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CHAPTER 1260

General Provisions and Definitions

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CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Zoning fees - see ADM.208.01(a)(4)

1260.01 SHORT TITLE.

This Title Six of Part Twelve of these Codified Ordinances shall be known as the "Zoning Code of the Village of Dimondale" or just the "Zoning Code."

(Ord. 89. Passed 4-10-72.)

1260.02 PURPOSE.

It is the purpose of this Zoning Code to promote the safety, health, morals, convenience and general welfare; to encourage the use of lands and natural resources in the Village in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to lessen congestion on the public streets and highways; to facilitate the adequate provision of streets and highways, sewerage and drainage, water supply and distribution, and the expenditure of funds for public facilities and services by establishing herein standards for physical development in accordance with the objectives and policies contained in the Master Plan for the Village of Dimondale; and to provide for the enforcement of such standards.

(Ord. 89. Passed 4-10-72; Ord. 2009-7. Passed 12-14-09.)

1260.03 AMENDMENTS.

(a) Amendments Authorized. The regulations and provisions stated in the text of this Zoning Code and the boundaries of zoning districts shown on the Zoning District Map of the Village may be amended, supplemented or changed by resolution of Council in accordance with the Zoning Act, as amended.

(b) Initiation. Proposals for amendments, supplements or changes may be initiated by Council on its own motion, by the Planning Commission or by petition of one or more owners of property to be affected by the proposed amendment.

(Ord. 89. Passed 4-10-72.)

(c) Procedure.

(1) Each petition by one or more persons for an amendment shall be submitted in an application to Council through the Clerk on a standard form provided by the Village, and shall be accompanied by a fee established in a schedule of fees adopted by Council to cover administrative and publication costs. No part of such fee shall be returnable to a petitioner if a public hearing is held. Petitions for zoning of property which is the subject of a request for annexation shall accompany said requests for annexation. Council will consider the request for annexation and the petition for zoning at the same time.

(Ord. Unno. Passed 9-13-76.)

(2) Council will refer the application to the Commission for action, if it deems that such amendment is a possibly desirable amendment.

(3) The Commission shall consider each proposal for amendment in terms of its own judgment on the particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Commission may recommend any additions or modifications to the original amendment proposal.

(4) Prior to making a recommendation on a proposed amendment, the Planning Commission shall conduct a public hearing. Notice of the hearing shall be provided in a newspaper of general circulation not less than 15 days before the date of the hearing. Notice shall be sent by mail or personal delivery to the owners of the property for which the approval is being considered. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to all occupants of all structures within 300 feet of the subject property regardless of whether the property or structures are located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice. The notice shall describe the nature of the request, indicate the property that is the subject of the request to include street addresses if such addresses exist, state when and where the request will be considered and indicate where written comments will be received concerning the request. If the proposed amendment contains 11 or more adjacent properties, no individual addresses are required. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas and pipeline public utility company and each telecommunication service provider operating with the district or zone affected.

(5) The Commission shall then transmit the proposed amendment to Council and, if Council shall deem any amendments, changes, additions or departures advisable as to the proposed text or district boundaries, it shall refer the same to the Commission for a report thereon within a time specified by Council. After receiving the report, Council shall

grant a hearing on the proposed amendment to any property owner who has filed a written request to be so heard and shall request the Commission to attend such hearing. Thereafter, Council may adopt the amendment with or without changes.

(6) An amendment to the zoning ordinance is subject to a protest petition. If a protest is filed, approval of the amendment to the zoning ordinance shall require two-thirds vote of the legislative body. The protest petition shall be presented to the Village Council before final legislative action on the amendment and shall be signed by one or more of the following:

A. The owners of at least 20% of the area of land included in the proposed change.

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

C. Publicly-owned land shall be excluded in calculating the 20% land area requirement.

(7) No application for a rezoning which has been denied by Council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by Council to be valid.

(Ord. 89. Passed 4-10-72.)

(d) Fact Finding.

(1) In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Village Council. The facts to be considered by the Planning Commission shall include, but are not limited to, the following:

A. The requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance;

B. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition are not contrary to the public interest or to the intent and purpose of this Zoning Code;

C. The Village or other government agencies are able to provide any services, facilities, and/or programs that might be required if the petition is approved;

D. There are no negative environmental impacts which would reasonable occur if the petitioned zoning change and resulting permitted structures are built, including, but not limited to, surface water drainage, waste disposal, or impact on natural resources; and

E. Approval of the petition does not conflict with any adopted development policies of the Village and/or other governmental units.

(2) All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Village Council.

(Ord. 2002-2. Passed 4-8-02; Ord. 2009-7. Passed 12-14-09.)

