4) Gas station.
- (5) Massage parlor.
- (6) Medical marihuana provisioning center.
- (7) Mixed use.
- (8) Motor vehicle repair, major.
- (9) Nursing home.
- (10) Private wind energy facility.
- (11) Recreation establishment, indoor.
- (12) Recreation establishment, outdoor.
- (13) Recreational marihuana microbusiness.
- (14) Recreational marihuana processor.
- (15) Recreational marihuana retailer.
- (16) Recreational marihuana safety compliance facility.
- (17) Recreational marihuana secure transporter.
- (18) Self-storage facility.
- (19) Tattoo parlor.
- (20) Single-family dwellings, if approved as part of a mixed use.

(Ord. No. 2086, § 14, 7-12-2016; Ord. No. 2119, § 3, 8-24-2021)

Sec. 78-324. - Other uses.

Other uses in the C-2 highway commercial district shall be:

- (1) Signs as provided for in article VII of this chapter.



- (2) Accessory uses as provided for in sections 78-20 and 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures as provided for in section 78-18.
- (5) Parking and loading as provided for in article VIII of this chapter.

Sec. 78-325. - Required conditions.

Required conditions in the C-2 highway commercial district shall be:

- (1) If goods are produced on the premises for sale at retail, more than 50 percent of the quantity of such goods sold at retail shall be sold on the premises where produced.
- (2) All private sewage disposal systems not connected to a public sewer must be approved by the Barry-Eaton District Health Department.
- (3) Side yards and rear yards adjoining any lot in the RE, R-1, R-2, R-3 or R-4 zoning district shall be screened by a compact hedge of deciduous or evergreen trees which reach a minimum of five feet in height and five feet in width after one growing season or by a solid wall or tight board fence at least six feet in height.
- (4) No accessory building shall be located closer than five feet from the rear lot line.
- (5) All uses shall be subject to the site plan review provisions of article V of this chapter.
- (6) In commercial and industrial districts, outdoor storage of materials and equipment must be conducted in side or rear yards and screened by a fence of adequate opacity and height to obscure view of the storage area, subject to applicable fencing requirements.

Sec. 78-326. - Height regulations.

No building or structure in the C-2 highway commercial district shall exceed 35 feet in height.

Sec. 78-327. - Area regulations.

Area regulations in the C-2 highway commercial district shall be:

- (1) *Front yard.*
  - a. All structures shall be located a minimum of 50 feet from the nearest right-of-way, except as stated in subsection (1)b. of this section.
  - b. Where all the frontage on both sides of a lot or parcel, within a distance of 150 feet on either side thereof, has an established setback, then the average depth of such established setback shall be the depth of the required front yard of such lot or parcel.
- (2) *Side yard.*
  - a. Where the side yard of a lot or parcel abuts the side yard of a lot or parcel in the RE, R-1, R-2, R-3 or R-4 zoning district, each side yard shall not be less than 25 feet.
  - b. There shall be a side yard of not less than 40 feet on the street side of a corner lot.
  - c. A ten-foot side yard shall be required when the land in question directly abuts other commercial uses or land included in a C-1, C-2, I-1, or I-2 zoning district.
- (3) *Rear yard.*
  - a. Where the rear yard of a lot or parcel abuts the rear yard of a lot or parcel in the RE, R-1, R-2, R-3 or R-4 zoning district, each rear yard shall not be less than 25 feet.
  - b. In all other cases, there shall be a rear yard of not less than ten feet.
- (4) *Lot area and width.* No minimum lot size is required; however, lot size shall be adequate to provide the yard space required by this article. No minimum lot width is required; however, all lots shall abut a lawfully developed public street and have adequate width to provide the yard space required by this article.
- (5) *Maximum lot coverage.* All buildings, excluding parking lots, shall occupy no more than 50 percent of the total lot area.

Secs. 78-328—78-350. - Reserved.

DIVISION 10. - I-1 LIGHT INDUSTRIAL

*Footnotes:*

--- (5) ---

**Cross reference—** *Businesses, ch. 18.*

Sec. 78-351. - Description and purpose.

- (a) The I-1 light industrial district is provided in recognition of the location and space needs of industrial activities which create only a minimum of off-site effect district does not include industrial uses which cause excessive noise, vibration, odors, visual blight, environmental pollution or which are involved in potentially hazardous processes. These industrial uses should be encouraged to group in industrial areas where greater economies can be achieved by sharing necessary services and facilities and where individual plant efficiency can be improved by a larger, more appropriately developed, and stable industrial environment.
- (b) The I-1 light industrial district sets forth development standards for the mutual protection of these industrial areas and areas for other land use activity in the vicinity so industrial uses are protected from the intrusion of other land uses which may be incompatible with industrial uses.
- (c) Important in determining the location and size of an industrial area in the I-1 light industrial district is the accessibility of the location to transportation facilities, the availability of public utilities, and the adequacy of fire and police protection. The topography of the area should be relatively level with no flood hazard. Industrial areas may be in close proximity to other land use areas, but wherever possible appropriate physical features should be used as boundaries.

Sec. 78-352. - Uses permitted by right.

The following uses shall be permitted by right in the I-1 light industrial district:

- (1) Contractor's yard.
- (2) Distribution/packaging center.
- (3) Landscaping company.
- (4) Manufacturing facility.
- (5) Office.
- (6) Research/training facility.
- (7) Self-storage facility.
- (8) Warehouse.
- (9) Wholesale establishment, minor.

Sec. 78-353. - Uses permitted by special use.

The following uses may be allowed as special uses in the I-1 light industrial district:

- (1) Motor vehicle repair, major.
- (2) Private wind energy facility.
- (3) Recreation establishment, indoor.
- (4) Recreational marihuana grower (Class A-C).
- (5) Recreational marihuana processor.
- (6) Recreational marihuana safety compliance facility.
- (7) Recreational marihuana secure transporter.

( Ord. No. 2119, § 4, 8-24-2021)

Sec. 78-354. - Other uses.

Other uses in the I-1 light industrial district shall be:

- (1) Signs as provided for in article VII of this chapter.
- (2) Accessory uses as provided for in sections 78-20 and 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures as provided for in section 78-18.
- (5) Parking and loading as provided for in article VIII of this chapter.

Sec. 78-355. - Required conditions.

- (a) All uses in the I-1 light industrial district shall be subject to the site plan review provisions of article V of this chapter.
- (b) All outdoor storage areas in the I-1 light industrial district shall be completely screened from adjacent lands pursuant to sections 78-30 and 78-36.
- (c) Outdoor lighting in the I-1 light industrial district shall be designed, located and operated so as to avoid casting light or glare on adjacent or nearby lands.
- (d) Access roads in the I-1 light industrial district shall be built to all weather specifications, and shall be at least 35 feet in width. Turning areas shall have a radius of at least 50 feet or shall provide for another type of turning area arrangement that is acceptable to the planning commission or its site plan review committee.
- (e) In commercial and industrial districts, outdoor storage of materials and equipment must be conducted in side or rear yards and screened by a fence of

adequate opacity and height to obscure view of the storage area, subject to applicable fencing requirements.

Sec. 78-356. - Industrial performance standards.

All uses in the I-1 light industrial zoning district shall comply with the following standards to ensure the health, safety and welfare of the residents of the village. Any violation of these standards will be corrected, the costs of inspection by experts for compliance to be borne by the violator.

- (1) *Sound.* Every use shall be so operated that the sound emanating from the operation will be no more audible beyond the boundaries of the immediate site than the volume of traffic sound on the nearest street.
- (2) *Vibration.* Every use shall be so operated that no vibration will be discernible to the human sense of feeling beyond the immediate site on which such use is conducted.
- (3) *Emission of glare and heat.* Any operation producing intense glare and/or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any adjoining parcel or lot.
- (4) *Smoke, fumes, gases, dust, odors.* Every use shall be operated in such a manner that there shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot or parcel occupied by such use in such a manner as to create a public or private nuisance.
- (5) *Liquid or solid waste.* The discharge of untreated industrial waste into any surface water body and/or the groundwater is prohibited. All methods of sewage and industrial waste treatment and disposal shall be approved by the village and the state health departments. No effluent shall contain any acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors, or discolor, poison or otherwise have a tendency to pollute any surface water body and/or the groundwater in any way.

Sec. 78-357. - Height regulations.

No building or structure in the I-1 light industrial district shall exceed 45 feet in height, except that a greater height may be permitted if authorized by the planning commission as a special land use under article IV of this chapter.

Sec. 78-358. - Area regulations.

No building or structure in the I-1 light industrial district nor any enlargement thereof shall be erected except in conformance with the following yard, lot area, and building coverage requirements:

- (1) *Front yard.* There shall be a front yard of not less than 50 feet.
- (2) *Side yards.* There shall be a side yard of not less than 20 feet where such side yard abuts another lot or parcel in the I-1 or I-2 district or a lot or parcel being used for industrial purposes. In all other cases there shall be a side yard of not less than 50 feet.
- (3) *Rear yard.* There shall be a rear yard of not less than 40 feet where the rear yard abuts another lot or parcel in the I-1 or I-2 district or a lot or parcel being used for industrial purposes. In all other cases, there shall be a rear yard of not less than 75 feet.
- (4) *Lot area.* The minimum lot area shall be one acre.
- (5) *Lot width.* There shall be a minimum lot width of 175 feet.
- (6) *Lot coverage.* Not more than 50 percent of the area of a lot or parcel shall be occupied by buildings or other structures.

Secs. 78-359—78-380. - Reserved.

DIVISION 11. - I-2 HEAVY INDUSTRIAL

*Footnotes:*

--- (6) ---

**Cross reference—** *Administration, ch. 2; businesses, ch. 18.*

Sec. 78-381. - Description and purpose.

- (a) The I-2 heavy industrial district is provided in recognition of the location and space needs of heavy industrial activities which have effects on other lands that would be incompatible in other districts.
- (b) The I-2 heavy industrial district includes the primary and secondary manufacturing, assembling and fabricating of goods and materials.
- (c) The I-2 heavy industrial district sets forth development standards for the mutual protection of these industrial areas and areas for other land use activity in the vicinity so industrial uses are protected from the intrusion of other land uses which may be incompatible with industrial uses.
- (d) Important in determining the location and size of an industrial area in the I-2 heavy industrial district is the accessibility of the location to transportation facilities, the availability of public utilities, and the adequacy of fire and police protection.
- (e) The topography of the area in the I-2 heavy industrial district should be relatively level with no flood hazard.

- (f) Industrial areas in the I-2 heavy industrial district may be in close proximity to other land use areas, but wherever possible appropriate physical features shall be used as boundaries.

Sec. 78-382. - Uses permitted by right.

The following uses shall be permitted by right in the I-2 heavy industrial district:

- (1) Contractor's yard.
- (2) Contractor's yard, major.
- (3) Distribution/packaging center.
- (4) Landscaping company.
- (5) Manufacturing facility.
- (6) Office.
- (7) Research/training facility.
- (8) Self-storage facility.
- (9) Warehouse.
- (10) Wholesale establishment, minor.
- (11) Wholesale establishment, major.

Sec. 78-383. - Special uses.

Special uses in the I-2 heavy industrial district shall be:

- (1) Dry cleaning plant.
- (2) Junk yard.
- (3) Manufacturing facility, heavy.
- (4) Motor vehicle repair, major.
- (5) Private wind energy facility.
- (6) Recreation establishment, indoor.
- (7) Recreational marihuana grower (Class A-C).
- (8) Recreational marihuana processor.
- (9) Recreational marihuana safety compliance facility.
- (10) Recreational marihuana secure transporter.
- (11) Slaughterhouse.

( Ord. No. 2119, § 5, 8-24-2021)

Sec. 78-384. - Other uses.

Other uses in the I-2 heavy industrial district shall be:

- (1) Signs as provided for in article VII of this chapter.
- (2) Accessory uses as provided for in sections 78-20 and 78-21.
- (3) Essential services as provided for in section 78-15.
- (4) Temporary uses or structures as provided for in section 78-18.
- (5) Parking and loading as provided for in article VIII of this chapter.

Sec. 78-385. - Required conditions.

- (a) All uses in the I-2 heavy industrial district shall be subject to the site plan review provisions of article V of this chapter.
- (b) All outdoor storage areas in the I-2 heavy industrial district shall be completely screened from adjacent lands pursuant to sections 78-30 and 78-36.
- (c) Outdoor lighting in the I-2 heavy industrial district shall be designed, located and operated so as to avoid casting light or glare on adjacent or nearby lands.
- (d) Access roads in the I-2 heavy industrial district shall be built to all weather specifications, and shall be at least 35 feet in width. Turning areas shall have a radius of at least 50 feet or shall provide for another type of turning area arrangement that is acceptable to the planning commission or its site plan review committee.
- (e) In commercial and industrial districts, outdoor storage of materials and equipment must be conducted in side or rear yards and screened by a fence of adequate opacity and height to obscure view of the storage area, subject to applicable fencing requirements.

## Sec. 78-386. - Industrial performance standards.

All uses in the I-2 heavy industrial district shall comply with the following standards to ensure the health, safety and welfare of the residents of the village. Any violation of these standards will be corrected, the costs of inspection by experts for compliance to be borne by the violator:

- (1) *Sound.* Every use shall be so operated that the sound emanating from the operation will be no more audible beyond the boundaries of the immediate site than the volume of traffic sound on the nearest street.
- (2) *Vibration.* Every use shall be so operated that no vibration will be discernible to the human sense of feeling beyond the immediate site on which such use is conducted.
- (3) *Emission of glare and heat.* Any operation producing intense glare and/or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any adjoining parcel or lot.
- (4) *Smoke, fumes, gases, dust, odors.* Every use shall be operated in such a manner that there shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot or parcel occupied by such use in such a manner as to create a public or private nuisance.
- (5) *Liquid or solid waste.* The discharge of untreated industrial waste into any surface water body and/or the groundwater is prohibited. All methods of sewage and industrial waste treatment and disposal shall be approved by the village and the state health departments. No effluent shall contain any acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors, discolor, poison or otherwise have a tendency to pollute surface water body and/or the groundwater in any way.

## Sec. 78-387. - Height regulations.

No building or structure in the I-2 heavy industrial district shall exceed 45 feet in height except that a greater height may be permitted if authorized by the planning commission as a special land use under article IV of this chapter.

## Sec. 78-388. - Area regulations.

No building or structure nor any enlargement thereof in the I-2 heavy industrial district shall be erected except in conformance with the following yard, lot area, and building coverage requirements:

- (1) *Front yard.* There shall be a front yard of not less than 50 feet.
- (2) *Side yards.* There shall be a side yard of not less than 25 feet where such side yard abuts another lot or parcel in the I-1 or I-2 district or a lot or parcel being used for industrial purposes. In all other cases there shall be a side yard of not less than 75 feet.
- (3) *Rear yard.* There shall be a rear yard of not less than 50 feet where the rear yard abuts another lot or parcel in the I-1 or I-2 district or a lot or parcel being used for industrial purposes. In all other cases, there shall be a rear yard of not less than 100 feet.
- (4) *Lot area.* The minimum lot area shall be one acre.
- (5) *Lot width.* There shall be a minimum lot width of 175 feet.
- (6) *Lot coverage.* Not more than 50 percent of the area of a parcel shall be occupied by buildings or other structures.

## Secs. 78-389—78-410. - Reserved.

## DIVISION 12. - NR NATURAL RIVER

## Sec. 78-411. - Description and purpose.

The purpose of the NR natural river district is to provide for the preservation of natural river areas in the village. Within the district, certain types of future development and use shall be controlled so as to maintain or improve the river environment and water quality for the purpose of continuing or enhancing scenic and recreational values. This district is located along the Thornapple River and extends a distance of 100 feet on each side of and parallel to the edge of the river. The actual location of the edges of the river shall determine the location of the 100-foot wide area zoned in the NR natural river district. Such actual location of the edges of the river, and a strip of land 100 feet in width measured therefrom, shall control over the apparent location of the district as shown in the zoning map.

## Sec. 78-412. - Uses permitted by right.

The following uses shall be permitted by right in the NR natural river district:

- (1) Damming, dredging, filling or channelization, but only if approved by the state department of natural resources in accordance with applicable statutory requirements.
- (2) Withdrawal of water from the river, for irrigation purposes only, but only to such extent as will not unreasonably interfere with the riparian rights of downstream shore line owners.

- (3) Stream improvements for fish habitat, river bank stabilization and other natural resource management practices, but only if approved by the state department of natural resources, under applicable statutory requirements.
- (4) Gas or oil pipelines, or electric transmission or distribution lines, but only if approved by the state department of natural resources and, if required by law, the state public services commission.
- (5) Signs, but only if necessary for identification, direction, resource information or regulation of use, and pursuant to article VII of this chapter.
- (6) A natural vegetation strip 100 feet in depth bordering each side of the main stream of the river within the village, such vegetation strip to be planted with trees, shrubs and other vegetation native to the area, subject however to the following provisions:
  - a. Dead, diseased, unsafe or fallen trees and noxious weeds and shrubs may be removed.
  - b. Lawns may be maintained to within ten feet of the bank of the river.
  - c. Trees and shrubs may be pruned to afford a view of the river.
  - d. Selective removal of trees for commercial harvest or landscaping may occur upon written approval of the area forester of the department of natural resources and the village zoning administrator.
- (7) Grazing of livestock, if the keeping of livestock is otherwise permitted by this chapter, unless the state bureau of water management, or its successor, determines that such grazing contributes to degradation of the river. In the event of such determination, livestock shall be fenced out of the district, except that cattle crossings and watering areas are permitted if constructed and maintained so as to not cause damage to the river.
- (8) Groundwater wells.
- (9) Boating and canoeing; provided, however, that no substantial wake is created by such boats or canoes.
- (10) Outdoor grills and picnic equipment for the use of persons owning lands within the district.
- (11) Hunting and fishing, unless prohibited by other ordinances of the village.
- (12) Licensed motor vehicles, but only when operated on existing public roads or designated trails on public lands.
- (13) Off-road vehicles, but only when operated on designated trails on public land or operated on private lands by the owner thereof or his guests or licensees.
- (14) Private docks and/or bulkheads, provided that only natural materials such as rocks, logs, and lumber shall be used in the construction of such facilities, and provided further that such facilities shall be constructed only if approved by the state department of natural resources, under applicable statutory provisions.
- (15) Park.

(Ord. No. 2086, § 15, 7-12-2016)

#### Sec. 78-413. - Area regulations.

Area regulations in the NR natural river district shall be the same as required in the AG agricultural district, except for the following: Building setback. No building or structure shall be located closer than 100 feet from the edge of the Thornapple River. This provision shall not preclude the placement or construction of docks, boat landings, pump houses or similar structures in their usual and customary location.

#### Sec. 78-414. - Height regulations.

No residential building or structure in the NR natural river district shall exceed 35 feet in height.

#### Sec. 78-415. - Minimum floor areas.

Each dwelling unit in the NR natural river district shall have a minimum of 1,000 square feet of usable floor area on the first floor.

#### Secs. 78-416—78-440. - Reserved.

### DIVISION 13. - WP WELLHEAD PROTECTION OVERLAY

#### Sec. 78-441. - Description and purpose.

The purpose of this division is to ensure the provision of a safe and sanitary drinking water supply for the village by protecting its groundwater resource. The village proposes to protect this natural resource by establishing wellhead protection zones which shall surround the wellheads for all wells which are the supply sources for the village water system, and by the designation and regulation of land uses and conditions which may be maintained within such zones.

#### Sec. 78-442. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Hazardous waste or material* means any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in incapacitating illness or mortality among human population; or
- (2) Pose a substantial, actual, or potential hazard to human health or to the environment when released or improperly discharged.

*Wellhead* means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

*Wellhead protection zones* mean an area around a public supply water well encompassed within the area defined in section 78-443.

**Cross reference**— Definitions generally, § 1-2.

Sec. 78-443. - Location and legal description of wellhead protection zones.

Wellhead protection zones are located and described as follows:

- (1) *Adjacent to West Elementary School.* Commencing at a point on the 1/4 line of Section 22-4-10 379.5 feet north of the south 1/4 post for beginning, then north 567 feet, west 417 feet, then south 567 feet, then east 417 feet to the beginning.
- (2) *Irving Road at the "Eskar Ski Hill."* Part of the south 1/2 of Section 26, Town 4 North, Range 10 West, Thornapple Township, Barry County, Michigan, described as: Beginning at the northeast corner of said Section 26; thence south 00°03'46" east 655.33 feet along the east line of said Section 26 to the south line of the north 1/2 of the north 1/2 of the northeast 1/4 of said Section 26; thence South 89°26'48" west 1,584.96 feet along said south line of the north 1/2 of the north 1/2 of the northeast 1/4 of Section 26; thence north 43°59'13" west 154.16 feet; thence south 45°57'33" west 165.34 feet; thence north 89°32'01" west 77.97 feet to the centerline of Irving Road; thence north 44°13'24" west 643.59 feet along said centerline of Irving Road; thence north 00°0s'35" west 436.31 feet; thence south 81°10'41" east 301.86 feet; thence south 75°11'54" east 744.66 feet to the south line of said Section 23 (north line of Section 26); thence north 89°28'31" east 1,319.46 feet along said south line of Section 23 to the place of beginning. Subject to right-of-way of State Road and Irving Road. Also subject to easements, restrictions and rights-of-way of record.

Sec. 78-444. - Permitted uses.

The following uses shall be permitted within wellhead protection zones:

- (1) Parks, playgrounds and other recreational uses along with associated accessory uses and buildings.
- (2) Wildlife areas.
- (3) Maintenance of wellheads and infrastructure.
- (4) Landscaping and maintenance.
- (5) Any other open land use where any building located on property is incidental and accessory to the primary open land use.

Sec. 78-445. - Prohibited uses.

The following land uses, facilities or activities are prohibited within wellhead protection zones:

- (1) Surface use, storage, or discharge of any hazardous waste or material, including agricultural pesticides, household detergents, industrial and commercial solvents, or other materials falling within the definition set forth under section 78-442.
- (2) Septic tanks and/or drainfields for septic systems.
- (3) Impervious surfaces other than roofs of buildings, and streets, driveways and walks serving buildings permitted under section 78-444.
- (4) Sanitary landfills or other disposal sites where solid waste or other substances falling within the definition of section 78-442 are disposed of by placement of same under earthen cover.
- (5) Waste disposal sites involving the storage or maintenance of any materials falling within the definition set forth under section 78-442.
- (6) Stormwater infiltration basins or sewage treatment lagoons, whether operated by private or public authorities.
- (7) Underground storage tanks, except those used for the storage of municipal water.
- (8) Sanitary sewer lines within 150 feet of a wellhead.
- (9) Any use not contained in section 78-444.

Secs. 78-446—78-470. - Reserved.

DIVISION 14. - PUD PLANNED UNIT DEVELOPMENT

*Footnotes:*

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**Cross reference**— *Land divisions and other subdivisions of land, ch. 30.*

Sec. 78-471. - Description and purpose.

- (a) The planned unit development (PUD) zoning district is intended to permit and control the development of lands as planned unit developments for compatible uses permitted by this chapter.
- (b) Such planned unit developments, if authorized under the terms of this chapter, permit a greater degree of flexibility in the use, area, height, bulk and placement of buildings, structures and accessory uses than would otherwise be the case in other zoning districts established by this article. The PUD provisions of this chapter have been established in order to encourage the use of land in accordance with its character and adaptability, to conserve natural resources and energy, to encourage innovation in land use planning, to provide better housing, employment, commercial traffic circulation and recreational opportunities for the people of the village, and to bring about a greater compatibility of design and use between neighboring lands.
- (c) It is intended that all land uses in a PUD district shall be afforded reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection from PUD land uses also be afforded to uses adjacent to or affected by each PUD district. It is not intended that the provisions of this division be utilized to circumvent other provisions of this chapter or the comprehensive land use planning which has been undertaken by the village. It is intended that land uses resulting from application of the provisions of this division will be those uses which are not substantially inconsistent with other zoning districts and comprehensive land use planning areas existing at the time of application for any PUD approval.
- (d) Modifications of and departures from the general nature of the PUD districts and areas are intended to be approved only in such cases where the intents and purposes of this division and this chapter have been complied with.
- (e) All zoning of lands pursuant to this division shall, where appropriate, include reasonable conditions regarding the emission and transmission of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor, light glare, traffic congestion, ease of police and fire protection, drainage, lateral land support, blighting influences, effect on surrounding property values, light and air, overcrowding of persons, sanitation, surface and groundwater quality, water supply and sewage disposal, general appearance and character of the surrounding area and other similar considerations which have an effect on the achievement of the purposes of this division.

Sec. 78-472. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this division, except where the context clearly indicates a different meaning:

*Gross density* means the density of dwelling units or other improvements situated on a parcel of land, in comparison to the area of the parcel, calculated by dividing the number of dwelling units or other improvements by the total amount of land area, in acres, which will be occupied by the land use, including all of the area drives, parking area, streets, recreation, greenbelt and other areas.

(Ord. No. 2086, § 16, 7-12-2016)

**Cross reference**— Definitions generally, § 1-2.

Sec. 78-473. - Uses permitted in the PUD district.

Lands in the PUD zoning district may be used for all or any of the uses permitted by this chapter in other zoning districts and for any other special uses not so permitted.

Sec. 78-474. - Eligibility.

In order to be zoned as a PUD zoning district, the proposed area of land shall not be less than one acre; however, the proposed area to be zoned as a PUD zoning district for a mobile home park shall not be less than ten acres.

( Ord. No. 2121, § 2, 10-26-2021)

Sec. 78-475. - Procedures for PUD rezoning.

Lands in the village which are eligible for rezoning to the PUD district may be zoned in such district in accordance with the procedures and requirements set forth in this chapter. The rezoning of lands to the PUD district is a two-stage process, commencing with the submission and approval of a preliminary development plan and concluding with the submission of a final development plan and the rezoning of lands to the requested PUD land use, by action of the planning commission and the village council. In the discretion of the planning commission, a preapplication conference between the planning commission and any PUD applicant may be convened before submission of a planned unit development application.

Sec. 78-476. - Preliminary development plan.

- (a) *Preliminary plan submission.* Each applicant for PUD rezoning under this division, must submit to the zoning administrator 12 copies of a preliminary development plan. The zoning administrator shall transmit one copy to the village council, one copy to the village zoning administrator, nine copies to the planning commission, and retain one copy for further use.
- (b) *Preliminary plan content.* Each PUD preliminary plan under this division shall include the following, unless waived in writing by the planning commission as inapplicable:



- (1) A written legal description of all lands proposed within the PUD.
  - (2) A small-scale sketch of all properties, streets, and uses within one-quarter mile of the PUD boundaries.
  - (3) A map, or series of maps, drawn to a scale which renders enough detail to allow the planning commission to make accurate interpretations, showing:
    - a. A north arrow, scale and date.
    - b. The location and dimension of streets, drives, and sidewalks.
    - c. The location and dimension of all lots, uses, buildings and pertinent structures.
    - d. Proposed site access points.
    - e. General on-site transportation provisions.
    - f. Parks, green belting and buffer areas.
  - (4) A narrative describing the following:
    - a. The overall objectives of the PUD.
    - b. Source and method of financing.
    - c. Number of acres allocated to each use.
    - d. Gross residential densities where applicable.
    - e. Proposals for providing sewer and water service and other public and private utilities.
    - f. Proposed method for providing storm drainage.
- (c) *Review of preliminary development plan.* The planning commission shall review the preliminary development plan under this division to verify PUD eligibility and make recommendations to the PUD applicant based upon the requirements of this chapter and the following specific considerations where applicable:
- (1) Pedestrian and vehicle movement areas, vehicle and materials storage and loading areas, refuse storage and pick-up areas, and other service areas with particular reference to: vehicle and pedestrian safety and convenience, traffic flow and control, alternate and marginal access to alleviate excessive peak hour traffic congestion, and emergency access in case of fire or catastrophe.
  - (2) Utilities with reference to locations, availability, ownership and compatibility.
  - (3) Screening and buffering with reference to type, dimensions and character.
  - (4) Signs, if any, and proposed exterior lighting with reference to size, height, setback, glare, traffic safety, economic effect, and compatibility and harmony with properties within and adjacent to the PUD area.
  - (5) Yards and other open spaces with reference to the arrangement and densities of land uses within the PUD and those yards required in the existing and surrounding zoning districts.
  - (6) The height, area and bulk of all structures with reference to the requirements of this chapter for such structures within and surrounding the proposed PUD.
  - (7) General compatibility with adjoining properties and properties within the proposed PUD.
  - (8) The purpose and intent of this division as well as compatibility with other codes and statutes which regulate land development.
- (d) *Transmittal of recommendations on preliminary development plan.* The planning commission may approve or disapprove the preliminary development plan, either in whole or in part; and may adopt or recommend to the applicant changes or additions in, or conditions upon, the preliminary development plan. After taking any such action, the commission shall forward to the applicant its written approval or disapproval, together with any recommendations regarding changes, additions or conditions. A copy of the planning commission action shall be forwarded to the village council. In the course of its consideration of the preliminary development plan, the planning commission may convene an advisory public hearing for the purpose of receiving comments relative to the preliminary development plan, and give public notice of such hearing in the same manner as is provided in this chapter for public hearings on requested special land uses.

Sec. 78-477. - Final development plan and rezoning to PUD.

- (a) *Submission of final development plan and petition for rezoning.* Within a period not to exceed one year after the date of receiving the action taken by the planning commission on the preliminary development plan under this division:
  - (1) The applicant for PUD rezoning shall submit to the zoning administrator or village clerk four full size copies and one disk containing a scaled .pdf of the application form and the final development plan and shall also submit to the zoning administrator or village clerk a petition for rezoning to the PUD uses shown in the final development plan.
  - (2) The final development plan shall set forth all of the matters shown and included in the preliminary development plan, except as changed or modified by action of the planning commission and shall also include any conditions or other matters adopted by the planning commission with regard to the preliminary development plan. The petition for rezoning shall comply with the requirements elsewhere set forth in this division for petitions requesting amendments to this chapter.
  - (3) The zoning administrator or village clerk shall promptly transmit copies of the final development plan as follows: one copy to the zoning administrator, one copy to the village zoning administrator, nine copies to the planning commission, and retain one copy for further use.

- (4) Except as may conflict with other provisions of this chapter, the petition for PUD rezoning shall be reviewed and acted upon in accordance with the provisions of this division regarding amendments to this chapter and in compliance with the village zoning act as amended.
- (b) *Contents of final development plan.* Each final development plan under this division shall include all of the following information, except any such information which is found by the planning commission to be not reasonably necessary for consideration of the requested PUD:
- (1) A plot plan, or series of plans, based on an accurate certified land survey, drawn to scale which renders enough detail to allow the planning commission to make accurate interpretations. In no event, however, shall the scale of such plan be smaller than 60 feet to the inch. The plot plan shall show:
    - a. The location, size and type of present buildings or structures to be retained or removed;
    - b. The location of all buildings, structures or other improvements;
    - c. The location of existing and proposed streets, drives, parking lots and sidewalks;
    - d. The location of sewer and water lines, and other underground utilities;
    - e. Storm drainage;
    - f. Features, including contour intervals no greater than five feet;
    - g. All ditches and watercourses;
    - h. Ground cover and other pertinent physical features of the site such as trees, swamps, hills, etc.;
    - i. The location of existing improvements;
    - j. The location of lot lines;
    - k. Parking, loading and unloading facilities; and
    - l. Exterior lighting and signs.
  - (2) Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
  - (3) The period of time within which the project will be completed.
  - (4) Proposed staging of the project, if any.
  - (5) Gross area of buildings and parking.
  - (6) Delineation of the 100-year floodplain and any proposed uses therein.
  - (7) A description of all aspects of such plan which might have an adverse effect on public health, safety and welfare.
  - (8) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase contract.
  - (9) Method of financing and commitments or other proof of ability to obtain financing.
  - (10) Additional information which the planning commission may request which is reasonably necessary to evaluate the proposed PUD and its effect on the surrounding neighborhood and the village in general.
- (c) *Public hearing.* The planning commission shall convene a public hearing on the final development plan and the petition for PUD rezoning under this division and shall provide notice for said hearing in the manner provided in [section 78-8](#).
- (d) *Recommendations of the planning commission.* After the required public hearing under this section, the planning commission shall make recommendations to the village council regarding the approval or disapproval, in whole or in part, of the final development plan and the approval or disapproval of the requested PUD zoning change. Such recommendations may include recommended changes in the final development plan or conditions to be imposed thereon. The planning commission shall transmit such recommendations to the village council.
- (e) *Action by the village council.*
- (1) Upon receiving the recommendations of the planning commission on the final development plan and the petition for the PUD rezoning, and a public hearing held by the village council with notice in the manner provided in [section 78-8](#), the village council shall approve or disapprove, in whole or in part, the final development plan and the petition for PUD rezoning.
  - (2) If the final development plan and the petition for PUD rezoning, or either of them, are approved or disapproved only in part, or if the village council imposes conditions or requirements not previously imposed by the planning commission, the matter may first be referred to the planning commission, which shall then forward its recommendations thereon to the village council, after which the village council may proceed to take action to approve or disapprove the final development plan and the petition for PUD rezoning.
  - (3) Such action by the village council shall take place in the same manner as is provided for in this chapter and in the village zoning act for the rezoning of lands to any zoning district.
  - (4) If approved by the village council, a copy of any amendment to this chapter rezoning lands to the PUD zoning district shall be forwarded to the village clerk for filing with the village zoning code.
  - (5) In reviewing the final development plan and in considering the petition for PUD rezoning, the village council shall determine whether the plan complies with the terms and provisions of this division and whether the proposed project promotes the intent and purposes of this division, including this section, and whether it will be compatible with adjacent uses of lands, the natural environment and the capacities of public services and facilities

affected by the project, and whether the proposed project will be consistent with the public health, safety and general welfare.

- (6) The village council may impose reasonable conditions upon its approval of any final development plan. Such conditions may include those necessary to ensure that public services and facilities affected by a proposed PUD development will be capable of accommodating increased public service demands caused by the proposed land use or activity, to protect the natural environment and to conserve natural resources and energy, to ensure compatibility with adjacent uses of lands and to promote the use of lands in a socially and economically desirable manner. Any conditions so imposed shall satisfy all of the following requirements:
- a. Be necessary to satisfy the intent and purposes of this division and be related to the standards established in this division for the proposed PUD development.
  - b. Be related to the valid exercise of the police power.
  - c. Be designed to protect natural resources, the health, safety and general welfare of those who will use the proposed project and the residents and owners of lands immediately adjacent to the proposed project and the village as a whole.
- (7) Any conditions imposed in connection with the approval of a planned unit development shall be recorded in the official record of the action of approval and shall remain unchanged except upon the mutual consent of the village council and the owner of the lands involved.

(Ord. No. 2086, § 17, 7-12-2016)

Sec. 78-478. - General provisions for PUD districts.

The following provisions shall apply to all planned unit development districts:

- (1) *Time limitations on development.* Each PUD development shall be under construction within one year after the date of village council approval of the final development plan and the petition for rezoning.
  - a. If this requirement is not met, the planning commission may, in its discretion, grant an extension of time, not exceeding one year, for the commencement of construction, provided that the applicant presents reasonable and valid evidence to the effect that the development has encountered unforeseen difficulties, but is then ready to proceed without further delay.
  - b. If the development is not commenced within one year after issuance of the building permit, or within the one-year extension stated in subsection (1)a. of this section, if granted, any building permit issued for the development shall thereupon be void and of no further effect, and the planning commission and village council may initiate and carry out proceedings for the rezoning of the lands to some other zoning district.
- (2) *Performance bonds.* In its review of any final development plan, the planning commission may require reasonable agreement or other undertaking by the applicant to guarantee and ensure the completion of the proposed PUD, to the extent and in the manner specified in the final development plan, including a performance bond in such amount and upon such terms as the planning commission may determine to be necessary to ensure the timely and proper completion of the development in accordance with the final development plan.
- (3) *Required improvements prior to issuance of occupancy permit.* The planning commission may require that all required improvements be constructed and completed prior to issuing an occupancy permit. If such improvements are partially completed to the point where occupancy would not impair the health, safety and general welfare of the residents, but are not fully completed, the building inspector may, upon the recommendation of the planning commission, grant an occupancy permit so long as the developer deposits a performance bond with the village clerk in an amount equal to the cost of the improvements to be completed within one year of the date of the occupancy permit.
- (4) *Additional provisions.* All provisions of this division and other applicable chapters of the Village Code shall apply to the PUD district except where inconsistent therewith, in which case the provisions of this section shall control.
- (5) *Amendments.* Amendments to the final development plan shall be classified as either minor or major. Minor amendments shall be reviewed and approved by the zoning administrator, and major amendments shall follow the same process of approval as the original application. The following constitutes a minor amendment:
  - a. Minor amendments:
    1. Changes in the number of parking spaces by no more than five percent.
    2. Changes in the building size, up to five percent of the gross floor area.
    3. Movement of buildings or other structures by no more than ten feet.
    4. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size and/or number.
    5. Changes to building materials to a comparable or higher quality.
    6. Changes in floor plans that do not alter the character of the use.
    7. Changes required or requested by the village, the Barry County Road Commission, or other county, state or federal regulatory agency in order to conform to other laws or regulations.
    8. Other similar minor changes as deemed as such by the zoning administrator.
  - b. Major changes or amendments to an approved final development plan involving a change of use, change in the number and location of accesses to public streets and alleys, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes as determined by the zoning administrator, shall require the approval in the same manner as the original application

submitted, reviewed and approved.

Secs. 78-479—78-500. - Reserved.

### ARTICLE III. - WIRELESS TELECOMMUNICATIONS FACILITIES

*Footnotes:*

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**Cross reference**— *Telecommunications, ch. 62.*

Sec. 78-501. - Intent and purposes.

- (a) The regulations of this article shall officially be known, cited, and referred to as the wireless telecommunications facilities regulations of the village.
- (b) In order to protect the public health, safety, and general welfare of the community, while accommodating the communications needs of residents and businesses, the regulations of this article are necessary in order to:
  - (1) Facilitate the provision of wireless telecommunications services to the residents and businesses of the village.
  - (2) Minimize adverse visual effects of towers through careful design and siting standards.
  - (3) Encourage the location of towers in nonresidential areas through performance standards and incentives.
  - (4) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
  - (5) Provide mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applications and those existing towers that are physically capable of sharing.

Sec. 78-502. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural indicate the singular.

*Act* means the Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934.

*Affiliate*, when used in relation to an operator, means another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

*Alternative tower structure* means manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. (See also Stealth facility.)

*Analog technology* replicates and amplifies voice messages as they are carried from the transmitting antenna to the receiving antenna.

*Antenna* means any exterior apparatus designed for telephonic, radio, or television communications through sending and/or receiving of electromagnetic waves.

*Antenna height* means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

*Antenna support structure* means any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

*Applicant* means a person who applies for a wireless facility siting. An applicant shall be the owner of the property on which the wireless telecommunications facility is proposed.

*Broadcast* means to transmit information over the airwaves to two or more devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.

*Cell site* means a tract or parcel of land that contains a cellular communications antenna, its support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to cellular communications transmissions.

*Cellular service* means a telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

*Cellular telecommunications facility* means a commercial low power mobile radio service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area. Within each area, the radio frequency spectrum is divided into discrete channels. These channels are assigned in groups to geographic cells within a service area and are capable of being reused in different cells within the service area. A cellular telecommunications facility consists of the

equipment and structures involved in receiving telecommunications or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

*Collocation* means locating wireless communications equipment from more than one provider on a single site.

*Common carrier* means an entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

*Communications facility* means a land use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. Communications facilities include structures or towers and accessory buildings.

*Communications tower* means a guyed, monopole, or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

*Communications transmission system or communications system* means a wired communications transmission system, open video system, or wireless communications transmission system regulated by the regulations of this article.

*C.O.W.s* means cells on wheels. (See Temporary wireless communications facility.)

*Digital technology* means technology that converts voice and data messages into digits that represent sound intensities at specific points of time and data content.

*Directional antenna* means an antenna or array of antennas designed to concentrate a radio signal in a particular area.

*Dish antenna* means a dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called a microwave dish antenna.

*ESMR* means enhanced specialized mobile radio.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Frequency* means the number of cycles completed each second by a sound or electromagnetic wave; measured in hertz (Hz).

*Governing authority* means the governing authority of the village.

*Grade* means the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the structure and the property line or, when the property line is more than five feet from the structure.

*Guyed tower* means a communication tower that is supported, in whole or in part, by guy wires and ground anchors.

*Lattice tower* means a guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

*License* means the rights and obligations extended by the village to an operator to own, construct, maintain, and operate its system within the boundaries of the village for the sole purpose of providing services to the persons or areas outside the village.

*Master plan* means the current adopted master plan of the village.

*MHZ* means megahertz, or 1,000,000 Hz.

*Micro-cell* means a low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

*Microwave* means electromagnetic radiation with frequencies higher than 1,000 MHZ; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

*Microwave antenna* means a dish-like antenna manufactured in many sizes and shapes used to link communications sites together by wireless transmissions of voice or data.

*Monopole tower* means a communication tower consisting of a single pole, constructed without any guy wires or ground anchors.

*Omnidirectional antenna* means an antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.

*Owner* means the owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records of the village assessor. The term "owner" also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the village a copy of a deed or contract of sale showing date, book, and page of recording.

*Personal communications service or PCS* means digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he goes. Also known as personal communications network (PCN).

*Pre-existing towers and antennas* means any tower or antenna for which a permit has been issued prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified, changed, or abandoned.

*Public property* means any real property, easement, air-space, or other interest in real estate, including a street, owned by or controlled by the village or any other governmental unit.

*Roof and/or building mount facility* means a low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof, including rooftop appurtenances, or building face.

*Scenic view* means a view that may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be of a far away object, such as a mountain, or of a nearby object.

*Self-support tower* means a communications tower that is constructed without guy wires and ground anchors.

*Spectrum* means relating to any transmissions or receptions of electromagnetic waves.

*Stealth facilities* means any communications facility which is designed to blend in to the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also Alternative tower structure.)

*System* means the communications transmission system operated by a service provider in the village.

*Telecommunications* means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received.

*Temporary wireless communications facility* means any tower, pole, antenna, or other fixture, designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users, that is intended to be in service continuously at one location for not more than 30 calendar days.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

*View corridor* means a three dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow view, or a group of objects, such as a downtown skyline, which would result in a wider corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where the base zone heights must be limited in order to protect the view.

*Village* means the Village of Middleville.

*Whip antenna* means an antenna that transmits signals 360 degrees. Whip antennas are typically cylindrical in shape and are less than six inches in diameter and measure up to 18 inches in height. Also called omni-directional, stick, or pipe antennas.

*Wireless communications facility* means any towers, poles, antennas or other structures intended for use in connection with transmission or reception of radio or television signals, or any other spectrum-based transmission reception.

**Cross reference**— Definitions generally, [§ 1-2](#).

Sec. 78-503. - Application procedure and approval process.

(a) *General procedure.* The submission of applications for wireless communications facilities shall follow the same procedure as detailed in article III of this chapter. A decision on permitting for a new tower must be made within 60 days after the application is complete.

(b) *Additional procedures.*

(1) In addition to the information required elsewhere in this chapter, zoning compliance permits for wireless communications facilities shall include the following supplemental information:

- a. Describes the tower height and design including a cross section and elevation.
- b. Documents height above grade for all potential mounting positions for collocating antennas and the minimum separation distances between antennas.
- c. Documents the tower's capacity, including the number and types of antennas that it can accommodate.
- d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications.
- e. Includes an engineer's stamp and registration number.
- f. Includes other information necessary to evaluate the request.
- g. A copy of the Federal Aviation Administration's response to the submitted notice of proposed construction or alteration. (FAA Form 7460-1.)
- h. Proof of compliance with applicable Federal Communications Commission regulations.
- i. A report from a qualified and licensed professional engineer which demonstrated the tower's compliance with county structural and electrical

standards.

- (2) For all commercial wireless telecommunications service towers, a letter of intent committing the tower owner and his successors and assigns to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (c) *General approval standards.* Generally, the village zoning administrator shall grant approval of a wireless communications facility if the following conditions are met:
  - (1) The location of the proposed tower is compatible with the master plan and zoning ordinance.
  - (2) All efforts to locate on an existing tower have been unsuccessful or it is legally or physically impossible to locate on an existing tower.
  - (3) The submitted site plan complies with the performance criteria set in these regulations.
  - (4) The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
  - (5) The lowest six feet of the facility/tower shall be visually screened by trees, large shrubs, solid walls, or fences and/or nearby buildings.
  - (6) The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.
  - (7) The owner of the wireless communications facility has agreed to permit other persons/cellular providers to attach cellular antenna or other communications apparatus that do not interfere with the primary purpose of the facility.
  - (8) There exists no other facility/tower that can reasonably serve the needs of the owner of the proposed facility/tower.
  - (9) The proposed facility/tower is not constructed in such a manner as to result in needless height, mass, or guy wires.
  - (10) The color of the proposed facility/tower will be of a light tone or color, except where required otherwise by the FAA, so as to minimize the visual impact and that the tower will have a security fence around the tower base or the lot where the tower is located.
  - (11) The facility/tower is in compliance with any other applicable, local, state, or federal regulations.

Sec. 78-504. - General wireless communications facility.

All commercial wireless telecommunications towers erected, constructed, or located within the village shall comply with the following requirements:

- (1) A proposal for a new commercial telecommunication service shall not be approved unless the village zoning administrator finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower building within a one mile search radius (one-half mile search radius for towers under 120 feet in height, one-quarter mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of the existing building or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - b. The planned equipment would cause interference materially adversely impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at reasonable cost.
  - c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
  - d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- (2) Any proposed commercial wireless telecommunications service tower shall be designed, structurally, electronically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional use if the tower is over 60 feet in height unless the village zoning administrator finds that such accommodations are not necessary. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (3) The collocation of new equipment on an existing, approved tower is permitted as a matter of right if it does not (i) increase the overall height of the tower by 20 feet or ten percent, whichever is more, (ii) increase the width of the support structure more than necessary to permit collocation, or (iii) increase the area of the existing equipment compound by more than 2,500 feet. If these requirements are met, local approval is not required.

Sec. 78-505. - Tower and antenna design requirements.

Proposed or modified towers and antennas shall meet the following design requirements:

- (1) Towers and antennas shall be designed to blend in to the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- (2) Commercial wireless telecommunications service towers shall be of a monopole design unless the village zoning administrator determines that an alternative design would better blend in to the surrounding environment.

Sec. 78-506. - Tower height.

The maximum tower height permitted in the village is calculated by applying the following:

- (1) If the tower is designed to accommodate only one service provider, the maximum height shall be 120 feet from preconstruction grade.
- (2) If the tower is designed to accommodate two service providers, the maximum height shall be 160 feet from grade.
- (3) If the tower is designed to accommodate more than two service providers, the maximum height shall be 200 feet from grade.

Sec. 78-507. - Accessory utility building.

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

Sec. 78-508. - Tower lighting.

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically requested by the Federal Aviation Administration or other federal or state authority for a particular tower.

Sec. 78-509. - Antennas mounted on structure, roofs, walls and existing towers.

The placement of wireless telecommunications antennas on roofs, walls and existing towers may be approved by the village zoning administrator, providing the antennas meet the requirements of the regulations in this section, after submittal of:

- (1) A final site and building plan as specified by section 78-503.
- (2) A report prepared by a qualified and licensed professional engineer indicating the existing structure's or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

Sec. 78-510. - Temporary wireless communications.

Any facility designed for temporary use (as defined in section 78-502) is subject to the following:

- (1) Use of a temporary facility is allowed only if the owner has received a temporary use permit from the village zoning administrator.
- (2) Temporary wireless facilities are permitted for use of no longer than 30 days for use while constructing permanent facilities, and no longer than five days for use during a special event.
- (3) The maximum height of a temporary wireless facility is 50 feet from grade.
- (4) Temporary facilities are subject to all applicable portions of these regulations, excluding subsection 78-503(b), (c).

Sec. 78-511. - Interference with public safety telecommunications.

No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of a new service or changes in the existing service, telecommunications providers shall notify the municipality at least ten business days in advance of such and allow the village to monitor the interference levels during the testing process.

Sec. 78-512. - Abandoned or unused towers or portions of towers.

Abandoned or unused towers or portions of towers shall be removed as follows:

- (1) The owner of a wireless facility shall file annually a declaration with the village zoning administrator as to the continuing operation of every facility installed subject to these regulations. Failure to do so shall be determined to mean that the facility is no longer in use and considered abandoned.
- (2) All abandoned or unused towers and associated facilities shall be removed within 180 days of the cessation of operations at the site unless the village zoning administrator approves a time extension not to exceed an additional 180 days. A copy of the relevant portions of a signed lease which required the applicant to remove the tower and associated facilities upon the cessation of operations at the site shall be submitted at the time of application. If a tower is not removed within 180 days of the cessation of operations at a site, the tower and associated facilities may be removed by the municipality and the cost of removal assessed against the property.
- (3) Unused portions of towers above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new wireless facility permit.

Sec. 78-513. - Signs and advertising.

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.



Secs. 78-514—78-540. - Reserved.

ARTICLE IV. - SPECIAL LAND USES

*Footnotes:*

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**Cross reference**— *Land divisions and other subdivisions of land, ch. 30.*

Sec. 78-541. - Intent and purpose.

Various land uses and activities possess unique characteristics which under certain conditions require special limitations and controls to ensure compatibility with adjacent land uses, with the natural environment, and with existing and projected capacities of public services and facilities affected by such uses or activities and therefore have been designated as "special uses." The intent of this article is to allow land to be used for special uses only after the planning commission or zoning administrator reviews each such proposed use and if necessary, imposes reasonable controls to ensure that public services and facilities will be capable of accommodating increased service and facility loads, and in order to protect the natural environment and conserve natural resources and energy, and to promote the use of land in a socially and economically desirable manner. No special use shall be engaged in unless a special use permit has been obtained from the body or official responsible for approving such use in accordance with the procedures set forth by the terms of this chapter.

(Ord. No. 2086, § 18, 7-12-2016)

Sec. 78-542. - Application procedure.

The following procedures shall be followed in making application for a special use permit:

- (1) *Written application.* A written application for a special use permit shall be submitted to the village clerk indicating the following:
  - a. The name, address and telephone number of the applicant.
  - b. The address or brief description of the location of the property involving the proposed special use.
  - c. The date of application.
  - d. A statement indicating the sections of this chapter under which the special use is sought.
  - e. The grounds upon which a special use is requested.
  - f. The authorizing administrative body or official.
- (2) *Permit fees.* Nonrefundable fees for a special use permit shall be paid at the time of application in accordance with the fee schedule established by the village council.
- (3) *Site plan or site development plan required.*
  - a. If site plan review is required by the terms of the regulations applicable to the district in which the subject property is located, a site plan conforming to section 78-583 shall be submitted at the time of application.
  - b. If site plan review under article V of this chapter is not required, a site development plan as described in this section shall be submitted at the time of application.
  - c. A site development plan shall include the following:
    1. Location and dimensions of all proposed and/or existing buildings and structures;
    2. Site drainage, sewer and water facilities;
    3. Parking, loading, and other vehicle or pedestrian traffic handling facilities;
    4. Proposed general landscaping including required greenbelts, screens, fences or other buffering devices; and
    5. Each such site development plan shall also include a small locational map showing all streets and zoning districts within 1,000 feet of the proposed special use.

Sec. 78-543. - Public hearing.

All special land use applications and site development plans shall be promptly transmitted to the planning commission. The planning commission shall hold at least one public hearing on all special land use requests it receives and shall provide notice for said hearing in the manner provided in section 78-8. Staff shall have authority to set a hearing date but may defer to the planning commission to set the date.

Sec. 78-544. - Standards for considering special uses.

Except as they do not reasonably apply, the following standards shall be used by the planning commission when considering applications for a special use permit:

- (1) The size, character and nature of any buildings or structures to be erected, constructed or located upon the lot shall not create serious social,

economic or visual conflicts with adjacent land uses or the immediate neighborhood.

- (2) The proposed use of land, buildings or structures shall not create substantial adverse or hazardous environmental conditions for subject property owners or the surrounding neighborhood. For the purposes of special use review only, the term "environmental conditions" shall include, but not be limited to, the following general categories:
  - a. Dispersion of light, heat or other forms of radiant energy.
  - b. Soil, air, and water quality and movement.
  - c. Noise, both volume and pitch.
  - d. Abundance and type of wildlife and vegetation.
- (3) The population or use density resulting from a special use shall not be so substantially greater than the population or use density prevailing in the surrounding area so as to increase the likelihood of further requests for other land use changes which, if granted, would not conform to the land use types, patterns or density proposed for the surrounding area by the village land use plan.
- (4) Vehicular and pedestrian traffic circulation shall be designed to minimize conflicts on public streets and upon the property involved and to provide safe and convenient parking in relation to streets, pedestrian walkways and adjoining properties or parking areas. Parking and loading space shall be related to the requirements of section 78-661.
- (5) Safe and adequate water supply and sewage disposal facilities shall be provided as required by county and state regulations and shall be designed for compatibility with existing systems and future development.
- (6) The period of day and times of year during which special use activity commences or continues should be reasonably related to both the use and the neighborhood or area in which it is proposed.
- (7) The proposed use shall not create excessive additional demand, at public cost, for public facilities and services.
- (8) The proposed use shall be consistent with the intent and purpose of the zoning district in which it is proposed to be located, with the overall intent and purpose of this chapter, and with other applicable ordinances and statutes.

Sec. 78-545. - Issuance of a special use permit.

- (a) Where such authority is granted under the terms of this chapter, the planning commission shall issue a special use permit upon the finding that the proposed use is in compliance with the standards specified in section 78-544; however, the planning commission may stipulate additional conditions and require guarantees that all conditions will be complied with when, in order to fully comply with the intent of this chapter, such additional conditions may be deemed necessary. Before rendering such a decision, such use shall be thoroughly reviewed, using reliable, pertinent information.
- (b) Upon making a decision on whether to deny, approve, or approve with conditions a special use permit, the planning commission shall incorporate their decision in a statement containing the conclusions relative to the special use which specifies the basis for the decision and all additional conditions, limitations and requirements upon which the special use permit is granted.
- (c) The statement shall be recorded in a record of the approval action and shall be filed together with the special use application and site development plan with the zoning administrator.
- (d) The planning commission shall have the right to impose conditions which limit the duration of the special use where the same is of a temporary nature. If deemed necessary to meet the purpose and intent of this chapter, the planning commission may require that the special use be periodically reviewed for the purpose of determining whether or not the original conditions are being complied with and whether or not to suspend, revoke or require further conditions or limitations, depending upon the degree of compliance then prevailing.
- (e) All conditions of the special use approval shall remain unchanged except upon the mutual consent of the planning commission and the special use applicant.
- (f) The planning commission shall maintain a record of all conditions which are changed and such record shall be filed with the zoning administrator.
- (g) The breach of or noncompliance with any conditions of the special use permit shall automatically invalidate the permit.