1260.04 CONFLICT OF LAWS.

In the interpretation, application and enforcement of the provisions of this Zoning Code, whenever any of the provisions or limitations imposed or required by this Zoning Code, conflict with any other law or ordinance, then the provisions of this Zoning Code, shall govern, provided that whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Zoning Code, then the provisions of such other law or ordinance shall govern.

(Ord. 89. Passed 4-10-72.)

1260.05 SEPARABILITY.

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

(Ord. 89. Passed 4-10-72.)

1260.06 RULES OF CONSTRUCTION.

For the purpose of this Zoning Code, certain rules of construction apply to the text, as follows:

(a) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.

(b) The word "person" includes a corporation or firm as well as an individual.

(c) The word "building" includes the word "structure."

(d) The word "lot" includes the word "plot," "tract" or "parcel."

(e) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

(f) The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

(g) Any word or term not interpreted or defined by this chapter shall be used with a meaning of common or standard utilization.

(Ord. 89. Passed 4-10-72.)

1260.07 DEFINITIONS.

For the purpose of this Zoning Code, certain terms or words used herein shall be interpreted or defined as follows:

(1) "Accessory building" means a subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

(2) "Accessory use" means a use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.

(3) "Adult foster care congregate facility" means an adult foster care facility, licensed by the State of Michigan, with the approved capacity to receive more than 20 adults to be provided with foster care.

(4) "Adult foster care family home" means a private residence, licensed by the State of Michigan, with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The "adult foster care family home" licensee shall be a member of the household, and an occupant of the residence.

(5) "Adult foster care large group home" means an adult foster care facility, licensed by the State of Michigan, with the approved capacity to receive at least 13 but not more than 20 adults to be provided foster care.

(6) "Adult foster care small group home" means an adult foster care facility, licensed by the State of Michigan, with the approved capacity to receive 12 or fewer adults to be provided with foster care.

(7) "Alley" means any dedicated public way other than a street, which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

(8) "Alteration" means any modification, addition or change in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

(9) "Apartment" means a room or suite of rooms, including bath and kitchen facilities, in a two-family or multiple-family dwelling, intended or designed for use as a residence by a single family.

(10) "Apartment, garden" means a group of two or more multiple-family dwelling buildings not over two stories in height, located on the same lot, that offer each dwelling unit direct access to an open yard area.

(11) "Apartment house" (see "dwelling, multiple-family").

(12) "Auto court" (See "motel").

(13) "Basement" means a story having part but not more than one-half of its height below finished grade. A "basement" shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

(14) "Board of Appeals" means the Zoning Board of Appeals of the Village of Dimondale.

(15) "Boarding house" means a building other than a hotel, where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons.

(16) "Building" means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or property.

(17) "Building area" means the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

(18) "Building, front line of" means the line formed by that face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches, but does not include steps.

(19) "Building, height of" means the vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

(20) "Building line" means a line defining the minimum front, side and rear yard requirements outside of which no building or structure may be located.

- (21) "Building, principal" means a building in which is conducted the main or principal use of the lot on which it is located.
- (22) "Cellar" means a story having more than one-half of its height below the average finished level of the adjoining ground. A "cellar" shall not be counted as a story for purposes of height measurement.
- (23) "Clinic" means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.
- (24) "Club" means an organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political or social purposes, which are not conducted primarily for gain, and which do not provide merchandising, vending or commercial activities, except as required incidentally for the membership and purpose of such club.
- (25) "Common land" means a parcel or parcels of land, together with the improvements thereon; the use, maintenance and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.
- (26) "Compassion Club" means any entity which is not available to the public, which is comprised of primary caregivers and/or qualifying patients and the primary objective includes the use of marijuana in any form or the support, facilitation, or instruction of such use. (Ord. 2010-8. Passed 2-14-11.)
- (27) "Convalescent or nursing home" means a building wherein infirm, aged or incapacitated persons are furnished shelter, care, food, lodging and needed attention for a compensation.
- (28) "Court" means an unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.
- (29) "Court, closed" means a court enclosed on all sides by exterior walls of a building, or enclosed on all sides by a combination of exterior building walls and free-standing walls.
- (30) "Court, outer" means a court enclosed on not more than three sides by the exterior walls of a building or by a combination of exterior walls and free-standing walls, with one side or end open to a street, alley or yard.
- (31) "Coverage" means that percent of the plot or lot covered by the building area.
- (32) "Day care center" means a facility, other than a private residence, licensed by the State of Michigan, receiving one or more minor children for care for periods of less than 24 hours a day, for more than two weeks in a calendar year, unattended by a parent or legal guardian. Such facilities may also be referred to as "day nurseries," "nursery schools," "pre-schools" and "child care centers."
- (33) "Day care home, family" means a private home, licensed by the State of Michigan, in which six or fewer 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. "Family day care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- (34) "Day care home, group" means a private home, licensed by the State of Michigan, in which seven but not more than 12 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. "Group day care home" includes a home in which care is given to an unrelated minor child for more than four weeks during the calendar year.
- (35) "Debilitating medical condition" means the conditions and circumstances provided in Section 3(a) of the Michigan Medical Marijuana Act (MCL 333.26423(a)). (Ord. 2010-8. Passed 2-14-11.)
- (36) "Density" means the number of dwelling units residing upon or to be developed upon a net acre of land.
- (37) "District" means an area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height limitations.
- (38) "Dormitory" means a building, or portion thereof, used for housing purposes under the supervision of a college, university or other institution.
- (39) "Dwelling" means any building, or portion thereof, which is designed or used exclusively for residential purposes. (Ord. 89. Passed 4-10-72.)
- (40) "Dwelling, single-family" means a detached building, designed for or occupied exclusively by one family. (Adopting Ordinance)
- (41) "Dwelling, two-family" means a detached or semidetached building, designed for or occupied exclusively by two families living independently of each other.
- (42) "Dwelling, multiple-family" means a building, or portion thereof, used or designed to contain separate living units for three or more families, but which may have joint services or facilities or both.
- (43) "Dwelling, row house or town house" means three or more one-family dwelling units, each having access on the first floor to the ground and with common walls separating the dwelling units.