(Ord. No. 2086, § 19, 7-12-2016)

Sec. 78-546. - Expiration; extension.

Any special use permit issued pursuant to the terms of this chapter shall be valid for one year from the date of issuance of the special use permit. If the applicant fails to commence the use or activity authorized by such special use permit within one year of issuance of the special use permit, the special use permit shall be of no further force or effect. Prior to the expiration of the special use permit, an applicant may apply to the planning commission and the planning commission may grant a one-year extension of the special use permit upon a showing by the applicant of an inability to complete the requirements of the special use permit within the time specified, financial constraints, regulatory approvals, or other proven hardship by the applicant.

(Ord. No. 2086, § 20, 7-12-2016)

**Editor's note**— Ord. No. 2086, § 20, adopted July 12, 2016, repealed the former § 78-546, and enacted a new § 78-546 as set out herein. The former § 78-546 pertained to expiration and derived from this Code as originally published.

## Sec. 78-547. - Reapplication.

Any application for a special use permit which has been denied wholly or in part by the planning commission shall not be resubmitted until the expiration of one year from the date of such denial except on the grounds of newly discovered evidence or proof of changed conditions found by the zoning administrator to be sufficient to justify reconsideration by the body or official in charge of reviewing and/or authorizing such special use.

## Sec. 78-548. - Reserved.

## Sec. 78-549. - Adult businesses.

Adult businesses, as defined by section 6-32 of this Code, shall be permitted pursuant to this chapter only if:

- (1) Special use permit therefore is first obtained pursuant to the provisions of article IV of this chapter;
- (2) The real property upon which the proposed use is to be located is classified as a C-1 or C-2; and
- (3) The proposed location is not within 500 feet of any other real property where there is located an adult business, not within 250 feet of any other real property classified in zones R-1, R-2, R-3, or R-4, nor within 500 feet of any other real property upon which there is located a school or a church, nor within 500 feet of any real estate upon which is located a business with an on-site alcoholic beverage license.
- (4) Beer, wine, spirits or other alcoholic beverages shall not be served on the premises of an adult business.

(Ord. No. 2089, § 3, 11-22-2016)

## Sec. 78-550. - Bed and breakfasts.

Bed and breakfasts are special land uses subject to the following requirements:

- (1) The use shall not be incompatible with other existing or permitted uses in the vicinity.
- (2) The impact of the bed and breakfast shall be no greater than that of a private home with houseguests and the bed and breakfast shall not alter the residential character of the building. Special land use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
- (3) The bed and breakfast shall be a single-family dwelling, the principal dwelling unit on the property and shall be owner-occupied at all times.
- (4) A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
- (5) The establishment shall have at least two exits to the outdoors.
- (6) The rental sleeping rooms shall have a minimum size of one hundred twenty (120) square feet for one or two occupants with an additional 50 square feet for each additional occupant to a maximum of four occupants per room.
- (7) A site plan shall include a floor plan layout of the proposed structure that shows the specific layout of the proposed facility.
- (8) The permit holder shall secure and maintain all required state and local permits. Any food preparation areas shall be licensed and approved by the health department, as applicable.
- (9) No conference/meeting room facilities will be permitted.
- (10) The bed and breakfast shall employ no more than three persons in addition to the owners and their immediate family, including spouses, siblings and children.
- (11) Any dumpsters on site shall be completely screened and enclosed so they are not visible from adjacent streets and neighboring properties.

## Sec. 78-551. - Day care center.

A day care center is subject to the following standards:

- (1) Located on a parcel of land as a principal use, either in a building common with other principal uses or freestanding in a separate building.
- (2) A day care center may provide care for not more than 100 children at any given time, however, the planning commission may recommend a number in excess of 100 if the site, facility, and location is demonstrated capable of supporting such occupancy and the traffic does not pass directly through a residential neighborhood.
- (3) If located in a residential zoning district, the day care center hours of operation shall be limited to 6:00 a.m. to 11:00 p.m. An exception to this requirement may be allowed if access to the parcel does not pass through a residential use area.
- (4) All activities shall be conducted indoors, except the required outdoor play area.
- (5) Child dropoff and pickup zones shall be located to prevent traffic backup on any public street.
- (6) A site plan in accordance with article V of this Code shall be filed with the special use application.
- (7) All required state and local licensing shall be maintained at all times.
- (8) All outdoor areas used for care and play area shall have appropriate fencing for the safety of the children. Such fence shall consist of a six-foot high

opaque fence along the area adjoining a residence, and a four-foot to six-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.

- (9) Such facilities shall be located at least 1,500 feet from any one of the following:
  - a. A licensed or pre-existing operating group day care home or day care center.
  - b. A nursing or convalescent home.
  - c. A facility offering substance abuse treatment and rehabilitation service to seven or more people.
  - d. A community correction center, resident home, halfway house, or similar facility under jurisdiction of the county sheriff or the department of corrections.
- (10) The planning commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 p.m. and 6:00 a.m.

Sec. 78-552. - Drive-through facilities.

Drive-through facilities are special land uses in the C-2 district and are subject to the following requirements:

- (1) All automobile queuing for a drive-through window shall be separated from other off-site and on-site traffic patterns.
- (2) Pedestrian areas shall be clearly marked and said markings shall be maintained.
- (3) The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle pulling a typical recreation-vehicle trailer.
- (4) The applicant shall demonstrate to the satisfaction of the planning commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
- (5) Any commercial establishment with a drive-through facility which adjoins a property zoned or used for residential purposes shall be effectively screened from view from such property.
- (6) Any outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward adjacent property.
- (7) A stand-alone automated bank teller machine shall comply with these requirements.
- (8) Drive-through restaurants may utilize an illuminated menu board not to exceed 32 square feet in sign area.

Sec. 78-553. - Gas stations.

Gas stations are special land uses in the C-2 district and are subject to the following requirements:

- (1) The minimum lot size for a gas station shall be 32,000 square feet.
- (2) The planning commission may establish hours of operation for gas stations to protect the character of the land uses in the vicinity.
- (3) The applicant shall demonstrate to the planning commission proper design and licensing measures as required by state and federal statutory and regulatory authority.
- (4) All buildings, pump islands, canopy structures and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.
- (5) Dismantled, wrecked, or immobile vehicles stored shall be completely screened from any adjoining parcel or right-of-way.
- (6) No vehicles shall be parked on site for the purpose of selling or renting such vehicles.
- (7) Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable state or federal requirements.
- (8) Curb cuts for access to a gas station shall not be permitted at such locations that will tend to create traffic hazards; and entrances shall be located at least 50 feet from road intersections.

Sec. 78-554. - Group day care homes.

Group day care homes are allowed in the AG, RE, R-1, R-2, R-3 and R-4 residential districts when authorized as a special land use under the terms of article IV of this Code by the planning commission, and subject to the following standards:

- (1) Located in a single-family detached dwelling.
- (2) Operated by an occupant of the dwelling and not more than one nonresident person.
- (3) Not more than 12 children cared for in the dwelling.
- (4) All activities must be conducted within the dwelling, except an outdoor play area.
- (5) Outdoor play area as required by the state shall be enclosed by an opaque fence not less than six feet in height, with the gate opening of common material. Evergreen trees or shrubs may be substituted for the opaque fence at the discretion of the planning commission.
- (6) Drop-off and pickup of children shall not occur within a public street right-of-way. There shall be available on-premises adequate parking for such drop-off and pickup activities. Whenever the drop-off and pickup area is a driveway connecting to a major street, provisions shall be made to permit

on-site turn around so vehicles do not back directly onto the major street.

- (7) A group day care home must meet all applicable standards and requirements of the state.
- (8) Signs for a group day care home shall comply with the requirements of article VII of this chapter and the district in which the group day care home is located; provided, however that no group day care home shall be permitted to have an illuminated sign or changeable copy ground sign.
- (9) A site sketch shall be provided with the special use application depicting lot area, location of all buildings, location of outdoor play area, fencing, access drive, and parking spaces.

(Ord. No. 2086, § 21, 7-12-2016; Ord. No. 2097, § 1, 8-28-2018)

Sec. 78-555. - Home occupations.

- (a) A minor home occupation meeting criteria set forth below may receive a zoning compliance permit from the zoning administrator for the conduct of the minor home occupation without holding a public hearing. For purposes of this chapter, a "minor home occupation" shall include the following: fine art instruction or in-home craft. All other home occupations shall file for special land use approval as prescribed in this section.
- (b) The following land uses shall not be considered home occupations:
  - (1) Warehousing and rental of storage space for gain.
  - (2) Adult businesses.
  - (3) Motor vehicle repair.
  - (4) Bed and breakfasts.
  - (5) Junk yards.
- (c) Minor home occupations shall comply with the following standards:
  - (1) The use shall be conducted entirely within the dwelling or accessory building.
  - (2) The use shall be operated only by persons residing in the dwelling.
  - (3) The exterior appearance of the dwelling shall not be modified to accommodate the minor home occupation.
  - (4) The minor home occupation shall not occupy more than 400 square feet of floor area or 30 percent of the floor area of the dwelling, excluding area of basement, whichever is less.
  - (5) There shall be no selling of goods, merchandise, supplies or products, provided that orders made by telephone or at sales events off the premises may be filed on premise so long as customers do not arrive on premise to acquire orders.
  - (6) Outdoor storage or display is prohibited.
  - (7) There shall be no regular deliveries from commercial suppliers to the premises.
  - (8) There shall be no activity on premise resulting in noise, vibration, smoke, dust, odors, heat or glare that creates a nuisance to adjoining properties.
  - (9) As a result of operating the minor home occupation, motor vehicle traffic shall not exceed that considered normal for a dwelling.
  - (10) No combustible, toxic or hazardous substances used in connection with the minor home occupation shall be kept on premise.
  - (11) Each minor home occupation shall be subject to an annual compliance inspection.
  - (12) The zoning administrator shall have discretion to refer any application for a home occupation to the planning commission for approval.
- (d) Home occupations unable to meet the standards set forth in section 78-555(c); above shall be considered major home occupations, as defined herein and which require a special land use permit issued by the planning commission following a public hearing and subject to the following standards:
  - (1) The use shall be conducted entirely within the dwelling and/or not more than one accessory building.
  - (2) The use shall be operated by persons residing in the dwelling and not more than one other person.
  - (3) The exterior appearance of the dwelling and accessory building, if used in connection with the major home occupation, shall not be modified to accommodate the use.
  - (4) The major home occupation shall not occupy more than 30 percent of the total dwelling floor area, excluding basement.
  - (5) The use shall be clearly incidental and secondary to the dwelling.
  - (6) Outdoor display of goods or merchandise is prohibited.
  - (7) Equipment used in connection with the major home occupation shall be parked or stored within a building or within a gated six-foot high screening fence enclosure.
  - (8) There shall be adequate off-street parking and maneuvering area.
  - (9) There may be only incidental and occasional selling of goods, merchandise, supplies or products.
  - (10) No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state, and other governmental requirements concerning the use, handling, transport, storage, and disposal of any such materials; provided, however, that the safe storage of pesticides and herbicides by landscaping enterprises shall be permitted, if otherwise lawful.
  - (11) There shall be no activity that would interfere with radio or television vibrations, smoke, dust, odors, heat, or glare resulting in an adverse effect at or

beyond the property line.

(12) As a result of the major home occupation, there shall not be any appreciably greater motor vehicle or pedestrian traffic than would be normal for the zoning district in which the use is located.

(13) There shall be no deliveries from commercial suppliers, except on an occasional or incidental basis.

(e) The following land uses shall be considered major home occupations:

- (1) Barber.
- (2) Beauty salon.
- (3) Tax preparation.

(f) Signs for any home occupation described in this section 78-555 shall comply with the requirements of article VII of this chapter and the district in which the home occupation is located; provided, however that no home occupation shall be permitted to have an illuminated sign or changeable copy ground sign.

(Ord. No. 2086, § 22, 7-12-2016; Ord. No. 2097, § 2, 8-28-2018; Ord. No. 2105, § 1, 5-28-2019)

#### Sec. 78-556. - Junk yards.

Junk yards are special land uses in the I-2 district and are subject to the following requirements:

- (1) The planning commission may establish hours of operation for junkyards to protect the character of the land uses in the vicinity.
- (2) The applicant shall demonstrate to the planning commission proper design and licensing measures as required by all county, state and federal regulations.
- (3) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
- (4) Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable state and federal requirements.
- (5) All materials stored on site shall be located in the side or rear yards. All materials shall be screened with an eight-foot tall opaque fence. Stored materials shall not be stacked higher than eight feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
- (6) No portion of the storage area shall be located within 200 feet of any residential district or residential lot line.
- (7) A management office shall be provided on site.
- (8) The minimum area for a junk yard facility shall be two acres, and the maximum lot area shall be 20 acres.
- (9) The following groundwater protection standards shall apply:
  - a. Sites shall be designed to prevent spills and discharges into the surface of the ground, groundwater, streams, the river and wetlands.
  - b. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the salvage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
  - c. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
  - d. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
  - e. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

#### Sec. 78-557. - Kennels.

Kennels are special land uses in the AG district and are subject to the following requirements:

- (1) The minimum lot area shall be 20,000 square feet for the first four animals, and an additional 1,000 square feet for each animal in addition to the first four. The planning commission may stipulate the maximum number of animals that may be kept at the facility.
- (2) Buildings where animals are kept, indoor or outdoor dog runs, and exercise areas shall not be located nearer than 50 feet to any adjacent dwelling or residential zoning district.
- (3) Outdoor dog runs and outdoor exercise areas shall not be located in any front yard or required side or rear setback area.
- (4) All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.
- (5) Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Barry-Eaton District Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed

not less frequently than twice per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site.

(6) Activities shall not generate noise levels at any property line that exceed the standards set in section 78-17 of this chapter.

Sec. 78-558. - Mixed use.

- (a) The applicant shall demonstrate how the proposed mixing of uses will reduce traffic generation and provide a substantial amenity.
- (b) The mixing of uses will be compatible with adjacent land uses, the natural environment, and the capacities of affected public services and facilities, and such use shall be consistent with the public health, safety and welfare of village residents. The mixing of uses shall be consistent with the policies set forth in the Village of Middleville Master Plan.
- (c) The development shall consolidate and maximize usable open space, wherever possible.
- (d) The applicant shall demonstrate that the proposed mixing of uses will not constitute a nuisance to future inhabitants or users of the development, or the village in general.
- (e) Off-street parking facilities for such mixed uses may be provided collectively, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use, unless the planning commission finds that such requirements may be modified due to varying hours of operation or other factors.
- (f) A proposed mixed-use development shall be designed in such a manner that will lead to compatible, efficient, and attractive uses of property, and shall:
  - a. Encourage unique retail, office and residential use alternatives.
  - b. Establish neighborhood places that will define and strengthen the community character and supplement the identity of the village.
  - c. Provide for the redevelopment of underutilized sites.
  - d. Facilitate pedestrian oriented development using design options such as sidewalk cafes, rear parking, residential condominiums above small-scale service or retail uses, and enhanced landscape open spaces, squares, and parks.
- (g) Vehicular and pedestrian circulation within the development and access to the development shall be safe, convenient, non-congested and well defined. Shared access to parking areas will be required, where appropriate.
- (h) A mixed-use development shall not infringe unreasonably on any neighboring uses.

Sec. 78-559. - Mining operation

- (a) No topsoil, sand, gravel, or other such materials shall be removed from any property in the village unless such removal is authorized by the planning commission in accordance with article IV of this chapter and the following additional standards:
  - (1) The size of the property from which topsoil, sand, gravel, or other such materials are to be removed.
  - (2) The amount of topsoil, sand, gravel, or other such materials which are to be removed.
  - (3) The purpose of such removal.
  - (4) The effect of such removal on adjoining property.
  - (5) The effect of such removal in causing a safety hazard, creation of erosion problems altering the groundwater table or other problems of a similar nature.
  - (6) The potential of such removal to cause the creation of sand blows, stagnant water pools, bogs, or any type or kind of injurious areas.
  - (7) The effect of such removal on the environment and the natural topography and the potential destruction of a natural resource.
  - (8) Potential traffic congestion and problems because of trucks or other vehicles or means used to haul and transport the materials removed.
- (b) Topsoil, sand, gravel, or other such materials may be removed from a lot without authorization from the planning commission for the purpose of erecting or constructing a building or structure on the lot from which the topsoil, sand, gravel or other similar material is being removed, provided there is compliance with all other requirements of this chapter. In addition, topsoil, sand, gravel, or other such materials may be moved from one part of a lot to another part if such action will not cause a sand blow, stagnant water pools, bogs, possible future injury to adjoining properties or create any other type or kind of injurious area.

Sec. 78-560. - Motor vehicle repair, major.

Major motor vehicle repair is a special land use in the C-2, I-1 and I-2 districts and subject to the following requirements:

- (1) Not more than four dismantled, wrecked or inoperable vehicles of any kind shall be parked or stored where visible from any adjoining property or right-of-way. Regardless of any screening, no dismantled, wrecked or inoperable vehicle or vehicle parts may be stored outdoors for longer than 90 days. The planning commission may require an opaque fence up to six feet in height and/or an evergreen landscape buffer not less than six feet in height at time of planting to screen any vehicles from neighboring uses or passers-by.
- (2) No buildings associated with an automobile repair establishment shall be erected within 50 feet of any residential zoning district.
- (3) All equipment including hydraulic hoists, pits, and lubrication and repair facilities shall be entirely enclosed within a building.
- (4) All repair and maintenance activities shall be performed entirely within an enclosed building.
- (5) The planning commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

- (6) The premises shall not be used for the sale of vehicles, unless approved for such use as part of site plan review.

Sec. 78-561. - Nursing homes.

Nursing homes are special land uses in the R-3 district and are subject to the following requirements:

- (1) The use shall be established and maintained in accordance with any and all applicable local, state and federal laws.
- (2) Notwithstanding other provisions in this chapter, each individual dwelling unit shall consist of at least 450 square feet of floor area.
- (3) A nursing home shall not be located within 1,500 feet of any other nursing home.
- (4) Impervious surfaces, including rooftop and parking, shall not cover more than 75 percent of the site.
- (5) The owner shall file a covenant with the village, to be reviewed as to form by the village attorney and approved by the village. The owner shall covenant on behalf of himself, his heirs, personal representatives, successors and assigns that occupancy of the development shall be limited generally to adults over the age of 60 or the chronically or incurably ill. The covenant shall be executed and recorded with the county register of deeds, prior to issuance of a building permit.
- (6) Site layout and configuration and all buildings associated with nursing homes shall comply with the dimensional requirements of the R-3 district.

Sec. 78-562. - Office.

- (a) *Intent.* The intention of allowing offices as a special use in a district is to provide a means for adaptive reuse of residential structures, e.g., which may have outlived their usefulness in terms of structure, functional design and aesthetics as a residence as originally designed, to provide an incentive to renovate and preserve in a residential appearance older residential structures and, incidentally, to provide a source of needed office space, if such use and the accumulation of such uses already permitted do not adversely affect the residential character of the district.
- (b) *Development standards.* In addition to any conditions that the planning commission may impose, should it grant a special use permit, the applicant therefor shall demonstrate conformance, and capability for future conformance, with the following standards:
  - (1) The minimum lot size and width shall be 7,000 square feet and 60 feet, respectively.
  - (2) The property shall have frontage on State Highway M-37, or on Main Street between M-37 and the Thornapple River.
  - (3) If required, screening shall be provided in accordance with the planning commission's specifications, between such use and any adjacent residential use. Such screening shall be maintained in good condition.
  - (4) Parking spaces shall be provided in accordance with article VIII of this chapter.
    - a. The parking areas shall be arranged to be compatible with the neighborhood and if required, screening shall be provided in accordance with the planning commission's specifications for all parking areas. Preferred parking areas include the side or rear yards, especially along Main Street from M-37 to the Thornapple River.
    - b. Alleys shall not be used as a means of vehicular ingress and egress to the property.
  - (5) Any site lighting shall be subdued and appropriate to a residential setting.
  - (6) The hours that the office is open to the public or clients may be restricted.
  - (7) Existing, mature trees on the site shall be preserved, where feasible. Adequate landscaping shall be provided on the site in order that the use may blend in with the surrounding area.
  - (8) For existing structures, no external changes may be made that are nonresidential in character.
    - a. Proposals for conversions of a residential use to office use shall include proposals for significant internal and external physical improvements to the functional and aesthetic qualities of the structure and grounds, which improvements tend to render the structure more structurally sound, efficient and attractive and reduce any adverse effect the office use may have on the surrounding residential properties.
    - b. External construction of new structures shall be compatible with the surrounding residential area.
  - (9) The applicant shall document that the proposed use will be compatible with the neighborhood. Incompatible uses are those uses which have characteristics such as, but not limited to, noise, the creation of traffic and/or parking problems, and/or other qualities not compatible with the character of the neighborhood.
  - (10) The owners shall maintain the functional and aesthetic improvements called for in subsection (b)(7) of this section, the other external physical elements of the structure, landscaping, parking areas and surrounding yards in reasonably good, structurally sound and aesthetically presentable order, but in any event in substantially the same condition as when this property was first used as an office, normal wear and tear excepted. Failure of the owner to do so shall constitute a violation of this section.

Sec. 78-563. - Private wind energy facility.

Private wind energy facilities are a special land use permitted in all zoning districts of the village, subject to the following requirements:

- (1) Setbacks shall be no less than one and one-half times the total height of the private wind energy facility from the ground level to the top of the blade at the highest point in rotation or other uppermost point.
- (2) Rooftop mounted and detached private wind energy facilities shall not exceed one and one-half times the maximum permitted building height for the



district in which they are located.

Sec. 78-564. - Recreation establishment, indoor and outdoor.

Where recreation establishments are special land uses, regardless of whether the use is an indoor or outdoor establishment, are special land uses as prescribed in this chapter, subject to the following requirements:

- (1) Facilities that include outdoor activity must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the planning commission.
- (2) Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the planning commission.
- (3) The planning commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
- (4) The facility shall be compatible with surrounding neighborhoods in terms of scale and site layout.
- (5) The facility shall be maintained in an orderly and attractive manner.
- (6) The applicant shall demonstrate that large, periodic influxes in the number of patrons and/or spectators shall not occur except upon approval of an amended special land use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or street.

Sec. 78-565. - Tattoo parlor.

- (a) The planning commission may establish hours of operation to protect the character of the land uses in the vicinity. Hours of operation shall be consistent with those of adjacent land uses.
- (b) Food or beverages shall not be served at the establishment.
- (c) The applicant shall demonstrate that outdoor loitering space would not be provided for and that outdoor loitering would be prohibited.
- (d) The use shall be compatible with other allowed uses in the vicinity.
- (e) A proposed tattoo parlor shall be located a minimum of 1,000 feet from an existing tattoo parlor or school. The planning commission may waive this requirement if it finds that physical features significantly separate the uses so as to avoid concentration of tattoo parlors, and to avoid the establishment of a tattoo parlor in proximity to a school.

(Ord. No. 2089, § 4, 11-22-2016)

Sec. 78-566. - Marihuana businesses.

Marihuana businesses are special land uses subject to the following requirements:

- (a) No marihuana business shall be located within 1,000 feet of any lot on which is located an existing church, center of worship, religious institution, or public or private elementary or secondary school or licensed day care facility. For purposes of this section, the 1,000 feet shall be calculated by measuring a straight line from the closest point on the real property line of each of the two lots, parcels, or units.
- (b) No marihuana business may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marihuana or marihuana products unless the process used and the premises is verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
- (c) Marihuana businesses shall install and use a safe for both storage of any processed marihuana product as well as cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the village in place of the use of a safe so long as the container is affixed to the building structure.
- (d) A drive-through window or similar service on the premises of any marihuana business shall not be permitted.
- (e) No person shall be permitted to reside or permit another person to reside in or on the premises of a marihuana business.
- (f) Buildings shall be sufficiently setback from property lines or screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
- (g) Disposal of marihuana product by on-site burning or by introduction into the sewer system shall not be permitted.
- (h) No marihuana business shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the marihuana business is operated.
- (i) A marihuana business shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the marihuana business or at any adjoining use or property.
- (j) Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between any marihuana business and any adjacent business or use located in the same building.
- (k) The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system:

- (1) The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM;
- (2) The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufactures' recommendation to ensure optimal performance;
- (3) Negative air pressure must be maintained inside the building;
- (4) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
  - (l) Marihuana businesses may not be open to customers between the hours of 9:00 p.m. and 9:00 a.m.
  - (m) Any hazardous materials and the proposed quantities of such materials that will be stored and utilized on the site (including carbon dioxide, pesticides, etc.) shall be disclosed to and approved by the village in advance.
  - (n) Marihuana businesses must have a litter control plan in place to address litter on the property.
  - (o) Marihuana businesses must have a written plan in place addressing the prohibition of loitering and sales to minors.
  - (p) Marihuana businesses must provide training to employees on crime prevention and awareness.

( Ord. No. 2119, § 6, 8-24-2021)

Secs. 78-567—78-580. - Reserved.

#### ARTICLE V. - SITE PLAN REVIEW

Sec. 78-581. - Purpose and intent

- (a) The intent of requiring site plan submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this chapter.
- (b) It is further the intent to assist village officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in the Village of Middleville.

Sec. 78-582. - Site plan review committee.

- (a) The planning commission shall appoint three members of the planning commission to the site plan review committee which shall be responsible for site plan review in accordance with this article.
- (b) The planning commission shall also appoint the village zoning administrator as an advisory, nonvoting member of the committee.
- (c) The committee shall elect one of its members, excluding its advisory member, to serve as chairperson.
- (d) Two voting members of the site plan review committee shall constitute a quorum.
- (e) Decisions of the site plan review committee shall be made by a vote of at least two voting members.
- (f) The site plan review committee shall review and act upon a site plan within 60 days of its submission.
- (g) Decisions of the committee must be based upon competent material and substantial evidence.
- (h) Unless otherwise stated, the site plan review committee shall review all site plans. Notwithstanding any other provision of this chapter, the site plan review committee may, in its own discretion, decline to approve or disapprove any site plan and refer the site plan to the full planning commission for review and decision, in which case the full planning commission shall perform all duties of the site plan review committee set forth in this article.
- (i) The site plan review committee shall conduct its meetings in accordance with the Open Meetings Act.

**Cross reference—** Administration, ch. 2.

Sec. 78-583. - Scope

No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel, unless a site plan is submitted and approved under the terms of this chapter, or such development is otherwise in accordance with this section. A zoning compliance permit as provided in article XII shall not be issued or otherwise authorized until a site plan, submitted in accordance with this section, shall have been reviewed and approved, and any required securities have been received, based on the following submittal requirements:

- (1) A basic site plan and zoning compliance permit shall be required for new single family dwellings, additions to dwellings, or construction of accessory structures. A basic site plan shall be subject to zoning administrator review.
- (2) A detailed site plan shall be required for all permitted and special uses not required to prepare a basic site plan and such detailed site plan shall be subject to site plan review committee review as outlined in this article.

## Sec. 78-584. - Site plan content.

- (a) A basic site plan shall include all of the following information:
- (1) A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, parcel lines and parcel area.
  - (2) The scale of the drawing and north arrow which shall be not less than 1" = 200' nor greater than 1" = 20'.
  - (3) Existing man-made features, including dwellings, fences, water bodies, landscaping and screening, accessory structures, septic and well infrastructure locations, and similar features; and the heights and floor area of such structures and other important features.
  - (4) Proposed man-made features, including location of dwelling addition and/or accessory structures, fences, landscaping and screening, as applicable; and heights and floor area of such structures and other important features.
  - (5) Setback lines and their dimensions.
  - (6) Location of existing and proposed driveways and curb cuts, if any.
  - (7) Location of existing public and private rights-of-way and easements contiguous to and on the property.
  - (8) Any other information as may be required by the zoning administrator to aid in the review of the site plan.
- (b) Detailed site plan. A detailed site plan shall be required for all uses other than those that may submit a basic site plan. A detailed site plan shall be prepared by an engineer, architect, landscape architect or planner licensed to work in Michigan unless this requirement is waived by the zoning administrator and chair of the site plan review committee or planning commission, and shall include and illustrate at a minimum the following information:
- (1) Location, size and type of present buildings or structures to be retained or removed.
  - (2) Location of all proposed buildings, structures or other improvements.
  - (3) Location of existing and proposed streets, drives and parking lots.
  - (4) Location of water and sewer lines.
  - (5) Storm drainage.
  - (6) Refuse and service areas.
  - (7) Utilities with reference to location, availability and compatibility.
  - (8) Screening and buffering with reference to type, dimensions and character.
  - (9) Topographical features including contour intervals no greater than two feet.
  - (10) Ditches and watercourses.
  - (11) Ground cover and other pertinent physical features of the site such as trees.
  - (12) Proposed landscaping.
  - (13) Location of existing improvements.
  - (14) Location of lot lines.
  - (15) Loading and unloading facilities.
  - (16) Exterior lighting and signs.
  - (17) Location of existing structures on land immediately adjacent to the site within 100 feet of the site's parcel lines.
  - (18) The date, north arrow and scale.
    - a. The scale shall not be less than one inch equals 50 feet if the subject property is less than three acres; and
    - b. The scale shall not be less than one inch equals 100 feet if the subject property is three acres or more.
  - (19) The name and address of the professional individual, if any, responsible for the preparation of the site plan.
  - (20) Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
  - (21) Gross areas of buildings and parking.
  - (22) Additional information as may be requested by the site plan review committee which is reasonably necessary to evaluate the site plan.
- (c) The zoning administrator and/or site plan review committee may waive information required for display on a site plan if not pertinent to determining compliance with this chapter.

## Sec. 78-585. - Review standards.

The site plan review committee or zoning administrator shall approve a detailed site plan or basic site plan, respectively, if it is determined that:

- (1) The plan complies with the requirements of this chapter;
- (2) The proposed project promotes the intent and purpose of this chapter;
- (3) The proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities

affected by the proposed project; and

- (4) The proposed project will be consistent with the public health, safety and welfare needs of the village. In making its determination, the site plan review committee shall apply the following standards:
- a. *Landscape preservation.* The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Berms, greenbelts or other screening may be reasonably required to enhance compatibility with adjoining properties.
  - b. *Relation of buildings to the environment.* Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity.
  - c. *Drives, parking and circulation.* With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement of parking areas that are safe and convenient and, insofar as practical, do not detract from the design of the proposed buildings and structures and the neighboring properties.
    1. Ingress and egress shall be limited to no more than one two-way or two one-way driveways or access roads per parcel.
    2. Combined use of one driveway or access road by two or more parcels, and ingress and egress to and from feeder streets instead of major arteries shall be provided whenever feasible or when reasonably required by the village planning commission.
  - d. *Surface water drainage.* Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Stormwater will be drained away from all roofs, canopies and paved areas by means of a suitable drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in paved areas.
  - e. *Utility service.* Any utility installations remaining above ground shall be located so as to have a harmonious relationship to neighboring properties and the site.
  - f. *Signs.* The size, location and lighting of all signs shall be consistent with the regulations applicable to signs and shall be compatible with adjoining properties.
  - g. *Special features.* Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas shall comply with reasonable setback requirements, screen plantings or other screening methods. Outside lighting shall be designed to provide for a minimum amount of glare and spillage onto adjacent properties.

Sec. 78-586. - Conditions.

- (a) The zoning administrator, site plan review committee, or planning commission may impose reasonable conditions on the approval of a site plan. The conditions may include, but are not limited to the following:
  - (1) Conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - (2) Conditions necessary to protect the natural environment and conserve natural resources and energy.
  - (3) Conditions necessary to ensure compatibility with adjacent uses of land and to promote the use of land in a socially desirable manner.
- (b) Conditions imposed shall meet all of the following requirements:
  - (1) Be designed to protect natural resources, the health, safety and welfare and the social and economic welfare of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
  - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - (3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, including but not limited to the standards in [section 78-584](#) and be necessary to ensure compliance with those standards.
- (c) The conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action, and shall remain unchanged except under mutual consent of the site plan review committee and the landowner.
- (d) The site plan review committee shall maintain a record of conditions which are changed.
  - (1) The record of such conditions shall be set forth in the minutes of the meetings of the site plan review committee.
  - (2) A copy of all minutes of the committee shall be furnished to the secretary of the planning commission.

Sec. 78-587. - Review procedure.

- (a) Requests for site plan review shall be made by filing with the zoning administrator any required filing fee and escrow, a complete application form, sufficient copies of a complete site plan as determined by the zoning administrator, and a cover letter signed by the land owner and/or developer or applicant providing a general explanation and background information on the proposed development, together with any additional information required. The zoning administrator, site plan review committee, and planning commission may waive any site plan submittal requirement upon a finding that the required information is not applicable to the proposal.
- (b) Upon receipt of a submitted application and site plan, the zoning administrator shall review the plan to determine its completeness. If the submittal is

incomplete, the zoning administrator shall provide the applicant with a list of items needed to make the submittal complete. If a site plan submittal is complete, the zoning administrator shall record the date of receipt and transmit copies thereof to each of the site plan review committee members and to other reviewing agencies as pertinent, including but not limited to the fire department, township engineer, health department, road commission, Michigan Department of Transportation, and others, retaining at least one copy in the planning office.

- (c) A meeting shall be scheduled for a review of the application, plans, and of the recommendation of the zoning administrator with regard thereto. Members of the site plan review committee shall be delivered copies of the same prior to the meeting for their preliminary information and study.
- (d) The applicant shall be notified in advance of the date, time and place of the meeting.
- (e) After conducting a review of the site plan, the site plan review committee shall approve, approve with conditions or reject the site plan, as it pertains to requirements and standards contained in this chapter. Any conditions required shall be stated in writing and made a part of the record, together with the reasons for such conditions, and delivered to the applicant. The committee may refer the site plan to the full planning commission.
- (f) Upon approval of a site plan, at least three copies of the site plan shall be signed and dated by the chairperson of the site plan review committee:
  - (1) One copy of the approved site plan shall then be filed with the village clerk.
  - (2) One copy to the village building inspector.
  - (3) One copy shall be returned to the applicant.
- (g) Following expiration of the appeal period provided in section 78-588, the building inspector shall issue a building permit for an approved site plan. However, the inspector shall not issue a final occupancy permit for any part or all of the building unless and until all required site improvements are inspected and the zoning administrator issues a site completion certificate. Prior to issuing a site completion certificate, the zoning administrator shall conduct a site inspection and provide the site plan committee members with a final inspection/completion certification. The site plan committee shall agree or disagree with the zoning administrator. If the committee concludes site work is complete, the chairman and zoning administrator shall sign the certificate of completion. If the committee concludes the site work is not complete, it shall issue an itemized list of items to be completed.

If an owner desires to obtain a certificate of occupancy for all or part of a building and site work is not completed, the owner shall submit a detailed list of work to be completed together with the cost of completing said items to the zoning administrator. The zoning administrator shall immediately forward this information to the site plan committee. The committee shall meet to consider the request. If good and sufficient reasons are given by the owner for delay in completing the site work, the committee may authorize an escrow agreement whereby the owner will provide the village a performance guarantee for site work in a form permitted by law. Said agreement will specify the date on which all items will be completed and authorize the village to undertake such work if the owner fails to perform on time. Any costs incurred by the village above the amount of the performance guarantee will be placed on the property tax bill issued to the subject property.

- (h) Failure to conform to an approved site plan shall constitute a violation of this chapter.

#### Sec. 78-588. - Appeal.

- (a) If any person shall be aggrieved by the action of the site plan review committee, appeal in writing to the village council may be taken within seven days after the date of such action.
- (b) The village council shall establish the time and place for a public hearing and shall provide notice of the public hearing in the manner provided in section 78-8.
- (c) All parties in interest shall be afforded the opportunity to be heard at such public hearing.
- (d) Following the public hearing, the village council shall affirm, modify or reverse the action of the site plan review committee based on the standards set forth in section 78-584, or shall remand the appeal to the site plan review committee for reconsideration.
- (e) Any person aggrieved by the action of the site plan review committee upon reconsideration may appeal to the village council in accordance with this section.
- (f) In all decisions on appeal, the village council shall state its findings and the reasons for its action and a written copy of such findings, reasons and action shall be given to the appellant and the site plan review committee.

#### Sec. 78-589. - Term of approval.

Approval of the site plan shall be valid for a period of one year after the date of approval. The full planning commission may grant extensions if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a building permit has not been obtained or if on-site development has not commenced within said one year, the site plan approval shall become null and void and a new site plan application shall be required and approved before any construction or earth change is commenced upon the site, unless an extension is received as prescribed herein.

#### Sec. 78-590. - Amendment of site plan.

No changes shall be made to an approved site plan prior to or during construction except upon application to the zoning administrator according to the following procedures:

- (1) The zoning administrator may approve minor changes to an approved site plan involving slight changes in the location of buildings and structures, adjustment of utilities, walkways, parking areas, and similar minor changes.

- (2) Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets, significant changes in the number of parking spaces as determined by the zoning administrator, a major relocation of a building as determined by the zoning administrator, increase in the gross floor area or heights of buildings, a reduction in open space, modifications that contravene the intent of a condition of approval, changes that have the potential to impact surrounding neighborhoods, and similar major changes, shall require the approval of the site plan review committee and/or planning commission, in the same manner as the original application.

Sec. 78-591. - Site condominium subdivisions.

- (a) Pursuant to authority conferred by section 141 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.241), site condominium subdivisions must be approved by the village council, upon recommendation from the planning commission.
- (b) In determining whether to approve a site condominium subdivision, the village council shall consult with the planning commission, village attorney, village engineer, Thornapple Township Fire Chief and village zoning administrator regarding the adequacy of the site condominium plans, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.
- (c) The following definitions shall apply:
- (1) *Condominium Act* means Public Act No. 59 of 1978 (MCL 559.108 et seq.).
  - (2) *Condominium dwelling* means the building constructed upon a lot or condominium unit which is intended for residential purposes.
  - (3) *Condominium structure* means a building or structure constructed upon a lot or condominium unit which is intended for office, industrial, business, or recreational purposes.
  - (4) *Condominium unit* means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.
  - (5) *Lot* means the same as the terms "Homesite" and "Condominium unit."
  - (6) *Master deed* means the condominium document recording the condominium project to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
  - (7) *Mobile home condominium project* means a condominium project which mobile homes are intended to be located upon separate sites which constitute individual condominium units.
  - (8) *Setback, front yard*, shall be equal to the distance between the front yard area line and the condominium dwelling or condominium structure.
  - (9) *Setback, rear yard*, shall be equal to the distance between the rear yard area line and the condominium dwelling or condominium structure.
  - (10) *Setback, side yard*, shall be equal to the distance between the side area line and the condominium dwelling or condominium structure.
  - (11) *Site condominium* means a condominium plat consisting of condominium lots to be developed as single-family dwelling sites.
  - (12) *Site condominium subdivision* shall be a division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act No. 288 of 1967, as amended (MCL 560.101 et seq.).
- (d) Zoning compliance.
- (1) Site condominium subdivision projects may be approved in any zoning district. All site condominium subdivisions, dwellings and structures therein shall comply with the size, height, area, setback, and general and special regulations applicable to the use and the zoning district in which the subdivision is located.
  - (2) Mobile home condominium projects shall comply with the requirements of this chapter.
- (e) Site condominium subdivision review and approval procedures.
- (1) Except as otherwise provided in this chapter, the procedure for application for, review and approval of site condominium projects shall be made pursuant to the provisions of sections ~~78-581~~—78-591.
  - (2) The site plan submitted for a site condominium subdivision shall be consistent with the requirements of section 78-583, and shall contain the additional following information:
    - a. A survey plan of the site condominium subdivision.
    - b. A consent to submission of real property to condominium project, listing all parties which have ownership interest in the proposed site condominium subdivision; or other written evidence that the applicant has the legal right to purchase the subject property from the owners of record.
    - c. The use and occupancy restrictions and maintenance provisions for all general common elements as will be contained in the master deed.
    - d. Project description which describes the nature and intent of the proposed development.
    - e. A floodplain plan, if the site lies within or abuts a floodplain area.
    - f. A street construction and paving plan.
    - g. A storm drainage and stormwater management plan, including all lines, swales, drains, basins, and other facilities.
    - h. A utility plan showing all easements to be granted to the public or private utility providers for installation, repair and maintenance of all utilities.

- (f) Site condominium subdivision plans shall conform to the design, layout, and improvement standards as are required for subdivisions, in chapter 30 of this Code and other applicable provisions of this Code. Any such standards and regulations are hereby incorporated by reference in this section.
- (1) *Streets.* If a site condominium subdivision is proposed to have public streets, the village council shall require that the streets be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as adopted by the county road commission. All private streets in a site condominium subdivision shall have a paved driving surface of asphalt or concrete and shall otherwise conform to the minimum standards for private roads included in this chapter.
- (2) *Utilities.* Extension and provision of utilities shall be provided as may be required by the village council and as conditions of approval.
- (g) Master deed, contents.
- (1) All provisions of the site condominium plans which are approved by the village council pursuant to subsection (e) of this section must be incorporated, as approved, in the master deed for the site condominium subdivisions.
- (2) Any proposed changes to the approved site condominium plans, including the bylaws, master deed and site/floor plans, must be reviewed and approved by the village council pursuant to the procedure set forth in subsection (e) of this section for the condominium plans.
- (3) A copy of the master deed as filed with the county register of deeds for recording must be provided to the village within ten days after such filing with the county.

Sec. 78-592. - Site plan review for marihuana businesses.

Except as otherwise provided in this chapter, the procedure for application for review and approval of marihuana businesses shall be made pursuant to the provisions of sections 78-581 through 78-592, the site plan submitted for a marihuana business shall be consistent with sections 78-583 and 78-584 and shall contain the additional following information:

- (a) A facility operation plan which shall contain, at a minimum, the following:
- (1) For growers, microbusinesses and processing facilities, the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the village.
- (2) A lighting plan indicating the lighting outside of the marihuana business for security purposes and compliance with applicable village requirements does not create any nuisance or lighting pollution, as determined by the site plan committee, planning commission or zoning administrator or their designees.
- (3) A plan for disposal of any marihuana or marihuana-infused product that is not sold to a patient, primary caregiver or adult user in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- (4) For marihuana businesses that grow marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how the system operates and prevents any odors leaving the premises. For marihuana businesses that produce marihuana-infused products, the plan shall include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
- (5) For growers and processors, an electrical plan for load review to Consumers Energy.
- (b) If any modifications to a structure will be made requiring a building permit, or which would alter or change items required by this chapter, detailed construction drawings showing at minimum, a full site plan, interior and exterior lighting requirements, the full mechanical heating and ventilation plan, , before and after floor plans and specifications, non-rated and rated separation details and locations, accessible route from the public way to the accessible entrance, accessible route to the primary function and within the facility and accessible bathrooms. The licensee shall make application for a plan review and a building permit for the modifications of the premises, on forms provided by the village. Other specifications may be required.
- (c) A stamped or sealed 24" by 36" drawing of the proposed licensed premises showing, without limitation, building layout, all entryways and exits to the proposed licensed premises, loading zones, all available parking spaces, and specifying which parking spaces, if any, are handicapped accessible, and all areas in which marihuana will be stored, grown, manufactured or dispensed.
- (d) Any proposed text or graphical materials to be shown on the exterior of the proposed marihuana business.
- (e) A location area map of the marihuana business and surrounding area that identifies the relative locations and distances to any school or place of worship as measured in a straight line from the closest point of the real property line.

( Ord. No. 2119, § 7, 8-24-2021)

Secs. 78-593—78-600. - Reserved.

ARTICLE VI. - LANDSCAPE STANDARDS

Sec. 78-601. - Intent.

It is the intent of this article to require buffer zones and landscape screening to reduce negative impacts between potentially incompatible land uses and to provide landscaping within parking lots. It is further intended to preserve and enhance aesthetic qualities, privacy, and land values of the village.

Sec. 78-602. - Buffer zones required.

- (a) A buffer zone shall be required on the subject lot or parcel between zoning districts as indicated on the landscape buffer matrix table in this section.
- (b) A buffer zone shall be required, even if the abutting parcel is unimproved land.
- (c) Whenever a developed parcel of land changes to a more intense use, the use expands, or site plan approval is required, a buffer zone shall be established in accordance with requirements of this article.
- (d) If existing conditions on the lot or parcel are such that compliance with the buffer zone requirements is not possible, then the planning commission shall determine the character of the buffer zone to be required based on the following criteria:
  - (1) Traffic impacts.
  - (2) Increased building or parking coverage on the parcel.
  - (3) Increased outdoor display area.
  - (4) Physical characteristics of the site, such as topography, existing building locations, and site access.
  - (5) Other physical conditions that prevent or impede the ability to place the required buffer zone.
- (e) If two zoning districts requiring a buffer zone are separated by a public street, the design of the buffer zone shall be determined by the planning commission based on the criteria in subsection (d) of this section.

LANDSCAPE BUFFER MATRIX <sup>1</sup>

Subject Zone	Adjacent Zone													
	RE	R-1	R-2	R-3	R-4	O	C-1	C-2	I-1	I-2	NR	WP	PUD	AG
RE														A
R-1														A
R-2														A
R-3	B	A	A											A
R-4	A	A	A	A										A
O	B	B	B	B	B						C	C	C	B
C-1	B	B	B	B	B	C					B	B	B	B
C-2	A	A	A	A	A	B					B	B	B	A
I-1	A	A	A	A	A	B	B	B			B	B	B	B
I-2	A	A	A	A	A	A	A	A			A	A	A	A
NR														
WP														
PUD	*	*	*	*	*	*	*	*	*	*	*	*	*	*
AG														

Read from subject zone across to adjacent zone.

<sup>1</sup> Existing buildings and land use, lawful at the effective date of the ordinance from which this article is derived shall comply with the landscape buffer matrix table only to the extent deemed reasonable and practical by the planning commission, given physical and space limitations of the existing site, building placement and established accessory buildings. Standards of subsection 78-602(d) shall be used in making this determination.



LEGEND:		
A	=	Buffer zone A
B	=	Buffer zone B
C	=	Buffer zone C
□	=	No buffer required

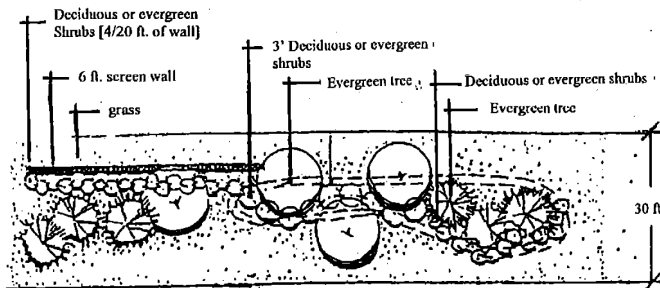
A	=	If commercial or industrial use or mixed uses in PUD
B	=	If multiple-family residential, two-family or attached single-family use in PUD
C	=	If office use in PUD
□	=	If exclusively single-family detached in PUD, no buffer required

Sec. 78-603. - Buffer zone development standards.

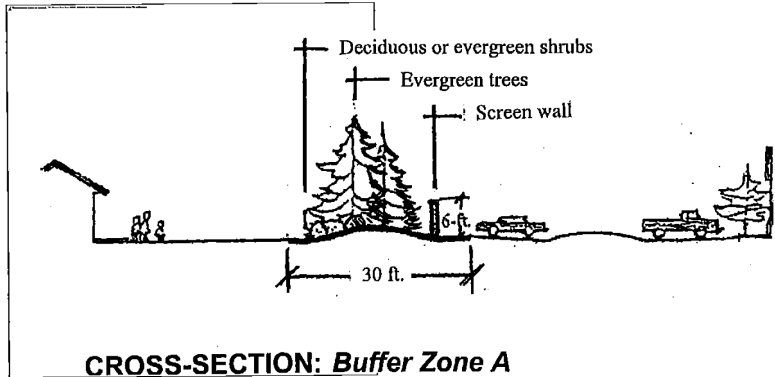
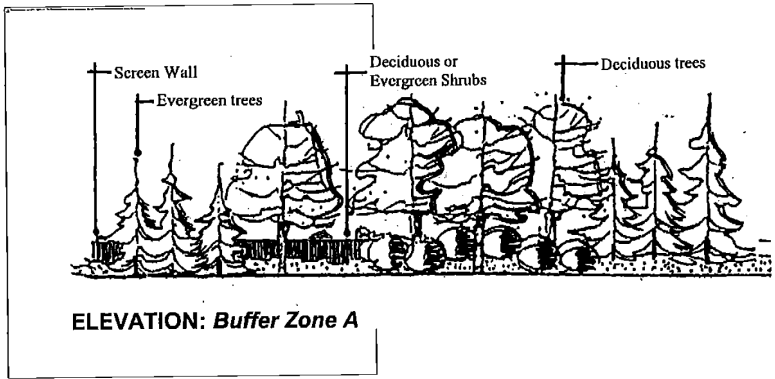
Required buffer zones shall comply with the following standards:

(a) Buffer zone level A.

- (1) Thirty-foot minimum width.
- (2) The equivalent of one canopy tree per 20 linear feet of buffer zone length.
- (3) Six-foot high continuous obscuring screen comprised of plant material, berming, screen walls or fencing, or any combination of these elements.
- (4) If berming is used for all or part of the buffer zone, all required plant material shall be placed on the top and side slope facing the exterior of the site.
- (5) If a screen wall or fence is used for all or part of the buffer zone, then:
  - a. The equivalent of four shrubs are required per 20 linear feet of wall or fence with at least 50 percent being 24 inches high at the time of planting.
  - b. All required plant materials shall be on the exterior side of the buffer strip.
- (6) All areas of the buffer strip outside shrub or flower beds, shall be covered with grass or other living ground cover.
- (7) All applicable standards in section 78-608.

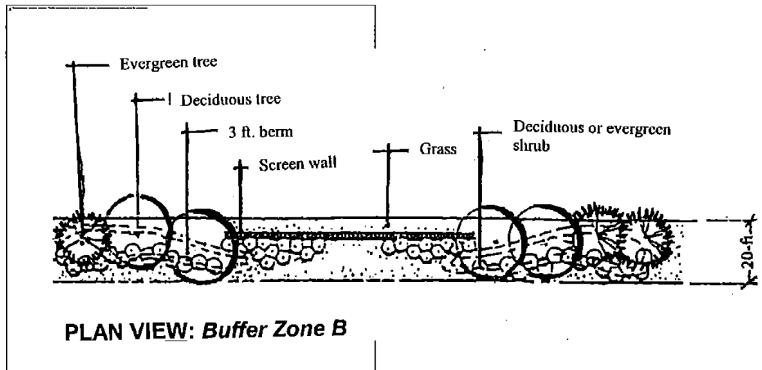


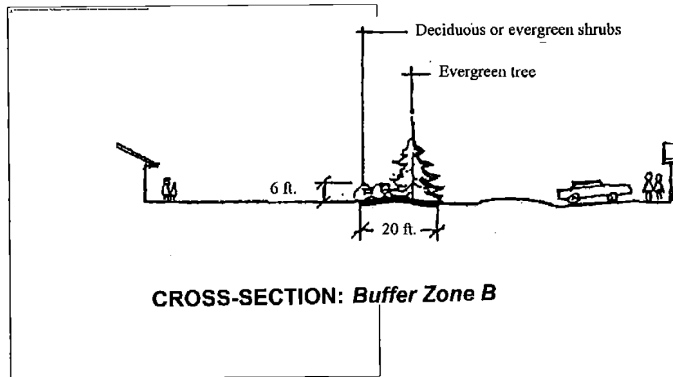
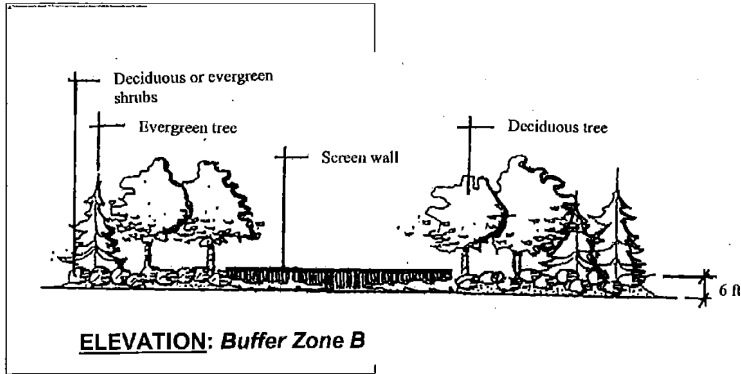
**PLAN VIEW: Buffer Zone A**



(b) Buffer zone level B.

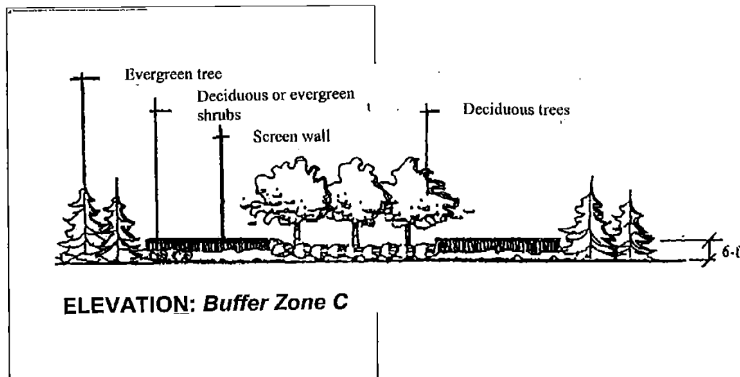
- (1) Twenty-foot minimum width.
- (2) The equivalent of one canopy tree per 30 linear feet of buffer zone length.
- (3) Six-foot high continuous obscuring screen comprised of plant material, berming, screen walls or fencing, or any combination of these elements.
- (4) If berming is used for all or part of the buffer zone, all required plant material shall be placed on the top and side slope facing the exterior of the site.
- (5) If a screen wall or fence is used for all or part of the buffer zone, then:
  - a. The equivalent of four shrubs are required per 20 linear feet of wall or fence with at least 50 percent being 24 inches high at the time of planting.
  - b. All required plant materials shall be on the exterior side of the buffer strip.
- (6) All areas of the buffer strip outside shrub or flower beds, shall be covered with grass or other living ground cover.
- (7) All applicable standards in [section 78-608](#).

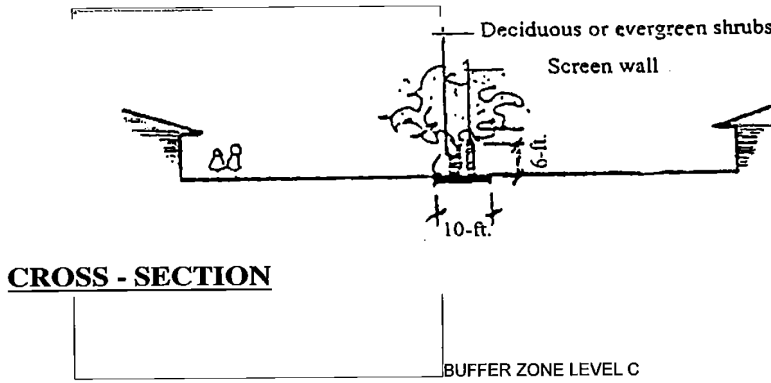




(c) Buffer zone level C.

- (1) Ten-foot minimum width.
- (2) The equivalent of one canopy tree per 20 linear feet of buffer zone length.
- (3) Six-foot high continuous obscuring screen comprised of plant material, berming, screen walls or fencing, or any combination of these elements.
- (4) If berming is used for all or part of the buffer zone, then:
  - a. All required plant material shall be placed on the top and slope facing the exterior of the site.
  - b. The minimum buffer zone width shall be increased as needed to accommodate a maximum slope of three feet horizontal to one foot vertical.
- (5) If a screen wall or fence is used for all or part of the buffer zone, then:
  - a. The equivalent of four shrubs are required per 20 linear feet of wall or fence with at least 50 percent being 24 inches high at the time of planting.
  - b. All required plant materials shall be on the exterior side of the buffer strip.
  - c. All applicable standards in section 78-608.



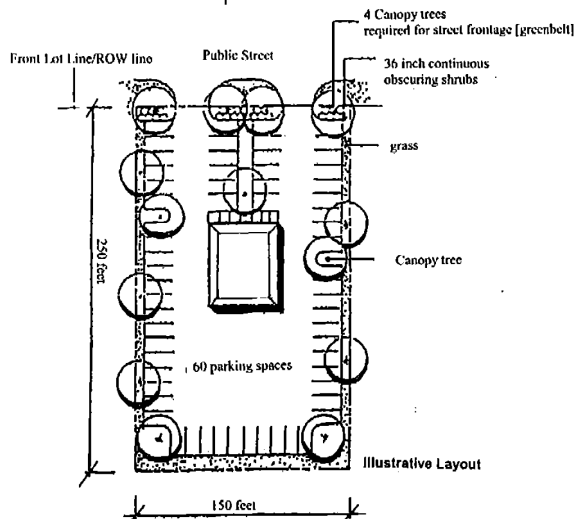


Sec. 78-604. - Off-street parking areas.

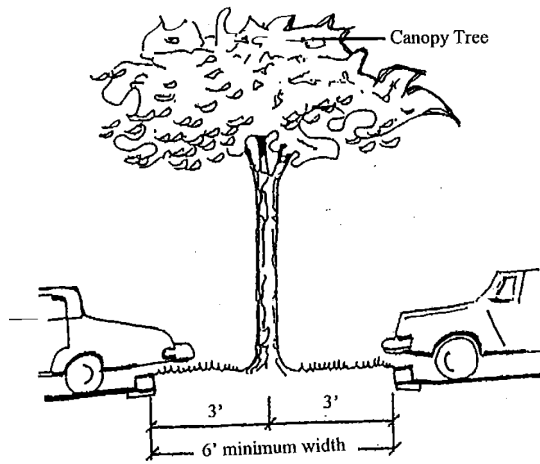
(a) Off-street parking areas containing five or more parking spaces shall be provided with landscaping in accordance with the following:

5—24 spaces:	One canopy tree and 100 square feet of landscape area per six spaces or fraction thereof.
25—100 spaces:	One canopy tree and 100 square feet of landscape area per ten spaces or fraction thereof.
101+ spaces:	One canopy tree and 100 square feet of landscape area per 12 spaces or fraction thereof.

(b) In no case shall any buffer zone or greenbelt required in section 78-603 be considered a substitute for off-street parking landscape area.



**LANDSCAPE STANDARDS FOR OFF-STREET PARKING AREAS**



Sec. 78-605. - Off-street parking area landscape standards.

Required parking lot landscape areas shall comply with the following:

- (1) The minimum size of a landscape area shall be 400 square feet and 20 feet minimum dimension.
- (2) Grass, shredded bark, stone, or a living ground cover shall cover all landscaped areas.
- (3) All landscape areas shall contain at least one canopy tree. The trees shall be located to prevent damage by motor vehicles.
- (4) Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of impervious surfaces and shall not obscure traffic signs or fire hydrants. Except in lots with 24 or less spaces, required landscaping may be on the perimeter of the parking lot.
- (5) At least 25 percent of the required trees shall be installed in the interior of the parking area. The interior shall be considered as any point ten feet from the boundary of the parking lot.
- (6) Raised curb shall protect all interior landscape areas. Raised curb shall meet the standard for curbs as found in section 30-163. Exterior landscape areas may be protected by a raised curb or rolled curb.
- (7) Where any parking area, excepting areas serving one- or two-family dwellings, abuts or faces a public right-of-way, a three-foot high continuous obscuring screen shall be required between the parking area and the public road right-of-way line. The screen may be comprised of plant material, berming, or any combination of these elements.
- (8) All applicable standards in section 78-608.

(Ord. No. 2110, § 5, 9-24-2019)

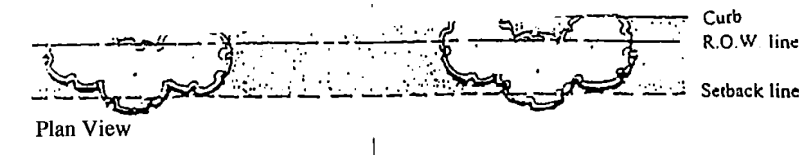
Sec. 78-606. - Greenbelts.

- (a) Greenbelts shall be required where any developed parcel abuts or faces a public right-of-way in the office, commercial, or industrial districts.
- (b) If a buffer zone is required along a public right-of-way, then the greenbelt requirement shall be waived.

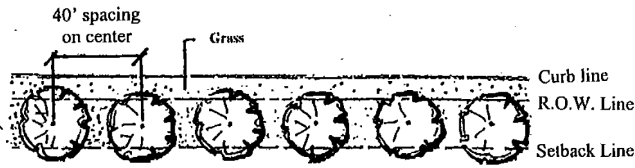
Sec. 78-607. - Greenbelt development standards.

All greenbelts shall comply with the following standards:

- (1) One canopy tree for every 40 linear feet of frontage abutting a public right-of-way.
- (2) All greenbelts shall be covered by grass.
- (3) The width of the greenbelt shall correspond to the required front setback requirements for off-street parking areas contained in article VIII.
- (4) All applicable standards in section 78-608.



*Grouping A Variety of Plant Materials*



**PLAN VIEW - CONTINUOUS ROW OF EQUALLY SPACED CANOPY TREES**

**GREENBELT TYPICAL DETAIL**

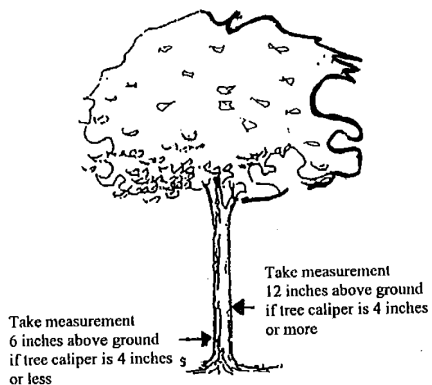
Sec. 78-608. - General landscape development standards.

(a) Minimum plant material standards:

- (1) All plant material shall be hardy to the county, free of disease and insects.
- (2) All plant materials shall be installed so as not to alter drainage patterns on the site or on adjacent properties.
- (3) Minimum plant size at time of planting:

Deciduous canopy tree	2½-inch caliper
Deciduous ornamental tree	2-inch caliper
Evergreen tree	6-foot height
Deciduous shrub	2-foot height
Upright evergreen shrub	2-foot height
Spreading evergreen shrub	18-inch spread

- (4) Existing plant material which complies with the standards of this article may be retained and shall count as credit toward meeting the standards of this article.

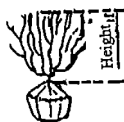


Caliper = Diameter of trunk

**TREE CALIPER MEASUREMENT TECHNIQUE**



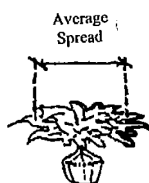
Upright evergreen shrub



Deciduous shrub



Evergreen tree

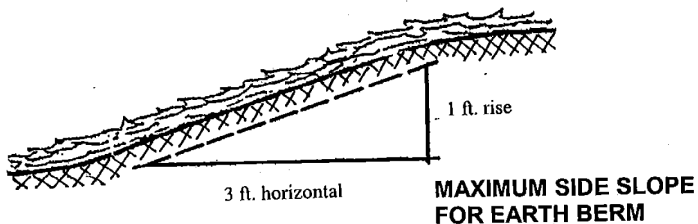


Spreading evergreen shrub

**PLANT SIZES**

Plant size is measured by height or spread illustrated

- (b) (1) Berms shall be constructed so as to maintain a side slope not to exceed a one foot rise to three foot horizontal ratio.
- (2) Berm areas not containing plants shall be covered with grass or other living ground cover.
- (3) Berms shall be constructed so as not to alter drainage patterns on an adjacent property.
- (4) If the berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.



**EARTH BERM WITH RETAINING WALL**

- (c) Minimum standards for screen walls and fences:
  - (1) All screen walls and fences shall be constructed of new, durable, weather resistant and easily maintainable materials. Chain link and barbed wire fences are not permitted.
  - (2) The wall or fence may be constructed with openings that do not exceed 20 percent of the wall surface. The opening shall allow passage of air but shall not reduce the obscuring effect of the wall.
  - (3) Screen walls or fences shall be constructed so as not to alter drainage patterns on adjacent properties.
- (d) Stormwater detention/retention. Stormwater detention/retention areas shall be permitted within buffer zones provided they do not reduce the screening

effect.

- (e) Solid waste dumpsters. Solid waste dumpsters may be located in buffer zones, provided they are screened by a continuous opaque wall or fence six feet in height.
- (f) Requirements for projects developed in phases. If a land development is constructed in phases, required landscaping may also be installed in phases. The planning commission may require buffer zones or screening necessary to obscure and protect abutting uses in their entirety within the first phase.
- (g) Installation and maintenance provisions. All landscape materials required by this article shall be maintained in good condition. No required plant materials or landscape area shall be eliminated from the site. Dead or diseased plant materials shall be replaced within one growing season.
- (h) Screening of mechanical equipment. All ground-level mechanical equipment shall be screened from view by an obscuring and opaque wall, fence, or hedge. Height shall exceed the height of the equipment, but shall not exceed six feet in height. The zoning administrator may waive this standard upon a determination that physical access to the equipment for the purposes of maintenance and repair would be impeded.

(Ord. No. 2086, § 23, 7-12-2016)

Secs. 78-609—78-620. - Reserved.

#### ARTICLE VII. - SIGNS

##### Footnotes:

-- (10) --

**Editor's note—** Ord. No. 2097, § 3, adopted August 28, 2018, amended art. VII in its entirety to read as set out herein. Former art. VII pertained to similar subject matter and derived from Ord. No. 2075, adopted February 2, 2014; Ord. No. 2086, §§ 24—31, adopted July 12, 2016; Ord. No. 2089, § 5, adopted November 22, 2016

Sec. 78-621. - Short title.

This article shall be known as the "Village of Middleville Sign Ordinance."

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-622. - Purpose.

These sign regulations are intended to protect the health, safety and welfare of the general public, while promoting and balancing public and private interests. Signs inform, direct, advertise and communicate information, but must do so in a manner that does not unduly detract from the community or the safety of the traveling public. These sign regulations are intended, specifically, to further the following objectives:

- (1) Protect and further the public health, safety and welfare; maintain and improve the village's appearance and preserve community character, including minimization of excessive visual clutter and degradation of the visual environment in the village that is likely to occur in the absence of reasonable regulations regarding signs. It is further recognized that special circumstances or events may create a need for portable signage for a limited and reasonable period of time.
- (2) Minimize traffic hazards and distractions; provide safer conditions, including information and direction for the traveling public and for pedestrians.
- (3) Promote economic development and commercial activity.
- (4) Identify property for fire protection and other purposes.
- (5) Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech and distribution of public information.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-623. - Authority.

This article is enacted pursuant to the Michigan Zoning Enabling Act (MCL 125.3101 et seq.) and the General Law Village Act (MCL 61.1 et seq.).

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-624. - Severability clause.

Should any section of provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or part thereof, other than the part so declared to be invalid.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-625. - Substitution clause.



The owner of any sign which is otherwise allowed by this ordinance may substitute non-commercial content in lieu of any other commercial or non-commercial content. This substitution of content may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provisions to the contrary in this ordinance. This clause shall not be construed to allow content which is profane, obscene, threatening, discriminatory, or otherwise not protected by the First Amendment to the United States Constitution or Art. 1, §5 of the Michigan Constitution.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-626. - Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings hereinafter defined:

*Abandoned sign* means a sign serving a premise vacant or unoccupied for more than 180 days.

*Animated sign* means a sign which uses moving parts or change of lighting to depict action or create a special effect or scene. This definition includes rotating signs.

*Awning/canopy sign* shall mean a sign which is part of or located on a canopy or awning which is attached to and projects from a building wall.

*Balloon sign* shall mean a tethered sign consisting of an envelope inflated with pressurized or heated air, or a lighter-than-air gas.

*Banners* shall mean a temporary sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for the purpose of this article.

*Bench sign* shall mean a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

*Billboard sign* shall mean a sign which advertises an establishment, service, merchandise, use, entertainment, activity product or message which is not conducted, sold, produced, manufactured, or furnished upon the parcel or lot on which the sign is located, and additionally shall include those signs as regulated by the state pursuant to Act No. 106 of the Public Acts of Michigan of 1972, as amended (MCL 252.301 et seq.).

*Business center* shall mean any group of two or more business establishments on one parcel which are any one or more of the following:

- (1) Under one common ownership;
- (2) Has a common arrangement for the maintenance of the grounds and are connected by party walls, partitions, covered canopies or other structural members to form one continuous structure;
- (3) Share a common parking area; or
- (4) Otherwise present the appearance of one continuous commercial area.

The business center structure shall have a minimum square footage of at least 5,000 square feet.

*Business complex* shall mean a land or parcel containing two or more buildings, each containing one or more individual business establishments.

*Business establishment* shall mean a business operating independently of any other business on the same parcel or in the same building, separated from other businesses by walls, and with one or more doors which provide exclusive ingress and egress to that business.

*Candela*, formerly called candlepower, is approximately the amount of light emitted by a common tallow candle; technically it is the quantity of radiation emitted by  $1.667 \times 10^{-6}$  square meter of a blackbody at the melting point of platinum. The candela is equal to one lumen per steradian (unit solid angle).

*Changeable copy ground sign* shall mean a sign that consists of a text message that can be changed periodically, whether manually or by automatic or digital means.

*Construction sign* shall mean a sign containing identifying information concerning construction activity in progress on the premises on which the sign is located, such as the name of the future occupant or business, development name, type of development, name of developer, and names of architects, engineers, contractors and lenders involved in the construction activity.

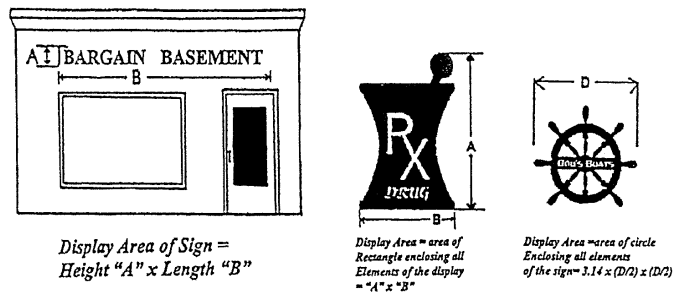
*Corner locations* shall mean those properties with frontage on two or more public streets.

*Directional sign, on premises* shall mean a sign whose primary purpose is to direct the movement or parking of vehicles within the premises. Examples of signs which are included in this definition include directional signs at driveway entries from the public road, signs directing the movement of traffic within a parking area or driveway, signs identifying barrier-free parking spaces, signs identifying rear access doors in a multi-business establishment, signs prohibiting parking in loading areas or signs identifying loading dock names at a product distribution facility.

*Display area* shall mean the entire area within a circle, triangle or parallelogram enclosing the extreme limits or writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall

be included in determining the area of the sign; except that where two such faces are placed back to back and are at no point more than three feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

Figure 1 - Display Area



1. *Exception 1.* The display area of the signs painted directly on building wall surfaces shall be that area within the circle, triangle or parallelogram enclosing the extreme limits of writing, letters or numbers.
2. *Exception 2.* Time and temperature displays including clock facings shall not herein be defined as sign display area.
3. *Exception 3.* The area of an awning/canopy sign shall be measured as provided in the main body of this definition, and the sign shall be treated as if it were a wall sign attached to the same wall to which the awning or canopy is attached, for purposes of determining maximum allowed sign area.

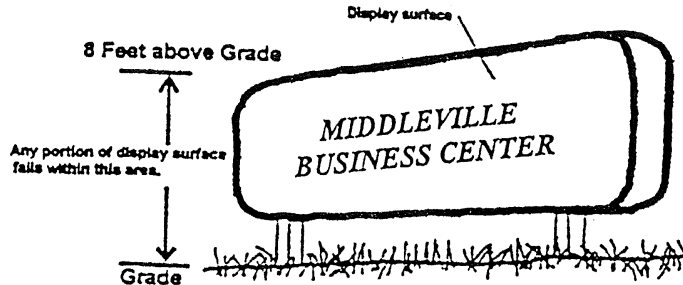
*Encroaching sign* shall mean a sign that projects beyond the private property line into and over public right-of-way, or public street right-of-way.

*Frontage* shall mean the side of the property facing a thoroughfare.

*Front wall* shall mean the wall of a commercial business facing a private parking lot. If said business occupies a corner lot, the wall facing thoroughfare shall also be defined as a front wall.

*Ground sign* shall mean a sign which is supported by one or more uprights in or upon the ground, where any part of the display surface is less than eight feet above average grade within ten feet of the base of the sign.

Figure 2 - Ground Sign



*Height of sign* shall mean the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.

*Home occupation sign* shall mean any sign used for the purpose of advertising services in conjunction with a lawful home occupation.

*Human sign* shall mean a sign which is held by or attached to a human for the purpose of advertising any goods, services, functions or specific business locations.

*Identification sign* shall mean a sign that identifies the name of the property owner, resident, or business on the property, with or without the street address.

*Industrial park* shall mean a grouping of several industrial businesses on contiguous parcels, accessed by the same public or private street and sharing a common location identity.

*Institutional sign* shall mean a sign containing a surface area upon which is displayed the name of a church, school, library, museum, day care center, cemetery, community center and similar institutions and the announcement of its services or activities.

*Marquee sign* shall mean a sign that is attached to the underside of a marquee, or other covered structure and projecting at a right angle from and supported by a building or marquee and does not project horizontally beyond the marquee or covered structure.

*Mobile sign* shall mean a sign supported on a mobile chassis other than a motor vehicle.

*Nit* is a unit of visible-light intensity, commonly used to specify the brightness of a cathode ray tube or liquid crystal display computer display. One nit is equivalent to one candela per square meter.

*Non-conforming sign* shall mean any sign that does not conform to the requirements of this article.

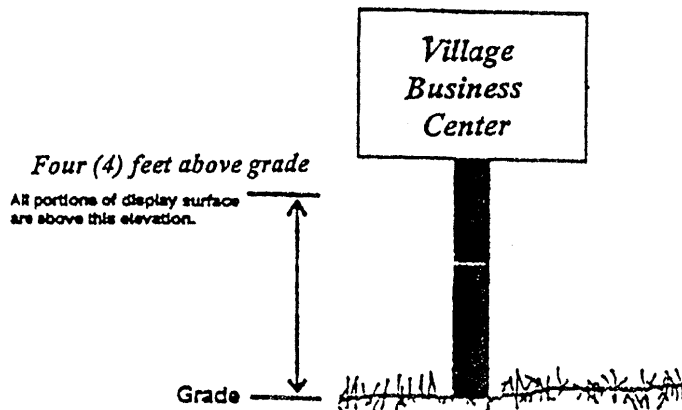
*Obscene or offensive sign* shall mean any sign that contains statements, words, or pictures of an obscene or indecent character which appeal to the prurient interest in sex, or which are patently offensive and do not have serious literary, artistic, political or scientific value.

*Off-premises sign* shall mean a sign located on a different property or premises than where the business, product, service, event, person or subject is being advertised.

*Pennant sign* is any geometric shaped cloth, fabric or other lightweight material normally fastened to a stringer and which is secured or tethered so as to allow movement of the sign caused by movement of the atmosphere.

*Pole sign* shall mean a sign having a sign face that is elevated above the ground by one or more uprights or poles, with all parts of the display surface of the sign four feet or more above the grade at the base of the sign.

Figure 3 - Pole Sign



*Political sign* shall mean a temporary sign used in connection with a local state, or federal election, political topic or opinion or referendum.

*Projecting sign* shall mean a sign attached to and projecting perpendicularly from a building wall, excluding awning/canopy signs, as defined herein. One face only shall be used for computation of the display area of a projecting sign.

*Real estate sign* shall mean a sign announcing or advertising the availability of an improved or unimproved lot, parcel or building, or portion thereof, for sale, lease or rent.

*Roof sign* shall mean a sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall and that is wholly or partially supported by such building.

*Exception.* For the purpose of this definition of roof sign, a sign that is mounted on a mansard roof, roof overhang, parapet wall, above a marquee, or on a wall with a roof below, shall not be considered as a roof sign but shall instead be considered as a wall sign for that side of the building, provided that no part of such sign extends above the uppermost building line not including chimneys, flagpoles, electrical, mechanical equipment, TV antennas and other similar equipment and extensions.

*Setback, required* shall mean the minimum required horizontal separation distance between a public or private road right-of-way to any part of a sign, including any above-ground portions of a sign which project beyond the point of attachment of the sign to the ground.

*Signs* shall mean and include every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person. This definition shall include billboard signs and signs painted directly on walls of structures.

*Supports and uprights* shall mean those members necessary for the structural support of the sign. Decorative trim applied to such members for aesthetic purposes shall be considered as a part of the supports and uprights provided such trim does not extend more than three inches in any direction beyond such support.

*Temporary sign* shall mean a banner, pennant, poster, or display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or similar material that is designed, placed and located for a limited duration, including, without limitation, sandwich boards, posters, signs on wire frames, and signs on T-posts (see definition of T-post sign).

*T-Post sign* shall mean signs erected and maintained on a freestanding steel post, typically driven into the ground with a manual or pneumatic post pounder.

*Unified business development* shall mean a commercial development planned as a coordinated project in accordance with an approved signage plan.

*Uppermost building line* shall mean uppermost horizontal line of a building formed by a roof, wall or parapet wall.

*Wall sign* shall mean a sign that is attached directly to a wall, mansard roof, roof overhang, parapet wall, or above a marquee of a building with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, and which projects not more than 18 inches from the building or structure wall, and which does not have any part of such signs or sign supports extending above the uppermost building line not including chimneys, flagpoles,

electrical or mechanical equipment, TV antennas or any other similar equipment or extensions. This definition shall include writing, letters or numbers placed or painted directly on a building wall surface.

*Window sign* shall mean a sign attached to the inside or outside surface of a window on a building wall or door, or placed within six inches of the inside face of a window, and intended to be viewed from outside the building.

*Wireframe sign* shall mean signs made of corrugated plastic, vinyl, cardboard, poster board, or similar material which is supported by or attached to a metal frame.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-627. - Permitted signs.

- (a) Signs shall be permitted only in accordance with the provisions of this article and other applicable provisions of this chapter.
- (b) Signs shall be placed, constructed and erected in accordance with good construction practices and shall be maintained in good condition and repair.
- (c) Illuminated signs shall be constructed and operated in compliance with the electrical code in effect within the village.
- (d) Signs shall be placed only on private property except for lawful signs of governmental bodies or agencies.
- (e) No permanent signs except residential or governmental signs or those exempt from the provisions of this article shall be placed, constructed or erected unless a sign permit has been issued by the village zoning administrator, and a building permit has been issued by the proper county agency.
- (f) No sign or sign structure shall be placed, constructed or erected in any location or manner where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No rotating light or flashing illumination resembling a police or emergency light shall be used on or in connection with any sign.
- (g) Signs may be illuminated only in accordance with this article. Any externally illuminated sign shall be shielded in such a manner as to direct the light toward the sign. Any externally illuminated sign shall not be of such intensity as to illuminate any adjacent residential property.
- (h) Temporary signs shall be permitted on a parcel of land zoned C-1 Central Business, C-2 Highway Commercial, I-1 Light Industrial and I-2 Heavy Industrial, as follows:
  - (1) Up to four temporary signs may be permitted for each separate commercial establishment (that is, each separate store, market, office or other permitted use) located on a parcel of land. Total square footage for all temporary signs shall not exceed the square footage permitted, which is calculated by taking the linear feet of storefront (the area located at the front door of the business) and multiplying it by one.
  - (2) A temporary sign shall be displayed for not more than 30 days provided, however, that after the removal of a temporary sign, the sign may be re-displayed during the calendar year following any interval of time, so long as the cumulative total number of days of display during the calendar year does not exceed a maximum of 120 days. This shall include the number of days for all temporary signs. By way of example, if four temporary signs are posted at one time, they shall not be on display for more than 30 days in the calendar year (4 signs x 30 days = 120 days).
  - (3) A temporary sign shall not be larger than 24 square feet. A temporary sign shall not be illuminated.
  - (4) A sign permit for a temporary sign shall be required. There shall be no application fee, and an application for the permit shall include the following:
    - a. An accurate sketch, indicating the exact dimensions of the sign, its height, the structure upon which it will be placed, its location in relation to buildings, property lines, driveways and off-street parking areas, and such other information as may be required by the Zoning Inspector in order to assure that the sign shall comply with the applicable requirements of this ordinance.
    - b. A statement, signed by the applicant, listing specifically the days, or the span of consecutive days, during which the sign will be displayed, and also the date or dates on which the sign shall be removed and, if applicable, the subsequent date or dates on which the sign shall be re-installed and again removed, during the calendar year.
    - c. A listing and description of the other temporary signs, if any, located on the property at the time of the application.
  - (5) A temporary sign shall include any other or subsequent temporary sign of generally similar appearance, nature and purpose, as compared to the temporary sign initially permitted under the terms of this section. Accordingly, an applicant shall not seek to extend the time limitation on the display of a temporary sign by the attempted display of a different, though similar, temporary sign following the maximum permitted period of display of a permitted temporary sign.
  - (6) An air-filled or gas-filled balloon sign may be permitted on a lot in lieu of a temporary sign, subject to the provisions above, provided that one is permitted per lot at any given time, and provided that, notwithstanding the provisions of subsection (2) above, an air-filled or gas-filled balloon sign shall not be displayed for more than seven consecutive days and not more than four times in any calendar year.
- (i) A sign which has lettering or other material on both sides of the same surface shall nevertheless be deemed to be a single sign for all purposes under this article.
- (j) The following signs are exempt from the provisions of this article:
  - (1) Governmental signs.
  - (2) Traffic and highway signs placed or erected by a governmental body or agency.
  - (3) Directional signs in or for private off-street parking areas, but any such sign shall not exceed four square feet in area and shall be only for the purpose

of traffic control.

- (4) Essential services signs denoting utility lines, railroads, hazards and the like.
- (5) Signs in the AG agricultural district which only identify the name of a farm or farm owner or crops or livestock on a farm.
- (6) One temporary, unlighted sign advertising the sale or lease of the lands on which it is located.
  - a. Such sign shall not exceed nine square feet in area and five feet in height.
  - b. As to lands which abut more than one street, there may be one such sign for each street which the lands abut.
- (7) One construction sign per project, but such signs shall not exceed 32 square feet in area. Any such sign shall be promptly removed after construction has been completed.
- (8) Decorative signs or displays used temporarily for holidays, patriotic occasions or public, governmental or charitable purposes or events.
- (9) Signs identifying buildings or sites designated as historic landmarks or centennial farms by state or federal agencies.
- (10) Signs or placards posted to control or prohibit hunting or trespassing.
- (11) Memorial signs, tablets or markers.
- (12) Notwithstanding the provisions of this section and its parts, all signs advertising yard or garage sales are subject to the provisions of chapter 50 of the Village Code.
- (k) Unless otherwise stated, no sign shall be located closer than one foot to a public street right-of-way or property line. Except for projecting or awning/canopy signs, no sign shall overhang a public street right-of-way unless otherwise noted. All signs shall have a minimum ground clearance of eight feet above a sidewalk or walkway.

(Ord. No. 2097, § 3, 8-28-2018)

#### Sec. 78-628. - Prohibited signs.

The following types of signs are prohibited in all zoning districts:

- (1) Abandoned signs.
- (2) Air-filled or gas-filled balloon signs, except as permitted in section 78-627(h)(6).
- (3) Animated signs.
- (4) Banners and pennants, except as expressly permitted by this ordinance.
- (5) Portable signs, except as expressly permitted in this article.
- (6) Rotating signs.
- (7) Signs imitating or resembling official traffic or government signs or signals.
- (8) Signs placed on a parked vehicle, unless either: (a) the vehicle is one that is driven during the normal course of business, or (b) the signs are no larger than the windshield or window of the vehicle and the vehicle is offered for lease or sale.
- (9) Roof signs.
- (10) Temporary signs, except as expressly permitted by the article.
- (11) Obscene or offensive signs.
- (12) Billboards.
- (13) Pole mounted signs.
- (14) Flashing or blinking sign.
- (15) Any sign placed in a public street right-of-way.
- (16) Human sign.
- (17) Changeable copy wall sign.

(Ord. No. 2097, § 3, 8-28-2018)

#### Sec. 78-629. - Signs in the AG, RE, R-1, R-2, R-3, R-4 and NR districts.

Signs in the AG agricultural, the RE residential estate single-family, the R-1 low density single-family, the R-2 medium density single-family, the R-3 multiple-family residential, the R-4 mobile home residential and the NR natural river districts shall be permitted only in accordance with this section and other applicable provisions of this chapter.

- (1) Signs may have an area not exceeding 32 square feet for any such signs located on a lot or parcel of land as noted in Schedule A, unless a greater area is approved by the planning commission as a special use under article IV of this chapter. Such signs may be attached flat against a building or may be freestanding. Any freestanding sign shall be a ground sign and shall be located at a minimum setback of 15 feet from the nearest street right-of-way line.
- (2) Signs authorized in this section shall not exceed a height of six feet above grade or as noted in Schedule A.

(3) Each lot, parcel, subdivision or site condominiums shall not be permitted more signs than what is described in Schedule A.

Schedule A: Signs AG, RE, R-1, R-2, R-3, R-4 and NR Districts					
Parcel Size	Sign Type	Max Display Area per sign	Max display for parcel	Maximum Height	Maximum Number of Signs
>1 acre (>43,560 sf)	Ground**	32 sq. ft.	32 sq. ft.	72"	1
	Wall	32 sq. ft.	32 sq. ft.	-	1
	Wireframe*	4 sq. ft.	16 sq. ft.	30"	4
	T - Post	12 sq. ft.	12 sq. ft.	72"	1
½ acre to 1 acre (21,780 sf to 43,560 sf)	Ground**	24 sq. ft.	24 sq. ft.	72"	1
	Wall	20 sq. ft.	20 sq. ft.	-	1
	Wireframe*	4 sq. ft.	12 sf. ft.	30"	3
	T - Post	12 sq. ft.	12 sq. ft.	72"	1
¼ acre to ½ acre (10,870 sf to 21,780 sf)	Ground**	16 sq. ft.	16 sq. ft.	60"	1
	Wall	-	-	-	-
	Wireframe*	4 sq. ft.	8 sq. ft.	30"	2
	T - Post	12 sq. ft.	12 sq. ft.	72"	1
< ¼ acre (< than 10,870 sf)	Ground **	12 sq. ft.	12 sq. ft.	30"	1
	Wall	-	-	-	-
	Wireframe*	4 sq. ft.	8 sq. ft.	30"	2
	T - Post	12 sq. ft.	12 sq. ft.	72"	1

Note: Temporary Signs are not permitted in these Districts per [section 78-627\(h\)](#)

\*Up to three additional wireframe signs are permitted on any parcel 90 days prior to and ten days following an election.

\*\*All ground signs are subject to front yard setback requirement of 15' from right-of-way per [section 78-629\(1\)](#).

(Ord. No. [2097](#), § 3, 8-28-2018)

Sec. 78-630. - Signs in the C-1 central business district.

Signs in the C-1 central business district shall be permitted only in accordance with this section, Schedule B, and other applicable provisions of this article.

(1) Projecting or wall mounted signs per storefront facing a public street or publicly owned parking lot may be permitted subject to the following requirements:

- a. A projecting sign shall not extend more than 48 inches outward from the wall to which it or support frame is attached.
- b. A projecting sign shall not exceed 12 square feet in area.
- c. From the bottom of a projecting sign there shall be at least nine feet but not more than 12 feet of vertical clearance from the ground or sidewalk

surface.

- d. A projecting sign must be affixed to the vertical wall and not on a roof.
- e. A certificate of insurance documenting public liability shall be filed with the sign permit application for all projecting signs permitted by this section that project over a publicly owned sidewalk or right-of-way.

- (2) One wall mounted signs shall be permitted. Area of each sign shall correspond to restrictions in Schedule B.
- (3) Existing ground sign shall be permitted when the building in which a business is located is at least ten feet from a public street right-of-way, when such signs have been approved prior to the effective date of July 23, 2016. Such signs shall not exceed 12 square feet in area per sign face and shall be located at least five feet from a street right-of-way line. Sign height shall not exceed four feet.
- (4) Awnings are permitted on store front walls and may include a sign or logo. Such sign or logo shall not exceed an area of 15 percent of the awning surface area.
- (5) Sandwich-board signs are permitted if they do not exceed two feet in width and four feet in height, do not obstruct pedestrian movement on the sidewalk, are removed when the business is not open and are placed no closer than two feet from the curb line.
- (6) Letter signs on storefront window glass facing a public street, public right-of-way or public parking lot are permitted so long as 85 percent of the entire window glass area remains clear and free from signage.
- (7) Wireframe signs shall not be permitted within the C-1 district.

<b>Schedule B: Signs C-1 Central Business District</b>				
Parcel	Sign Type	Maximum Display Area	Maximum Height	Max. Number of Signs
For all parcels	Wall	Each business establishment with front wall shall be allotted 1 square foot of sign area per linear feet of front wall width. All signs shall not exceed 48 sq. ft. in surface area. *	No higher than wall	1 per business establishment, unless multiple fronts face public streets, publicly-owned parking lots, or public right-of -way.
	Projecting	12 sq. ft.	No higher than wall	1 per business establishment
	Awning/canopy sign	15% awning surface area	N/A	N/A
	Window	15% of window glass area	N/A	N/A
	Freestanding Ground**	Non-conforming per <u>Sec. 78-630(2)</u> . No more signs shall be permitted.	4 feet	1 per business establishment
	Sandwich Board	8 sq. ft.		

Note: Temporary signs are permitted in C-1 District per section 78-627(h). No wireframe signs shall be permitted.

\*i.e. A storefront with 24 linear feet of front wall width would be allotted up to one 24 square foot wall sign. A storefront located on a corner lot with front wall width of 36 linear feet on another street, would be allotted one wall sign on said storefront up to 36 square feet.

A storefront with 50 linear feet of front wall with would be allotted up to one 48 square foot wall sign.

\*\*Ground signs are prohibited per section 78-630(6).

Sec. 78-631. - Signs in the C-2 highway commercial zoning district.

Signs in the C-2 highway commercial district shall be permitted only in accordance with this section and other applicable provisions of this article.

- (1) Each sign shall not exceed the area permitted in tables 78-631(3)-1 and 78-31(3)-2 in square feet in area and shall not exceed 96 square feet in total area of all signs per lot or parcel of land, except exempt directional signs.
- (2) Height of signs in the C-2 highway commercial district shall not exceed the height limits shown in Table 78-631(3)-1 and in Schedule C.
- (3) Dimensions:
  - a. One freestanding ground mounted sign per lot or parcel of land shall be permitted, unless a greater number is approved by the planning commission as a special use under article IV of this chapter. Any freestanding ground sign may be located according to Table 78-631(3)-1 as follows:

TABLE 78-631(3)-1

Setback (feet)	Ground Sign Area (square feet)	Height (feet)
5	24	4
10	30	5
15	40	5.5
20	50	6
25+	60	7

- b. Signs may be attached flat against a building. One wall sign per lot or parcel of land shall be permitted, unless a greater number is approved by the planning commission as a special use under article IV of this chapter. Any wall sign may be located according to Table 78-631(3)-2 as follows:

TABLE 78-631(3)-2

Building Setback (feet)	Wall Sign Area <sup>1</sup> (square feet)
5	24
10	30
15	40
20	50
25+	60

<sup>1</sup> Or remainder of square footage available on lot or parcel of land after all signage has been calculated into total allotted square footage per section 78-631(1).

Schedule C: Signs in C-2 Highway Commercial District					
Parcel Size	Sign Type	Maximum Display Area per Sign	Maximum Display Area per Parcel	Maximum Height	Maximum Number of Signs



> 3 acres	Wall or Ground	Refer to Tables <u>78-631(3)-1</u> and <u>78-631(3)-2</u>			
	Window		15% of window	N/A	N/A
	Wireframe*	4 sq. ft.	16 sq. ft.	30"	4
	T-Post**	32 sq. ft.	32 sq. ft.	72"	1
	Awning/canopy sign	15% awning surface area	N/A	N/A	N/A
1 acre to 3 acres	Wall or Ground	Refer to Tables <u>78-631(3)-1</u> and <u>78-631(3)-2</u>			
	Window		15% of window	N/A	N/A
	Wireframe*	4 sq. ft.	16 sq. ft.	30"	4
	T-Post**	32 sq. ft.	32 sq. ft.	72"	1
	Awning/canopy sign	15% awning surface area	N/A	N/A	N/A
< 1 acre	Wall or Ground	Refer to Tables <u>78-631(3)-1</u> and <u>78-631(3)-2</u>			
	Window		15% of window	N/A	N/A
	Wireframe*	4 sq. ft.	12 sq. ft.	30"	3
	T-Post**	32 sq. ft.	32 sq. ft.	72"	1
	Awning/canopy sign	15% awning surface area	N/A	N/A	N/A

Note: Temporary Signs are permitted in C-2 District per section 78-627(h).

\*Up to three additional wireframe signs are permitted on any parcel 90 days prior to and ten days following an election.

\*\*Up to two additional T-Post signs shall be permitted 90 days prior to and ten days following an election.

Such signs shall not exceed more than 32 square feet in display area and 72" in height.

(4) Business centers.

a. Freestanding sign.

1. Each business center occupying one or more acres of land shall be permitted one on-premises freestanding sign, internally illuminated, when such business center has at least 200 feet of major street frontage.
2. The sign shall be no more than 12 feet in height.
3. The sign may be double-faced and shall not exceed 96 square feet in surface display area per face.
4. The sign shall be setback at least 15 feet from the edge of the right-of-way.
5. The placement of a business center sign shall not result in the reduction in the number of permitted signs or sign area allowed for individual businesses within the business center, but shall result in the prohibition of all other freestanding signs within the business center.

6. Individual signs within the larger "business center" sign shall be simple and easy to read.

b. Wall signs.

1. Each individual business in the business center shall be allowed a sign area of one square foot for each linear foot of street front wall width, not to exceed ten percent of wall area or 40 square feet, whichever is less. For an individual business located within the business center that has a wall that faces more than one right-of-way, such business may have additional wall signs for each wall having frontage on a right-of-way and the area of each wall sign shall be proportionate to the linear feet of frontage on the right-of-way for that wall sign.
2. For an individual business located within the business center that has a wall that faces more than one right-of-way, said business may have a sign on each wall facing each right-of-way.

(4) Letter signs on storefront window glass facing a public street, public right-of-way or public parking lot are permitted so long as 85 percent of the entire window glass area remains clear and free from signage.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-632. - Purpose and intentions of business center signs.

- (a) Business center signs are meant primarily to inform the motoring public of the existence of the center, not to advertise particular products, sales, or detailed descriptions of goods or services offered.
- (b) All signage within a business center shall be unified as to design. Wall signs in the center shall be letter graphic.
- (c) All signs shall be internally illuminated, if illuminated.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-633. - Signs in the I-1 and I-2 zoning districts.

Signs in the I-1 light industrial district and the I-2 heavy industrial district shall be permitted only in accordance with this section and Schedule D and other applicable provisions of this article.

- (1) A ground sign must be setback at least five feet from the nearest right-of way line.
- (2) Ground and wall signs shall not exceed 64 square feet in area per sign and shall not exceed 200 square feet in total area of all signs per lot or parcel of land.
- (3) Ground signs shall not exceed a height of eight feet from grade.
- (4) Wall signs attached flat against a building shall be placed at a height not exceeding the roofline of the building.
- (5) One ground-mounted sign per lot or parcel of land shall be permitted, unless a greater number is approved by the planning commission as a special use under article IV of this chapter.

Schedule D: Signs in I-1 and I-2 Zoning Districts					
Parcel Size	Sign Type	Maximum display per sign	Max Display Area per Parcel	Maximum Height	Maximum Number of Signs
> 3 acres	Wall	64 sq. ft.	64 sq. ft.	N/A	1
	Ground	64 sq. ft.	64 sq. ft.	8 feet	1 (additional signs permitted via Special Land Use per <u>Sec. 78-633(d)</u> )
	Window		15% of window area	N/A	N/A
	Wireframe*	4 sq. ft.	16 sq. ft.	30"	4
	T-Post**	32 sq. ft.	32 sq. ft.	6 feet	1
1 acre to 3 acres	Wall	64 sq. ft.	64 sq. ft.	N/A	1

Ground	64 sq. ft.	64 sq. ft.	8 feet	1 (additional signs permitted via Special Land Use per <u>Sec. 78-633(d)</u> )
Window		15% of window area	N/A	N/A
Wireframe*	4 sq. ft.	16 sq. ft.	30"	4
T-Post	32 sq. ft.	32 sq. ft.	6 feet	1

Note: Temporary Signs are permitted in I-1 and I-2 Districts per section 78-627(h).

\*Up to three additional wireframe signs are permitted on any parcel 90 days prior to and ten days following an election.

\*\*Up to two additional T-Post signs shall be permitted 90 days prior to and ten days following an election. Such signs shall not exceed more than 32 square feet in display area and six feet in height.

(Ord. No. 2097, § 3, 8-28-2018)

#### Sec. 78-634. - Signs in PUD zoning district.

Signs in the planned unit development district shall be permitted only in accordance with this article and other applicable provisions of the chapter. Signs in any PUD shall be located and designed within the PUD site plan. Changes in signage shall require an amendment to the PUD in accordance with section 47-478 of this Code.

(Ord. No. 2097, § 3, 8-28-2018)

#### Sec. 78-635. - Signs for special land use.

Signs in and for special land uses shall be permitted only in accordance with this section and other applicable provisions of this article.

- (1) Signs in and for special land uses in the AG, RE, R-1, R-2, R-3, R-4 and NR districts shall comply with section 78-629, and Schedule A, but subsection (4) of this section shall also apply.
- (2) Signs in and for special land uses in the C-1 and C-2 districts shall comply with section 78-630 and section 78-631, Schedule B and C, but subsection (4) of this section shall also apply.
- (3) Signs in and for special land uses in the I-1 and I-2 districts shall comply with section 78-633 and Schedule D, but subsection (4) of this section shall also apply.
- (4) For signs in or for special land uses specified for approval by the planning commission, the planning commission may approve a modification of the other applicable requirements provided in this article regarding the maximum area of a sign, the maximum total area of signs per lot or parcel of land, the maximum height of freestanding signs and the placement of signs in relation to the street right-of-way, if the applicant satisfactorily demonstrates the following:
  - a. That the modification of such requirements is justified as a result of the nature, size, density, location or design of the special land use, including the design or placement of proposed signs; and
  - b. That the modification of such requirements will not result in traffic or other safety hazards, will not be injurious to the use or enjoyment of nearby property, will not result in visual blight or distraction and will not otherwise result in a detriment to the public health, safety or general welfare.
- (5) Signs for home occupations shall comply with the provisions of section 78-555(f).

(Ord. No. 2097, § 3, 8-28-2018; Ord. No. 2105, § 2, 5-28-2019)

#### Sec. 78-636. - Changeable copy ground signs.

*Changeable copy ground signs.* All or a portion of a ground sign, except a sign that identifies a residential neighborhood or development, may be a changeable copy ground sign in compliance with all of the following requirements:

- (1) A changeable copy ground sign shall be permitted in the following districts as follows:
  - a. AG, RE, R-1, R-2, R-3, R-4, and NR districts: Permitted for a building open to the public, except by special land use.
  - b. C-2 District: Permitted for any use, provided however, there shall be a minimum distance of 100 feet between changeable copy ground signs from

the proposed location to the location of the next closest changeable copy ground sign.

- (2) The area of a changeable copy ground sign shall be included in the maximum sign area limitation. LED changeable copy ground signs shall be constructed to greatly reduce the amount of light cast above the horizontal plane of the top of the LED portion of the sign. The area of a changeable copy ground sign shall not exceed 50 percent of the maximum permitted sign area. Only one changeable copy ground sign shall be permitted per parcel. The changeable copy ground sign shall be equipped with an ambient light sensor to automatically regulate sign brightness.
- (3) A changeable copy ground sign shall not change its text message with such frequency as to be a flashing or oscillating sign, whether in whole or in part. For purposes of this section, a flashing or oscillating sign shall include not only a sign having a message or image that changes with high rapidity, but shall also include a sign having a message or image that changes with a frequency such as to serve as a means of attracting attention to the sign or the land use, rather than for the purpose of providing identification or information. The text message of a changeable copy sign shall change no more frequently than two seconds and each change shall occur in one second or less.
- (4) The text message of a changeable copy ground sign shall, when changing, appear only in its entirety. The text message shall not appear to flash, move from the center of the sign outward, move from the corners of the sign inward or demonstrate any other unusual movement, oscillation or method of appearance.
- (5) A changeable copy ground sign shall not display greater than 5000 Nits during daylight hours, and a maximum of 150 Nits from dusk until dawn. The nit level shall be measured at sign's face during maximum brightness. The Zoning Administrator shall be permitted to apply a similar but equal level of luminance measurement for the above provision in this section including, but not limited to, candela.

(Ord. No. 2097, § 3, 8-28-2018)

Sec. 78-637. - Non-conformance.

- (a) *Intent.* It is the intent of this section to encourage eventual elimination of signs that as a result of the adoption of this article become non-conforming, to administer this article to realize the eventual removal of illegal non-conforming signs, to avoid any unreasonable invasion of established private property rights and to adopt regulations on the limited alteration or provisional relocation of certain non-conforming signs, in particular circumstances. This section includes specific, detailed provisions regarding non-conforming signs, and accordingly, in the event of a conflict between the provisions of this section and other portions of this ordinance, the provisions of this section shall control.
- (b) *Lawful existing signs.* A sign lawfully existing at the time of the adoption of these provisions which does not fully comply with the provisions of this article or other relevant provisions of this ordinance shall be deemed a lawful non-conforming sign and may be permitted to remain if the sign is properly maintained and if it has no serious adverse effects on the public health, safety and general welfare, except as otherwise stated in this section.
- (c) *Continuance of non-conforming signs other than billboards.* This subsection (c) regulates only non-conforming signs that are not billboards, and accordingly, references in this subsection to signs do not include billboards.
  - (1) A non-conforming sign shall not be enlarged or expanded in area, increased in height or changed to another non-conforming sign, in whole or in part.
  - (2) A non-conforming sign shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, whether on the same parcel of land or on another parcel of land.
  - (3) A non-conforming sign shall not be structurally rebuilt or reconstructed to such extent as will prolong the useful life of the sign; or so as to change the shape, size, type, placement or design of the structural elements of the sign; or in order to add illumination, whether by the addition of additional sources of light or by the increase in the intensity of existing light sources.
  - (4) A non-conforming sign shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the sign, within any 12-month period, would cost more than 60 percent of the cost of an identical new sign. In evaluating evidence presented as to the cost of an identical new sign, the village may require the submission of cost estimates from multiple suppliers or contractors or other reliable proof of such cost.
  - (5) A non-conforming sign shall not be altered or revised, provided, however, that the following actions with respect to a non-conforming sign shall be permitted: normal and usual maintenance; the changing of the sign surface area to a lesser or equal area, but a static display face of a non-conforming sign shall not be changed to a changeable copy display face, in whole or in part; the replacement of landscaping below the base of the sign; or the changing of the sign's background, letters, figures, graphics or other characters.
  - (6) A non-conforming sign shall not be changed, altered, revised or reconstructed so as to be or constitute a changeable sign, in whole or in part.
- (d) *Continuance of non-conforming billboards.* This subsection (d) regulates only non-conforming billboards. Non-conforming signs that are not billboards are regulated by subsection (c) above.
  - (1) A non-conforming billboard shall not be enlarged or expanded in area or increased in height, in whole or in part.
  - (2) A non-conforming billboard shall not be changed to another non-conforming billboard or another non-conforming sign.
  - (3) A non-conforming billboard shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, on the same parcel of land. A non-conforming billboard may not be relocated, re-erected or re-installed on a different parcel of land.
  - (4) A non-conforming billboard shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the billboard, within any 12-month period, would cost more than 60 percent of the cost of an identical new billboard. In evaluating evidence presented as to the cost of an identical new billboard, the village may require the submission of cost estimates from multiple suppliers or

contractors or other reliable proof of such cost.

- (5) A non-conforming billboard shall not be altered or revised; provided, however, that the following actions with respect to a non-conforming billboard shall be permitted: normal and usual maintenance; the changing of the billboard surface-area to a lesser or equal area (but changing the billboard surface-area from a static surface-area to a changeable copy sign, in whole or in part, shall not be permitted); the replacement of landscaping below the base of the billboard; or the changing of the billboard's background, letters, figures, graphics or other characters (but such alterations shall not cause the background, letters, figures, graphics or other characters to become a changeable sign configuration).
- (6) A non-conforming billboard shall not be changed, altered, revised or reconstructed so as to be or constitute a changeable copy ground sign, in whole or in part.
- (7) A non-conforming billboard shall not be altered or revised so as to extend the useful life of such billboard.

(Ord. No. 2097, § 3, 8-28-2018)

Secs. 78-638—78-660. - Reserved.

ARTICLE VIII. - PARKING AND LOADING SPACES

*Footnotes:*

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**Cross reference**— *Parking, § 66-121 et seq.*

Sec. 78-661. - Purpose and intent.

The intent of this article is to ensure sufficient land area out of the public right-of-way set aside for the temporary storage or parking of motor vehicles to avoid vehicle congestion and parking on roadways. As such, no parking space required herein shall be located in, or encroach upon, any public right-of-way unless otherwise noted. Additionally, this article is intended to preclude "over-parking" and excessive parking area pavement, which can undermine the small-town character of the village and cause storm-water runoff issues.

Sec. 78-662. - Scope.

In all zoning districts, off-street facilities for the temporary storage or parking of motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this chapter, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this chapter for all new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means as applicable, additional off-street parking shall be provided commensurate with such increase in intensity of use.

Sec. 78-663. - Maximum parking spaces required.

In all zoning districts, there shall be provided before any building or structure is occupied or enlarged or increased in capacity, the maximum number of off-street parking spaces for motor vehicles as follows, subject to section 78-664:

#	CATEGORY	DESCRIPTION	REQUIREMENT
1	Residential	One- or two-family	2 for each dwelling unit
2	Residential	Multiple-family, one or two bedrooms	2 per dwelling unit
3	Residential	Multiple-family, three or more bedrooms	2 per dwelling unit
4	Residential	Homes for the elderly	1 for each 3 beds
5	Institutional	Church and other places of worship	1 for each 4 seats in the main worship area
6	Institutional	Hospital	2 per patient bed
7	Institutional	Nursing homes, sanitariums, convalescent homes	1 for each 2 beds, plus 1 per employee during the maximum shift

8	Institutional	Elementary and junior high school	2 per classroom, plus 1 for each 300 square feet of administrative office area, plus 1 for each 4 seats or 8 feet of bench for an auditorium and/or stadium
<u>9</u>	Institutional	Senior high school and institution of higher learning	7 per classroom, plus 1 for each 300 square feet of administrative office area, plus 1 for each 4 seats or 8 feet of bench for an auditorium and/or stadium
10	Institutional	Day care centers	1 per employee, plus 1 for each 10 care recipients
<u>11</u>	Institutional	Private clubs and lodges	1 for each 5 active members and 1 for each employee with a minimum of 1 for each 100 square feet of floor area
12	Institutional	Theaters, auditoriums, and stadiums	1 for each 4 seats or 8 feet of marked bench
13	Institutional	Community center	1 for each 100 square feet of assembly floor area
14	Institutional	Libraries, museums, post office	1 for each 100 square feet of floor area
15	Business and commercial	Retail stores, supermarkets, department stores, personal service shops	1 per each 400 square feet of floor area
16	Business and commercial	Lodging, rooming and boardinghouses, bed and breakfast establishments	2 for each 3 guest rooms or each 6 beds for guests, whichever amount is greater
17	Business and commercial	Hotels/motels	1 per unit, plus 1 for each 3 seats in any dining or meeting room facilities
18	Business and commercial	Bowling alleys	8 per alley
19	Business and commercial	Establishments for the sale and consumption of beverages, food or refreshments on the premises	1 for each 3 seats
20	Business and commercial	Mortuaries or funeral homes	1 for each 50 square feet of floor area used for services
21	Business and commercial	Marinas	2 for each slip or mooring
<u>22</u>	Business and commercial	Drive-in restaurants or similar drive-in uses for the sale of food, beverages or refreshments	1 for each 100 square feet, plus 1 for each 3 employees
23	Offices	Banks, business offices, and public buildings not specifically mentioned elsewhere	1 for each 300 square feet of floor area
24	Offices	Offices and buildings	1 for each 300 square feet of floor area
25	Offices	Medical doctors office or dental clinic	8 for each doctor, plus 1 for each employee
26	Offices	Business or offices, research laboratories and/or similar uses that do not cater directly with the general public	1 for each employee on the maximum shift or peak employment period

27	Industrial	Manufacturing, processing and fabricating, manufacturing buildings and/or business offices and/or research laboratories and/or other facilities related, but not necessarily connected to, a manufacturing or industrial building	1 employee space for every 1.3 employees on all shifts, plus 1 visitor space for every 50 employees on the maximum shift, plus 1 fleet parking space for each vehicle in the company fleet
28	Industrial	Warehousing	1 per 600 square feet of floor area, plus additional 1 per 200 square feet for offices
29	Industrial, commercial	Mini storage	5 per premises, plus 1 for each 5 storage bays

(Ord. No. 2086, § 32, 7-12-2016)

Sec. 78-664. - Quantity of parking spaces.

The number of parking spaces required on a site shall be determined based on the requirements above. The requirements above reflect the actual requirement and a maximum. Where the requirements indicate a certain number of spaces "per employee," it shall mean the total number of employees working in the largest shift.

The planning commission or zoning administrator may increase or decrease the requirements of section 78-663 upon request of an applicant, up to 30 percent of the required number of spaces. The applicant shall submit, in writing, justification for the proposed adjustment. Modifications shall not result in inadequate parking area; large, unwarranted amounts of unused parking space; or a reduction in critical open space or natural features. In addition, in approving any request to modify the parking standards, the planning commission or zoning administrator must find that the proposed quantity of parking spaces would preserve the small-town character of the village, be consistent with the purpose and intent of this article, and protect the public health, safety and welfare.

Sec. 78-665. - Joint use of facilities.

Provision of common parking facilities for several uses in the same vicinity is encouraged. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces may be up to 50 percent less than the requirements for the several individual uses computed separately. The maximum joint requirements will be less than the total cumulative individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses, as determined by the zoning administrator or planning commission.

Sec. 78-666. - Location of facilities.

Off-street parking facilities shall be located as hereafter specified. When a distance is specified, it shall be the distance measured from the nearest point of the parking facility to the nearest normal entrance to the building or use that such facility serves.

- (1) All off-street parking facilities required by this article shall be of adequate size and design to provide safe ingress and egress to all parking spaces.
- (2) For all residential buildings and for all nonresidential buildings and uses in residential zoning districts, required parking shall be provided on the lot where the building or use is located.
- (3) For commercial and all nonresidential buildings and uses in commercial and industrial zoning districts, required parking shall be provided within 400 feet of the building or use.

(Ord. No. 2086, § 33, 7-12-2016)

Sec. 78-667. - Minimum parking and maneuvering lane.

- (a) For the purpose of this chapter, the average parking area consisting of one parking space with maneuvering lane shall be deemed to be 300 square feet.
- (b) Minimum parking and maneuvering areas must be designed in accordance with the following schedule:

MINIMUM PARKING SPACE MANEUVERING STANDARDS						
Parking Pattern	Maneuvering Lane Width in Feet		Parking Space Length in Feet		Total Width of Two Tiers Plus Lane in Feet*	
	1-way	2-way	Length (1)	Length (2)	1-Way	2-Way

Parallel	<u>11</u>	18	<u>9</u>	25	29	36
30 to 50 Deg.	12	20	<u>9</u>	21	55	<u>62</u>
51 to 74 Deg.	13	<u>22</u>	<u>9</u>	20	55	<u>62</u>
75 to 90 Deg.	15	24	<u>9</u>	19	55	<u>62</u>

\* The total width of a two-tier parking spaces plus a maneuvering lane is commonly referred to as a parking bay.

- (1) Measured perpendicular to the space centerline.
- (2) Measured along the space centerline.

(Ord. No. 2110, § 6, 9-24-2019)

Sec. 78-668. - Requirements for parking areas.

Every parcel of land established as an off-street public or private parking area for more than five vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for multiple dwellings, businesses, public assembly and institutions, shall be developed and maintained in accordance with the following requirements:

- (1) The parking lot and its driveways shall be effectively screened on each side which adjoins or faces premises situated in any residential zoning district, with a greenbelt ten feet in width landscaped with lawn and low shrubbery clumps backed up by a solid planting of evergreen trees at least five feet in height and five feet wide after one growing season, or a solid wall or tight board fence at least six feet in height.
- (2) The parking lot and its driveway shall be designed to provide adequate drainage, surfaced with concrete or asphalt pavement, and maintained in good condition, free of dust, trash and debris.
- (3) The parking lot and its driveways shall not be used for repair, dismantling, or servicing of any vehicles.
- (4) The parking lot shall be provided with entrances and exits so located as to minimize traffic congestion.
- (5) Lighting facilities shall be so arranged as to reflect light away from adjoining properties.
- (6) No part of any public or private parking area regardless of the number of spaces provided, shall be closer than ten feet to a street right-of-way.

Sec. 78-669. - Miscellaneous off-street parking requirements.

- (a) Off-street parking, existing at the effective date of the ordinance from which this chapter is derived, which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this chapter.
- (b) Fractional requirements. When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one full required space.
- (c) The off-street parking requirement for all land uses not specifically mentioned in this chapter shall be the off-street parking requirement for the land use specifically mentioned which is most similar in parking demand to that of the use not specifically mentioned. The off-street parking requirement for mixed uses in the same building shall be the amount of parking space required for each use therein, except that the number of off-street parking spaces required for permitted public and private schools shall be deemed to include parking spaces applicable to any auditoriums or churches incidental to and included as a part of any such public or private schools.
- (d) Floor area shall mean the gross floor area of all floors of a building as defined in section 78-6.
- (e) The C-1 central business zoning district may be exempt from the parking requirements of this article, with respect to the number of required spaces.

Sec. 78-670. - Off-street loading spaces.

For every building or addition to an existing building erected to be occupied by storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition:

- (1) An area or means adequate for maneuvering of delivery vehicles and ingress and egress for delivery vehicles; and as follows:
  - a. Up to 20,000 square feet of floor area requires one loading space;
  - b. Twenty thousand square feet or more but less than 50,000 square feet of floor area requires two loading spaces; and
  - c. One additional loading space for each additional 50,000 square feet of floor area or fraction thereof.
- (2) Each loading space shall be at least ten feet in width, 35 feet in length and 14 feet in height. No such space shall be located closer than 50 feet to any



lot or parcel of land in any residential zoning district.

Sec. 78-671. - Bicycle parking.

- (a) Ten percent of the automobile parking provided shall be in the form of bicycle parking.
- (b) Bicycle parking shall be located on paved or pervious, dust-free spaces, and shall be a minimum of two feet by six feet. Bicycle parking shall be located in a convenient and visible area, and within 100 feet of building entries, when possible.
- (c) All bicycle parking facilities shall be securely anchored to the surface so they cannot be easily removed and shall be of sufficient strength to resist vandalism and theft.
- (d) All bicycle parking facilities shall support bicycles by at least two contact points on the bicycle to prevent the bicycle from falling over and to prevent damage to wheels, frame, or other components.
- (e) All bicycle parking facilities within vehicle parking areas shall be separated by a curb or other physical barrier to protect bicycles from damage by automobiles and other moving vehicles.
- (f) Existing municipal bicycle parking facilities located within 400 feet of the proposed use may be counted towards the bicycle parking facilities requirement.
- (g) Short-term bicycle parking facilities are subject to and shall meet all the following requirements:
  - (1) The facilities shall be located at least three feet away from any wall, fence, or other structure.
  - (2) When multiple short-term bicycle parking facilities are installed together in sequence, they shall be installed at least three feet apart and located in a configuration that provides space for parked bicycles to be aligned parallel to each other.
  - (3) The facilities shall be installed in a clear space at least two feet in width by six feet in length to allow sufficient space between parked bicycles.

(Ord. No. 2086, § 34, 7-12-2016)

Secs. 78-672—78-700. - Reserved.

#### ARTICLE IX. - NONCONFORMING USES OF LAND, BUILDINGS, AND STRUCTURES

##### Footnotes:

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**Cross reference**— *Buildings and building regulations, ch. 14.*

Sec. 78-701. - Intent.

It is the intent of this article to provide for regulations governing lots, buildings, structures, and uses of land and structures, which were legal before the zoning ordinance was enacted, that would be prohibited under provisions of this article. It is the intent of this article to permit these uses, buildings, structures and lots to continue as they exist until the nonconformity is discontinued or removed.

Sec. 78-702. - Nonconforming use of land or structure.

- (a) Where, on the date of adoption of the ordinance from which this article is derived, a lawful principal use of a lot or parcel exists but is no longer permissible under terms of such ordinance, such principal use may continue so long as it remains otherwise lawful. A change in ownership shall not interfere with this provision.
- (b) Nonconforming uses shall not be changed to another nonconforming use.
- (c) Nonconforming uses shall not be enlarged, expanded, increased, or added to in any manner as to increase the nature of the nonconformity, including but not limited to increasing land coverage, outdoor display or storage area, signs or other advertising or identification display, or installing new equipment relating to such land use.
- (d) Nonconforming uses shall not be reestablished if abandoned in accordance with section 78-707.
- (e) The zoning board of appeals is hereby empowered to consider any request to expand a nonconforming use. The board shall not grant approval to any request to expand a nonconforming use, unless the board concludes the proposed change conforms to the following standards:
  - (1) The proposed change is more conforming to the intent of this chapter;
  - (2) The proposed use modification complies as nearly as possible with the requirements of this chapter;
  - (3) The proposed change will not interfere with or cause adverse impact to any adjoining property; and
  - (4) The change is the minimum necessary to provide relief from a demonstrated practical difficulty experienced by the property owner.

Sec. 78-703. - Nonconforming buildings and structures.

- (a) Nonconforming single-family dwellings may be altered, expanded, or remodeled, provided that such alteration or expansion shall not increase the extent of nonconformity and shall satisfy all requirements imposed in this chapter. An addition or expansion of a dwelling shall not encroach a required front,

side, or rear yard setback, except as may be allowed by variance issued pursuant to section 78-705.

- (b) All nonconforming buildings and structures, other than those occupied as a single-family dwelling, shall not be altered, expanded, or remodeled without approval of the zoning board of appeals. The zoning board of appeals shall not approve any structural alteration or expansion unless all standards of subsection 78-702(e)(1)–(4) are met. If the zoning board of appeals concludes that the standards of subsection 78-702(e)(1)–(4) will be met, then the board shall require all means reasonable and practical to minimize the increase in the nonconformity of the building or structure. In no case shall the board of appeals approve an expansion into a required front yard setback along Arlington Street, Broadway Street, East or West Main Street, State Street, Grand Rapids Street, West State Road, or State Highway M-37. In all other cases, expansion into the required front setback shall not be permitted unless the applicant clearly demonstrates no other alternative is available on the premises. Expansion may be permitted into a side or rear yard if the board of appeals concludes the standards of subsection 78-702(e)(1)–(4) have been met.
- (c) Whenever a nonconforming building or structure is permitted to expand or enlarge in any manner, all portions of the building shall have common exterior finish and the entire building shall be brought into conformance with the building code in effect within the village.

Sec. 78-704. - Reestablishment of nonconforming buildings and structures.

- (a) Nonconforming buildings and structures, including signs, shall not be reestablished except in a conforming condition after damage or destruction, regardless of the cause, if the estimated costs of repair and reconstruction exceed 50 percent of the current fair market value of the building or structure. The Thornapple Township assessor shall determine fair market value of the building or structure, as if in good condition and of the same age. The owner will provide a construction cost estimate to the village for complete repair and reconstruction. The zoning administrator, using information from the township assessor, the owner and other sources shall determine in writing whether the repair costs exceed 50 percent of market value. Persons aggrieved by the zoning administrator's decision may appeal to the zoning board of appeals in accordance with section 78-788(1).
- (b) In cases where the cost of repair or reconstruction does exceed 50 percent, the nonconforming building or structure shall not be replaced unless in full compliance with the terms of this Code, and absent any nonconformity. Persons aggrieved by the zoning administrator's decision may appeal to the zoning board of appeals in accordance with section 78-788(1).

(Ord. No. 2086, § 35, 7-12-2016)

Sec. 78-705. - Nonconforming lots of record.

- (a) Where the owner of a single, lawful nonconforming lot of record in existence at the effective date of the ordinance from which this article is derived does not own sufficient land to enable conformance with requirements of this chapter relating to lot width, lot area, or both, such lot of record may be used as a building site, provided that requirements of this article are met to the extent reasonable and practical. The zoning administrator may permit a variance of required side yard and/or rear yard setback for the principal building to be placed on a legal, nonconforming lot of record of up to one-half the setback requirement. Any other variance from the requirements of this chapter shall require review and approval by the zoning board of appeals.
- (b) Prior to granting a side yard or rear yard variance on a lot of record, the zoning administrator shall notify all owners of property and/or occupants within 300 feet of the subject parcel, based on the most recent tax assessment roll. The notice shall state the proposed construction, nature of the variance, and offer an opportunity for objection within ten days of the date of mailing such notice. If a written objection to the variance is filed with the zoning administrator, the zoning administrator shall refer the matter to the zoning board of appeals for a final decision.
- (c) Lawfully created nonconforming lots of record may not be divided except in conformance with terms and requirements of this section.

Sec. 78-706. - Maintenance of nonconforming buildings and structures.

All nonconforming buildings and structures within the village shall be maintained in accordance with the building and maintenance codes in effect in the village and all exterior walls and doors kept in good condition, without peeling paint, unfinished siding, and other conditions reflecting lack of proper maintenance. Windows shall have glass in each pane and shall not be covered on their exterior with plywood or other materials.

Sec. 78-707. - Abandonment.

Any nonconforming use, or nonconforming use of structure and premises in combination, shall be considered abandoned and such use shall not be resumed thereafter if any of the following conditions apply:

- (1) When the owner declares or otherwise makes evident his intent to discontinue such use as existed at the time of adoption of this chapter or an amendment to this chapter.
- (2) When the nonconforming use, or nonconforming use of structure and land in combination, has been replaced by a conforming structure or use.
- (3) The cessation of the nonconforming use, or nonconforming use of structure and land in combination, for a period of 90 consecutive days shall result in a rebuttable presumption of the owner's and any lawful occupant's intent to permanently discontinue and abandon the nonconforming use, or nonconforming use of structure and land in combination. At any time after said 90-consecutive-day period, the zoning administrator may notify the owner and any occupants in writing of said presumption and such writing shall provide the owner and any occupants at least 30 days to rebut the presumption in writing addressed and delivered to the zoning administrator by certified mail with a return receipt. If the owner and occupants fail to provide written evidence rebutting the presumption within said 30-day period, the owner's and occupant's intent to discontinue and abandon the

nonconforming use, or nonconforming use of structure and land in combination, shall thereby be established. The notice from the zoning administrator shall be sent by certified mail, with a return receipt, to the owner and any occupants at the mailing address of the owner listed on the village tax rolls and at the street address of the property in question if a building with an address exists at said location.

Secs. 78-708—78-740. - Reserved.

#### ARTICLE X. - FLOOD HAZARD AREAS

Sec. 78-741. - Intent and purpose.

- (a) It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the village, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesignated at 44 FR 31177 May 31, 1979.
- (b) Further, the objectives of this article include:
  - (1) The protection of human life, health and property from the dangerous and damaging effects of flood conditions;
  - (2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
  - (3) The prevention of private and public economic loss and social disruption as a result of flood conditions;
  - (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage;
  - (5) To ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and
  - (6) To preserve the ability of floodplains to carry and discharge a base flood.

Sec. 78-742. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Area of special flood hazard* means land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as zone A.

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

**Cross reference**— Definitions generally, § 1-2.

Sec. 78-743. - Delineation of the flood hazard area overlay zone.

- (a) The flood hazard area zone shall overlay existing zoning districts delineated on the official village zoning map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas of special flood hazards (A zones) designated by the Federal Insurance Administration in the flood hazard boundary map (FHBM) No. H01, dated July 18, 1975, and amendments thereto, which are adopted by reference, appended, and declared to be a part of this article. The term "flood hazard area" as used in this article, shall mean the flood hazard area zone.
- (b) Where there are disputes as to the location of a flood hazard area zone boundary, the board of zoning appeals shall resolve the dispute in accordance with article XI of this chapter.
- (c) In addition to other requirements of this article applicable to development in the underlying zoning district, compliance with the requirements of this

article shall be necessary for all development occurring within the flood hazard area zone. Conflicts between the requirements of this article and other requirements of this chapter or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article to a greater extent than the requirements of this article. In such cases the more stringent requirement shall be applied.

Sec. 78-744. - Development permit.

Development, including the erection of structures and placement of mobile homes within a flood hazard area zone, shall not occur except upon issuance of a zoning compliance permit in accordance with the requirements of [section 78-833](#) and the following standards:

- (1) The requirements of this article shall be met.
- (2) The requirements of the underlying zoning district and applicable general provisions of this article must be met.
- (3) All necessary development permits shall have been issued by appropriate local, state and federal authorities, including a floodplain permit, approval, or letter of no authority from the state department of natural resources under authority of Part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.). Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

Sec. 78-745. - General standards for flood hazard reduction.

- (a) All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:
  - (1) Be designed and anchored to prevent flotation, collapse or lateral movement of the structure;
  - (2) Be constructed with materials and utility equipment resistant to flood damage; and
  - (3) Be constructed by methods and practices that minimize flood damage.
- (b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.
- (c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- (d) All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- (e) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (f) The village zoning inspector or his representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his determination to the zoning administrator.
- (g) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this article.
- (h) The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.
- (i) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

Sec. 78-746. - Specific base flood elevation standards.

- (a) On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:
  - (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to above the base flood level.
  - (2) All new construction and substantial improvements of nonresidential structures shall have either:
    - a. The lowest floor, including basement, elevated to or above the base flood level; or
    - b. Floodproofed to or above the base flood level.
- (b) The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

Sec. 78-747. - Mobile home standards.

All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:

- (1) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that on mobile homes less than 50 feet in length one tie per side shall be required.
- (2) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on mobile homes less than 50 feet in length four ties per side shall be required.
- (3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
- (4) All additions to a mobile home shall be similarly anchored.

## Sec. 78-748. - Disclaimer of liability.

- (a) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage.
- (b) This article does not imply that areas outside the flood hazard area will be free from flood damage. This article does not create liability on the part of the village or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

## Sec. 78-749. - Supplemental administrative duties of the zoning inspector.

- (a) With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area zone as prescribed in section 78-743, the duties of the zoning inspector shall include, but are not limited to:
  - (1) Notification to adjacent communities and the department of natural resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
  - (2) Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of floodproofed structures, the elevation to which the structure was floodproofed; and
  - (3) Recording of all certificates of floodproofing.
- (b) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the zoning inspector and shall be open for public inspection.
- (c) It shall be the responsibility of the zoning inspector to obtain and utilize the best available flood hazard data for purposes of administering this article in the absence of data from the Federal Insurance Administration.

## Sec. 78-750. - Application information.

In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this chapter, the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:

- (1) Where floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed;
- (2) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
- (3) Proof of development permission from appropriate local, state, and federal agencies as required by section 78-744, including a floodplain permit approval, or letter of no authority from the state department of natural resources under authority of Part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.);
- (4) Base flood elevation data where the proposed development is subject to Public Act No. 288 of 1967 (MCL 560.101 et seq.) or greater than five acres in size; and
- (5) Additional information which may be reasonably necessary to determine compliance with the provisions of this article.

## Sec. 78-751. - Variances.

- (a) Variances from the provisions of this article shall only be granted by the board of zoning appeals upon a determination of compliance with the general standards for variances contained in the chapter and each of the following specific standards:
  - (1) A variance under this article shall be granted only upon:
    - a. A showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - c. A determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
  - (2) The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
- (b) The village board of zoning appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this chapter.
- (c) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places, without regard to the requirements of this section governing variances in flood hazard areas.

## Secs. 78-752—78-780. - Reserved.

## ARTICLE XI. - BOARD OF ZONING APPEALS

*Footnotes:*

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**Cross reference**— *Administration, ch. 2.*

## Sec. 78-781. - Creation.

A board of zoning appeals is hereby created. Such board shall consist of five members, and may consist of two alternates, appointed by the village council. Regular and alternate members shall be registered electors of the village, provided that no elected officials of the village, nor any employee or contractor of the village, may serve as a member of the board except as provided herein. One of the regular members of the board shall be a member of the village planning commission. One regular member may be a member of the village council, but that member shall not serve as chairperson of the board of zoning appeals. The board shall elect one of its members as chairperson and one of its members as secretary.

## Sec. 78-782. - Appointment and terms.

Initially, one member of the board shall be appointed for a term of three years, two members shall be appointed for a term of two years each, and two members shall be appointed for a term of one year each. Thereafter, each member, when appointed, shall have a term of three years. Alternates shall be appointed for three year terms.

## Sec. 78-783. - Election of officers.

Members of the board may be removed at the pleasure of the village council. Any vacancy on the board shall be filled by the village council for the remainder of the unexpired term. An alternate member of the board may be called to serve if the regular member is unable to attend or has abstained for reasons of conflict of interest. An alternate member appointed in a case shall serve in that case until a final decision is made. An alternate member shall vote and otherwise have all of the authority and responsibility of a regular member.

## Sec. 78-784. - Duties of officers.

The duties of officers of the board of zoning appeals shall include the following: The chairperson shall call to order and preside over all lawful meetings of the board of zoning appeals. The vice-chairperson shall call to order and preside over board of zoning appeals meetings in the absence of the chairperson. The secretary shall faithfully record and transcribe the minutes of all board of zoning appeals meetings and shall sign all board of zoning appeals minutes to certify that they have been adopted as written by the board of zoning appeals. The secretary shall also provide typed original copies of all proposed and adopted board of zoning appeals minutes to the village clerk for safekeeping and public inspection at the village offices. The secretary shall also provide copies of proposed and approved board of zoning appeals minutes to the village manager, or the village manager's designated staff recipient, for distribution to members of the village council and to other members of the board of zoning appeals. The secretary shall so transcribe and distribute copies of all proposed and approved board of zoning appeals minutes in accordance with law. The secretary shall also, in a timely fashion, report in writing to the village manager, or the village manager's designee, the attendance record of each board of zoning appeals member over the previous board of zoning appeals pay period for purposes of calculating compensation due to each board of zoning appeals member for their valuable services rendered on behalf of the village.

## Sec. 78-785. - Compensation.

Members of the board of zoning appeals are entitled to fair compensation for their valuable services rendered on behalf of the village. Accordingly, members of the board of zoning appeals shall be paid fair compensation as set and adjusted from time to time by the village council.

## Sec. 78-786. - Required hearings.

Meetings of the board of zoning appeals shall be open to the public and shall be at the call of the chairperson and at such other times as the board shall specify in its rules of procedure. No less than three of the regular members of the board of appeals must be present to constitute a quorum for the conduct of business.

## Sec. 78-787. - Vote required.

A majority of the members of the board of zoning appeals shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of an applicant on any matter upon which they are required to pass under this chapter, or to effect a variation in this chapter, except that a concurring vote of two-thirds of the members of the board of zoning appeals shall be necessary to grant a variance from uses of land permitted in this chapter.

## Sec. 78-788. - Granting of variances.

Subject to the provisions of this article, the board of zoning appeals, after a public hearing, shall have the power to decide applications for variances filed as provided in this section.

- (1) Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the zoning administrator or other administrative office in the carrying out or enforcement of the provisions of this chapter.
- (2) Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties or would cause undue hardships.
- (3) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings or structures so that the spirit of this article shall be observed, public safety secured, and substantial justice done.

Sec. 78-789. - Standards for variance approval.

No variance in the provisions or requirements of this chapter shall be authorized by the board unless the board of zoning appeals makes findings, based upon competent material and substantial evidence on the whole record, as to each of the following matters: As to a dimensional variance, being a variance regarding the dimensional characteristics of a lot, parcel or property or a variance because of exceptional topographic or other conditions of the land, buildings or structures, the board must make findings as to each of the following matters based on no less than three concurring votes. As to a use variance, being a variance from the provisions or requirements of this chapter because of the actual or proposed use of the property requested by the applicant, no less than four concurring members of the board of appeals must find that based on competent material and substantial evidence on the whole record all of the following exist:

- (1) That the enforcement of the literal requirements of this chapter would cause unnecessary hardship, as to a use variance, or practical difficulties, as to a dimensional variance.
- (2) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (3) That literal interpretation of the provisions of this chapter would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (4) That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this chapter.
- (5) That the special circumstances or conditions referred to in subsection (2) do not result from the actions of the applicant.

Sec. 78-790. - Exception.

In authorizing a variance or exception, the board of zoning appeals may, in addition to the conditions of approval called for in this article, attach thereto such other conditions regarding the location, character, landscaping or treatment of the use, or as to other matters, reasonably necessary to carry out the intent and spirit of this article and the protection of the public interest.

Sec. 78-791. - Procedure.

- (a) Applications or appeals under this article shall be taken by the filing of a notice of application or appeal with the village clerk specifying the grounds thereof. The clerk shall transmit to the board the application and all the papers constituting the record from which the application or appeal was taken.
- (b) When a notice of appeal has been filed in proper form with the village clerk, the clerk shall immediately place such request for appeal on the calendar for hearing and shall cause notice to be provided in the manner specified in section 78-8. The board of zoning appeals may recess such hearing from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice thereof shall be required.
- (c) The board of zoning appeals may reverse or affirm wholly or partly or may modify the order, requirements, decision or determination as in its opinion ought to be made in the matter, and to that end shall have all the powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit. The grounds of each determination of the board of zoning appeals shall be stated in its minutes.
- (d) The decision of the board of zoning appeals is final. Any person aggrieved by a decision of the board may appeal to circuit court, as provided by law.
- (e) Reserved.

Sec. 78-792. - Decisions.

The board of zoning appeals shall decide all applications and appeals within ten days after the final hearing. A copy of the board's decision shall be transmitted to the applicant or appellant, and to the zoning administrator and building inspector. Such decision shall be binding upon the zoning administrator and building inspector and shall be observed by them. A decision of the board shall not become final until the expiration of five days from the date such decision is made, unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

Sec. 78-793. - Stay of appeals.

An appeal to the board of zoning appeals shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator and/or building inspector certifies to the board after notice of appeal shall have been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the board, or by the circuit court on application, after notice to the zoning administrator and/or building inspector.

Sec. 78-794. - Expiration of variances.

Any variance granted by the board of appeals shall automatically become null and void after a period of one year from the date granted unless the applicant shall have taken substantial steps toward effecting the variance within such period; however, the board of zoning appeals may extend such period for a further period of time not exceeding one year upon application and without further notice.

Secs. 78-795—78-830. - Reserved.

## ARTICLE XII. - ZONING CODE ADMINISTRATION AND PERMIT ENFORCEMENT

### Footnotes:

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**Cross reference**— Administration, ch. 2.

Sec. 78-831. - Zoning administration.

The provisions of this chapter shall be administered and enforced by the zoning administrator and shall be enforced by the village council or its designee.

Sec. 78-832. - Duties of the zoning administrator and building inspector.

(a) *Zoning administrator.*

(1) It is hereby provided that the provisions of this section shall be administered and enforced by the zoning administrator and designees of the same.

The zoning administrator shall, among other duties, interpret this chapter, and issue all permits and notice of violations, except building permits, provided for in this chapter.

(2) Any use, use of land, activity, structure, or development activity not expressly allowed by this chapter is prohibited. An individual may apply to the planning commission for consideration of an amendment to this chapter to include a proposed use in one or more of the zoning districts of this chapter, either as a permitted use or a special land use in accordance with the provisions of sections [78-541](#) through [78-547](#). At their option and discretion, the planning commission and village council may consider an amendment to this chapter, but are not required to do so.

(b) *Building inspector.* The building inspector serving the village shall be responsible to issue permits for the erection or structural alteration of any building or sign as well as the issuance of an occupancy permit for any building or land. The building inspector shall not issue a permit where the proposed erection, structural alteration or use thereof would be in violation of any of the provisions of this chapter except under written order of the board or the council.

(1) *Violations.* The building inspector shall investigate any alleged violation of this chapter under their responsibility whether by complaint or arising from their own personal knowledge. If a violation is found to exist, notice shall be served upon the owner to cease the violation. If the owner fails to act diligently to correct the violation after 14 days of notification, the building inspector shall serve notice upon the owner, notify the council, and prosecute a complaint to terminate the violation.

(Ord. No. [2086](#), § 36, 7-12-2016)

Sec. 78-833. - Required permits.

(a) A building or structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered only as provided and a zoning compliance permit issued therefor, under the terms of this chapter.

(b) Prior to the issuance of a building permit, any building activity that requires such building permit shall require the issuance of a zoning compliance permit by the zoning administrator. Such zoning compliance permit shall state the name and address of the owner, the lot number, plat number, location of the proposed building activity, type of building or structure that is proposed, and the legal description of the affected property. This permit shall also be accompanied by a drawing and such plans and specifications as the zoning administrator shall consider to be necessary in order to determine that the requirements of this chapter and of any other applicable laws or ordinances will be complied with. In addition, zoning compliance permits are required for all accessory buildings and agricultural buildings, regardless of whether a building permit is required.

(c) No building or structure which is erected, moved, placed, reconstructed, extended, enlarged or altered shall be used in whole or in part until the owner thereof shall have been issued a certificate of use and occupancy as provided by the terms of the current building code of the county. No such certificate of use and occupancy shall be issued unless all of the provisions of this chapter and other applicable codes have been complied with by the owner of the building or structure as to which such certificate is sought.



Sec. 78-834. - Expiration of building permits.

A permit for a single-family dwelling for which all construction work has not been completed within one year from the date of its issuance shall expire automatically. A permit for any other building or structure for which all construction work has not been completed within one year from the date of issuance shall expire automatically. A permit expiring automatically pursuant to this section shall, upon reapplication, be renewable one time for additional term of one year upon payment of an additional fee equal to one-half of the then-current permit fee. Buildings or structures that require Planning Commission approval may be granted an extension of zoning compliance greater than one year and, in the Planning Commission's discretion, may be automatically renewed until final occupancy has been granted.

(Ord. No. 2110, § 7, 9-24-2019)

Sec. 78-835. - Cancellation of permits.

The zoning administrator shall have the power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this chapter or in the event of any false statement or misrepresentation in the application for the permit. Notice of such cancellation and revocation shall be securely posted on the construction site. Such posting shall be service of notice upon the permit holder as to the cancellation and revocation of the permit.

Sec. 78-836. - Fees.

Petitions filed pursuant to the provisions of this chapter for the rezoning of lands or for other purposes shall be accompanied by the payment of such fee as may be established by the village council for such purpose.

Sec. 78-837. - Special land uses.

The provisions and requirements of this article shall be met for all special land uses.

Secs. 78-838—78-870. - Reserved.

ARTICLE XIII. - AMENDMENTS TO THE ZONING CODE

Sec. 78-871. - Initiation.

Amendments to this chapter may be initiated by the village council, the planning commission or by any interested person.

Sec. 78-872. - Amendment procedures.

Amendments to this chapter shall be according to the requirements of the Michigan Zoning Enabling Act, as it may be amended from time to time. Notice of the public hearing required before the planning commission, and any other associated public hearings to be held concerning an amendment, shall be given in accordance with the provisions of section 78-8.

Sec. 78-873. - Public hearing.

Amendments to this chapter shall be considered as follows:

- (1) All amendments to this chapter, both with reference to the text thereof or the zoning of the land as appears on the rezoning map, shall be made in the same manner as provided in the Michigan Zoning Enabling Act as amended, for the enactment of this chapter; however, the planning commission shall set a time and place for a public hearing and provide for the mailing of a notice of such hearing at least 15 days prior to the date of the hearing, to all the owners of property within 300 feet of the premises to be rezoned, and also have such notice published in a newspaper of general circulation in the village not less than 15 days prior to the date of the public hearing.
- (2) The planning commission shall hold such public hearing. The planning commission may make minor changes in the amendment in response to comments made at the hearing or to correct typographical or grammatical errors. If the planning commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing.
- (3) Following the public hearing of the planning commission, the village council upon receipt of the planning commission's report may adopt or deny the amendment. If the village council desires to make changes in the amendment as acted upon by the planning commission, the council may refer the same back to the planning commission for a further report, as provided by law.

Sec. 78-874. - Protest.

- (a) If a protest against any proposed amendment to this chapter is presented in writing to the village council before final legislative action on the amendment, such protest shall be signed by either:

- (1) The owners of at least 20 percent of the area of land included in the proposed change.
  - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (b) Such amendment shall not be approved except by a three-fourths vote of the village council.
- (c) For the purposes of subsections (a)(1) and (a)(2) of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

Sec. 78-875. - Publication of amendment.

Following the adoption of any amendment to this chapter, one notice of adoption shall be published in a newspaper of general circulation in the village within 15 days of amendment adoption. Such notice shall consist of either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment. Such notice shall also include the effective date of this chapter, and the place and time where a copy of this chapter may be purchased or inspected.

Sec. 78-876. - Administrative liability.

No officer, member, agent or employee of the village council, planning commission, or board of zoning appeals shall be personally liable for any damage or consequence that may occur as a result of any act, decision, or other event or cause arising out of the discharge of such person's duties and responsibilities pursuant to this chapter.

Sec. 78-877. - Application fee.

Any person desiring to make an application to the board of zoning appeals or planning commission for a variance, appeal, special land use permit or rezoning request; or any person desiring to have the village institute procedures to amend the boundaries of the village, shall submit such application in writing to the village clerk, accompanied by an application fee and any amount required to be placed in escrow by the village for payment of the village's cost of review and inspection, as provided by village resolution from time to time.

ARTICLE XIV. - DEFINITIONS

Sec. 78-878. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building or structure on the same lot with a main building, occupied or devoted to an accessory use. Where an accessory building is attached to a main building in a substantial manner or by a wall or roof, such accessory building shall be considered a part of the main building.

*Accessory use* means a use naturally and normally incidental, ancillary, and subordinate to the main use of the premises.

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

*Alterations, structural*, mean any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building.

*Ambulance services* means a facility for the dispatch, storage, and maintenance of emergency medical care vehicles.

*Animal hospital* means an establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence, also known as a veterinary clinic.

*Art studio* means a work space for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft, such as a photo gallery, dance studio or similar facility.

*Bakery/coffee/ice cream shop* means an informal restaurant primarily offering bakery items, desserts, coffee, tea and other beverages, and where limited menu meals may also be sold.

*Basement* means a portion of building located totally below or partly below and partly above ground, where the vertical distance from grade to the floor below is greater than the vertical distance from grade to ceiling.

*Bed and breakfast establishment* means a private residence which is the principal residence of the owner thereof and which offers sleeping accommodations to guests for rent and in which meals are served to the guests thereof. A guest of such an establishment shall be a person who rents a room therein for fewer than 30 consecutive days.

*Billboards.* See Sign as defined by this section.

*Building* means an independent structure, either temporary or permanent, having a roof supported by columns, or any other support used for the enclosure of persons, animals, or personal property or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by a division of walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

*Building height* means the vertical distance measured from the top of the main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the mean established grade at the building wall perimeter.

*Building setback* means the measurement from the property line to the nearest point of the building or structure, including all improvements attached to the structure.

*Business center* means any group of three or more commercial establishments on one parcel which are any one or more of the following:

- (1) Under one common ownership;
- (2) Have a common arrangement for the maintenance of the grounds and are connected by party walls, partitions, covered canopies or other structural members to form one continuous structure;
- (3) Share a common parking area; or
- (4) Otherwise present the appearance of one continuous commercial area. The business center structure shall have a minimum square footage of at least 5,000 square feet.

*Car wash* means an establishment utilizing mechanical facilities for the washing, drying or waxing of private automobiles, light trucks and vans, but not commercial fleets, and which may be an accessory use to a gas station or motor vehicle repair facility.

*Catering/banquet facility* means a service or facility providing meals or refreshments for public or private entertainment for a fee, and which may include a banquet facility as a primary element of the use, which is an establishment which is rented by individuals or groups to accommodate private functions but not open to the general public.

*Church* means a place of assembly owned or maintained by an organized religious organization for the purpose of regular gatherings for worship services. The term church includes mosques, synagogues, temples, shrines, meetinghouses and pagodas, and which may include accessory private schools, administration offices, child care for members and visitors and other services for members incidental to the primary religious use.

*Clear vision area* means an area where nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and eight feet above the established abutting road grade within a triangle formed by two street right-of-way lines and a line connecting them to points 25 feet from the intersection of the right-of-way lines.

*Commercial vehicle* means any motor vehicle other than a motorcycle or passenger automobile designed or used primarily for transportation of persons or property.

*Community center* means a building used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed.

*Community facilities* means a building used for municipal services, owned and operated by the local government or its affiliate.

*Contractor's yard* means a facility or site and associated buildings used primarily for the office operations and the storage of equipment, vehicles, machinery, building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of building trades or building craft.

*Contractor's yard, major* means a contractor's yard, as defined herein, where the contractors are engaged in earth moving, road construction and utilities construction.

*Day care center* means a facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Day care center does not include any of the following:

- (1) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- (2) A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

*Day care, family home* means a private home in which one but not more than six minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The home must be a bona fide private residence of the operator of the day care. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

*Day care, group home* means a private home in which between seven and 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

*Distribution/packaging center* means a building or area in which freight brought by motor truck is assembled and/or stored for future shipment.

*Drive-through facility* means a commercial establishment or part thereof whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in their vehicle.

*Drugstore* means an establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

*Dry cleaning plant* means a building used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

*Dwelling/dwelling unit* means any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a mobile home, trailer coach, automobile chassis, tent or portable building be considered a dwelling. In the case of mixed occupancy, where the building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provision thereof relative to dwellings.

*Dwelling, multiple-family*, means a building or portion thereof, used or designated for use as a residence for more than two families living independently of each other. This definition does not include mobile homes, or two-family dwellings.

*Dwelling, single-family*, means a unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot.

*Dwelling, two-family*, means a detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in such building. It may also be termed a duplex.

*Educational facility* means an institution providing full or part time instruction in which the service is provided at a cost to the student or the customer which may include accessory facilities associated with instruction. An educational facility is not a school.

*Family* means an individual or two or more persons related by blood, marriage or adoption, living together as a housekeeping unit in a dwelling unit or a collective number of individuals occupying a single dwelling unit whose relationship is of a permanent non-transitory and distinct domestic character and cooking and living together as a single and separate housekeeping unit, as distinguished from persons occupying uses such as a boarding house, lodging house, hotel or similar use.

*Family day care home*, see Day care, family home.

*Farm* means a farm as defined by the Right to Farm Act, P.A. 93 of 1981, as amended.

*Fence* means any permanent barrier, partition, or structure erected as a dividing structure, or as an enclosure.

*Financial institution* means any building wherein the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

*Floodplain* means the area adjoining a river, stream, watercourse, or lake subject to a 100-year recurrence-interval flood as delineated by the flood boundary and floodway map prepared by the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA).

*Floor area* means the sum of the gross horizontal areas of the several floors of the building which are completely above grade [and only that portion of the lowest level of the building which is at least 50 percent above grade] <sup>[15]</sup> measured from the interior faces of the exterior walls or from the centerline of the wall separating two buildings. For non-residential buildings where the principal use includes the lowest level, the lowest level floor shall be included except that part thereof which contains mechanical equipment.

*Funeral home/mortuary* means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

*Garage, private*, means a detached accessory building or portion of a main building for the parking or temporary storage of not more than three motor vehicles, including not more than one commercial vehicle with a rated capacity of one and one-half tons used by the occupants of the premises thereof.

*Garage, public*, means a building other than a private garage used for commercial parking, storing, caring for, renting, servicing, repairing, refinishing, equipping, adjusting or estimating, hire or sale of any vehicle.

*Gas station* means any building or land area used for the retail dispensing or sales of vehicular fuels and convenience items; and which may include a motor vehicle repair or service facility or a car wash facility as an accessory use, and the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

*Golf course/country club* means a tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways and hazards. A golf course or country club may include shelters, a clubhouse, driving ranges, incidental retail sales, repair of equipment used at the facility, and small-scale banquet and restaurant facilities as accessory uses, but shall not include miniature golf or other commercial enterprises.

*Grade* means a reference plane representing the finished ground level adjoining a building at all exterior walls.

*Grocery store* means a retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

*Group day care home*, see Day care, group home.

*Hardware store* means a retail establishment primarily engaged in the sale of various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies and cutlery.

*Home occupation* means an activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

*Home occupation, major* means a home occupation as defined herein that may be apparent to neighbors by virtue of activities on site, signage, outdoor storage or modifications to structures or grounds.

*Home occupation, minor* means a home occupation as defined herein that, under normal circumstance, is not apparent to neighbors.

*Hotel/motel* means a commercial establishment providing transient sleeping accommodations to the public for a fee, and which may also offer such additional services or facilities such as meals or restaurant service, meeting rooms, and recreational facilities.

*Junk*. See Trash as defined by this section.

*Junk yard* means a place where junk, waste, or discarded or salvaged materials are brought, sold, exchanged, stored, baled, packed, disassembled, or handled, including paper, rags, wrecked vehicles, used building materials, structural steel materials and equipment and other manufactured goods that are worn, deteriorated, or obsolete.

*Kenel* means any land, building or structure where more than three cats and/or dogs, six months of age or older, are boarded, housed or bred.

*Landscaping company* means a business principally engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a business may be engaged in the installation and construction of underground improvements, but only to the extent that such improvements are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground.

*Laundromat* means a commercial establishment providing dry cleaning and laundry services on-site for businesses and residents, but which does not include a dry cleaning plant.

*Library* means a public, nonprofit facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings, or films, are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

*Litter*. See Trash as defined by this section.

*Loading space* means an off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

*Lot* means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures, or utilized for a principal use and accessory uses, together with such open spaces, parking spaces and loading spaces required by this chapter.

*Lot area* means the total area encompassed within the lines of a lot excluding street or road rights-of-way.

*Lot, corner* means a lot having frontage on two intersecting streets or upon two portions of a curved street or streets where the interior angle of an intersection is less than 135 degrees.

*Lot coverage* means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

*Lot interior* means a lot other than a corner lot.

*Lot lines* means the property lines bounding a lot.

*Front lot line*. In the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the lot from either street, but not both streets, on which such lot is located. In the case of a corner lot, such front lot line shall also be that lot line which is faced by the front of a building or proposed building; in the case of a building which faces a corner of a corner lot, the front lot line shall be that selected by the owner of the property.

*Rear lot line*. Ordinarily, a lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot an imaginary line of at least ten feet in length entirely within the lot parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line for the purpose of determining the depth of the rear yard. In the case where none of these definitions are applicable, the zoning administrator shall designate the rear lot line.

*Side lot line* means any lot line not a front line or a rear line.

*Lot width* means the horizontal distance between the intersections of the side lot lines with the right-of-way, measured along the right-of-way line. For corner lots, the lot width shall be measured as the horizontal distance between the intersection of the two right-of-way lines at the corner, extending along the right-of-way lines to the side lot line and to the rear lot line. For cul-de-sac lots, minimum lot width shall be measured between the side lot lines at the minimum required setback from the right-of-way.

*Manufactured home* means a structure, transportable in one or more sections, which is built upon a chassis and designed to be used as a residence with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure and is installed by a Michigan licensed mobile home dealer or Michigan licensed mobile home installer as required by Michigan statute, and administrative rules promulgated thereunder. Mobile home does not include a recreational vehicle.

*Manufactured home dealer* means a retail establishment involved in the sale of manufactured homes.

*Manufactured housing community* means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home mobile home.

*Manufacturing facility* means an enclosed establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, usually in a continuous and regular action or succession of actions.

*Manufacturing facility, heavy* means a manufacturing facility, as defined herein, that may involve any of the following: the storage of large volumes of highly flammable, toxic matter; outdoor operations as a part of the manufacturing process; the potential to produce noise, dust, glare, odors or vibration beyond the lot line; stonework or concrete product manufacturing; metal fabrication; and similar activities.

*Marijuana*, also known as marihuana, also known as cannabis. That term shall have the meaning given to it in section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in section 3(d) of the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marijuana used in this chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marijuana Act and/or in the general rules of the Michigan Department of Community Health issued in connection with that Act.

*Marihuana business* means a medical marihuana facility licensed under the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of the Public Acts of Michigan of 2016, as amended, or a recreational marihuana establishment licensed under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended which has been authorized to operate within the village under [chapter 18](#) of the Village Code of Ordinances. The term marihuana business includes recreational marihuana growers (Class A-C); recreational marihuana processors; recreational marihuana secure transporters; recreational marihuana safety compliance facilities; recreational marihuana microbusinesses; recreational marihuana retailers; and medical marihuana provisioning centers.

*Massage parlor* means any establishment wherein nonmedical or nonsurgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed surgeon, chiropractor, licensed physician, licensed physical therapist, or osteopath.

*Mechanical equipment* means any heating, ventilation, electrical, transportation, utility, telecommunication, or other equipment either located at ground level or elevated and sometimes mounted to building rooftops.

*Medical clinic* means a facility in which medical, dental, health and related providers maintain offices and provide services to patients on an outpatient basis and which may include minor surgical care.

*Medical marijuana dispensary.* Any business, facility, association, cooperative, location, or operation, which is operated for profit or nonprofit, whether fixed or mobile, where medical marijuana is made available to be sold, used, grown, processed, delivered, or distributed by or to one or more of the following:

- (1) A primary caregiver as defined by Michigan Initiated Law 1 of 2008 as amended.
- (2) A qualifying patient as defined by Initiated Law 1 of 2008 as amended.
- (3) Members of the public.

A medical marijuana dispensary shall also include any place, location, facility, cooperative, or operation, which is operated for profit or nonprofit, whether fixed or mobile, where medical marijuana is smoked or consumed by three or more persons at one time.

A medical marijuana dispensary shall not include the dispensation of medical marijuana by a primary caregiver personally dispensing to not more than five qualified patients in strict accordance with the Michigan Initiated Law 1 of 2008, as amended, so long as the lawful amount of medical marijuana is delivered to the qualifying patient where the qualifying patient resides and it is done in full compliance with this chapter as well as all other applicable village ordinances and applicable Michigan and federal laws, rules and regulations.

A medical marijuana dispensary shall also not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirm; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the village and applicable Michigan and federal laws, rules, and regulations.

*Medical (use of) marijuana.* The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq.

*Mining operation* means the removal, loading, processing and/or transporting of topsoil, sand, gravel, or other such minerals on, to, or from a lot, tract or parcel of land, for commercial purposes in excess of 1,000 cubic yards per year, and including the incidental maintenance of machinery or equipment used in connection with such mining operation.

*Mixed use* is a development of a tract of land, building, or structure with a variety of complementary and integrated uses permitted (as permitted or special land uses) in the applicable zoning district, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

*Mobile home lot* means a measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of a mobile home.

*Mobile home pad* means that portion of a mobile home lot reserved for the placement of a mobile home, appurtenant structures or additions.

*Motor home* means a self-propelled motor vehicle designed as self-contained living quarters and intended only for short term occupancy.

*Motor vehicle* means every vehicle which is self-propelled.

*Motor vehicle repair, major* means the use of a site for the repair and servicing of large commercial vehicles weighing 7,000 pounds or more, as well as the rebuilding of vehicles, reconditioning of engines or vehicles, collision service including body repair and frame straightening, painting or upholstering of passenger vehicles.

*Motor vehicle repair, minor* means the use of a site for the repair of automobiles and noncommercial trucks weighing less than 7,000 pounds, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This use includes muffler shops, auto repair shops, oil change and similar general service establishments, tire sales and installation, wheel and brake shops, fender shops, and similar repair and service activities, but excludes dismantling or salvage.

*Motor vehicle sales* means a retail business typically characterized by a mixture of related uses upon a commercial site; however, the principal use of the site shall be the marketing of new or used automobiles, whether by sale, rent, lease, or other commercial or financial means. Secondary supporting uses may also exist upon the same site, such as motor vehicle repair and service, a car wash, parts storage areas, and financial service areas.

*Nonconforming use of building* means the use of a building, structure or land, which was lawfully existing at the time this chapter became effective, but which does not comply with the present regulations of the district in which it is located.

*Nursing home* means a home licensed by the state for the aged or chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, medical clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

*Parcel delivery station* means an establishment which conducts the retail sale of stationery products, provides packaging and mail services and provides mailboxes for lease.

*Park* means a noncommercial, not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space for passive or active use and may include, but is not limited to, a paved or unpaved linear trail or pathway, and related accessory uses, such as parking, seating, information kiosks and similar improvements. An improved park typically includes ancillary constructed or installed facilities, such as playground equipment, restrooms or picnic shelters, while an unimproved park may include interpretive programs and trail systems that take advantage of geological, biological or scenic resources. A park does not include an outdoor or indoor recreation establishment.

*Parking area or lot* means an off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees. The term "parking area" shall include access drives within the actual parking area.

*Personal services establishment* means an establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel.

*Pet groomers* means any place or establishment where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.

*Pet shop* means a retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

*Pilaster* means a decorative or structural column that is attached to the facade of a building.

*Planned unit development* means a zoning district which permits integrated and coordinated residential dwellings and/or certain nonresidential uses, all to be developed according to approved area and site plans as provided in article II, division 14 of this chapter.

*Planning commission* means the village planning commission.

*Principal or main use* means the primary or predominant use of a lot.

*Print shop* means an establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.

*Private club or organization* means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture, volunteering, or similar activities, but not operated for profit and open only to members, not the general public.

*Private wind energy facility* means a wind energy conversion system which has a rated capacity of not more than 100kW/1MW and which is intended primarily to reduce on-site consumption of utility power. A wind energy conversion system shall mean any of the following: a mill or machine operated by wind acting on oblique vanes or sails that radiate from a shaft; a surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power; a shaft, gearing, belt, or

coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device; the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and, the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

*Office* means a place, such as a building, room, or suite, in which services, clerical work, professional duties, or the like are carried out.

*Raised curb* means the raised edge alongside the street and alongside an interior landscape island or landscape area within an off-street parking lot. A raised curb shall be at least 18 feet in length, six feet in height from the curb base, and 12 feet in height from the rear of the curb, with a radius of six feet to provide for protection. The raised curb shall be made up of material as detailed in [section 30-83](#) and [section 30-163](#) of the Code of Ordinances.

*Recreation establishment, indoor* means any establishment whose main purpose is to provide the general public with an amusing, healthful or entertaining recreational activity indoors and where entrance or participation is subject to a fee, including without limitation, skating rinks, billiard halls, fitness centers, bowling alleys, and arcades.

*Recreation establishment, outdoor* means a premises offering participant activity in an open-air setting for a fee, including uses such as driving ranges, miniature golf, swimming pools, competitive sports facilities, paintball, and similar uses.

*Recreational vehicle* means a vehicle designed or constructed for the transportation of people, primarily for recreational purposes, and which may permit occupancy thereof as a sleeping place, including motor homes, campers, camper trailers, off-road vehicles, boats and boat trailers.

*Research/training facility* means an establishment for carrying on investigation in the natural, physical, or social sciences, which may include engineering and process or product development. This use also includes general training and indoor demonstration facilities. It does not involve the mass manufacture, fabrication, processing, or sale of products or services.

*Restaurant* means a retail establishment selling food and drink primarily for consumption on the premises, and including establishments selling prepared foods and drinks for immediate on-site consumption or for take-out.

*Retail establishment* means an establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

*Roadside market stand* means facility operated in accordance with the generally accepted agricultural and management practices for farm markets promulgated by the Michigan Commission of Agriculture and Rural Development.

*Satellite dish antennae* means an earth based station whose purpose is to receive communications or their signals from orbiting satellites or other extraterrestrial sources together with other equipment related to such purposes.

*School* means an elementary or secondary educational institution including accessory facilities traditionally associated with a program of study for educating children, which meets the requirements of Michigan law.

*Self-storage facility* means a building or grouping of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-storage of personal property.

*Sign* means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

*Site plan review* means the process of reviewing documents and drawings specified in this chapter necessary to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

*Slaughterhouse* means a building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage, or sale of the product on the premises.

*State licensed residential facility* means a structure constructed or used for residential purposes that is licensed by the state which provides resident services for six or less persons under 24-hour supervision or care for persons in need of that supervision or care.

*Street* means a publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare, except an alley.

*Structure* means anything constructed or erected, except a building, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

*Tattoo parlor* means any room or space where tattooing is performed for compensation. Tattooing means a placement in human tissue of any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or any design, letter, scroll, figure, or symbol done by scarring upon or under the skin.

*Tavern* means an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may also be available for consumption on the premises.



*Taxidermist* means an establishment engaged in the business of preparing, stuffing, and mounting the skins of animals.

*Temporary building and use* means a structure or use permitted by the zoning inspector to exist during periods of construction of the main building.

*Theater* means an establishment for the performing arts, including motion pictures, live dramatic performances and music performances. Such establishments may include related services such as food and beverage sales and other concessions.

*Topsoil* means the upper layer of soil, usually darker and richer than subsoil with rich amount of organic matter, and has the ability to retain moisture and germinate seeds.

*Trash.* The terms "trash," "litter," and "junk" are synonymous and each as used in this chapter shall include the following: used articles or used pieces of iron, scrap metal, automobile bodies or parts of machinery or junked or discarded machinery, used lumber, ashes, garbage, industrial byproducts or waste, empty cans, food containers, bottles, crockery, utensils of any kind, boxes, barrels, and all other articles customarily considered trash or junk and which are not housed in a building.

*Travel trailer* means a transportable unit which must be towed by a motor vehicle, intended for occasional or short term occupancy as a dwelling unit during travel, recreational, or vacation use.

*Usable floor area* means the floor area of a dwelling, exclusive of garages, porches, basement or utility area.

*Use* means the lawful purpose for which land or premises, or a building thereon, is designed, arranged or intended, for which it is occupied or maintained, let, or leased.

- (1) A legal nonconforming use is one that may not conform to the requirements of the zoning district but is not considered a nuisance, or damaging to abutting premises, or hazardous to persons on the same or adjoining premises.
- (2) An illegal nonconforming use is one considered to be a nuisance and may be abated or discontinued according to the provisions of law and the planning code and this chapter.

*Vehicle* means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

*Village* means the Village of Middleville, Barry County, Michigan.

*Village council* means the Middleville Village Council.

*Warehouse* means a building used primarily for the storage of goods and materials and used in conjunction with a commercial enterprise.

*Wholesale establishment, major* means a minor wholesale establishment, as defined herein, which is engaged in the wholesaling of lumber, chemicals, fertilizers, soil conditioners, and other potentially hazardous materials.

*Wholesale establishment, minor* means an establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

*Yard* means the area between an identified building or structure and an identified lot line.

*Yard, front* means the area extending across the full width of the lot between the front lot line and the nearest point of the principal building or structure. In the case of a waterfront lot, the yard fronting on the street shall be considered the front yard. [Note: For waterfront lots, the yard fronting on the water is usually considered the front yard.]

*Yard, rear,* means a yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building.

*Yard, required,* means a yard which satisfies the minimum distance requirements for a building or structure in the applicable district.

*Yard, side,* means the area between the side lot line and the nearest point of the principal building or structure, extending between the front yard to the rear yard.

*Zoning Act* means the Michigan Zoning Enabling Act (Public Act No. 110 of 2006 (MCL 125.3101 et seq.)).

*Zoning administrator* means the village zoning administrator.

(Ord. No. 2086, § 37, 7-12-2016; Ord. No. 2110, § 1, 9-24-2019; Ord. No. 2119, § 8, 8-24-2021)

**Footnotes:**

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Optional language.