(44) "Dwelling unit" means a building, or portion thereof, designed exclusively for residential occupancy by one family and having cooking facilities.

(45) "Erection" means the building, construction, alteration, reconstruction, moving upon or any physical activity upon a premises or lot.

(46) "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, telephone transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities, departments or commissions.

(47) "Family" means an individual, or two or more persons related by blood, marriage or adoption, or a group not to exceed three persons not related by blood or marriage, occupying a premises and living as a single nonprofit housekeeping unit with single culinary facilities, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or similar dwelling for group use. The usual domestic servants residing on the premises shall be considered as part of the "family."

(48) "Farm" means any parcel of land containing more than five acres, which may be used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within prescribed property boundaries, and the storage of equipment used. "Farm" includes greenhouses, nurseries and boarding stables and excludes the raising of fur bearing animals and dog kennels. (Ord. 2010-5. Passed 1-10-11.)

(49) "Flood plain" means areas subject to inundation by the highest expected flood water level.

(50) "Floor area" means the sum of the gross horizontal areas of the floors of a building or dwelling unit, measured from the exterior faces of the exterior walls, or from the centerline of the walls separating the dwelling units.

(51) "Garage, parking" means a structure or series of structures for the temporary storage or parking of motor vehicles, having no public shop or service connected therewith.

(52) "Garage, private" means an accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles, boats, house trailers and similar vehicles owned and used by the occupants of the building to which it is accessory.

(53) "Gasoline service station" means any area of land, including any structure or structures thereon, that is used or designed for the supply of gasoline or oil or other fuel for the propulsion of vehicles. For the purpose of this Zoning Code, this term shall also mean any area or structure used or designed for polishing, greasing, washing, dry cleaning, spraying (but not including painting), or otherwise cleaning or servicing such motor vehicles.

(54) "Grade, finished" means the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs related thereto.

(55) "Group housing" means a residential development involving the ultimate construction of a group of dwelling units, including a combination of one-family, two-family or multiple-family dwellings on a lot, parcel or tract of land, or on a combination of lots under one ownership, and containing common services or facilities.

(56) "Guest unit" means a room or group of rooms occupied, arranged or designed for occupancy by one or more guests for compensation.

(57) "Home occupation" means an accessory use of a service or professional character conducted within a dwelling by the family residents thereof, which is clearly secondary and incidental to the use of the dwelling for living purposes and does not change the character thereof.

(58) "Hotel" means a building in which the rooms are occupied or designed or temporary abiding places for individuals who are lodged with or without meals and in which there are more than ten sleeping rooms served only by a general kitchen and dining facility located within the building.

(59) "Junk yard" means any land or building over 200 square feet in area used for abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles or machinery, or parts thereof.

(60) "Kennel" means any lot or premises used for the sale, boarding or breeding of dogs, cats or other household pets. "Kennel" shall also mean the keeping of five dogs, cats and/or other household pets over the age of six months.

(61) "Lodging house" means a building in which three or more rooms are rented and in which no table board is furnished, but not exceeding five persons.

(62) "Line, street" means the dividing line between a street right of way and a lot.

(63) "Lot" means land occupied or to be occupied by a building, structure, land use or group of buildings, together with such open spaces or yards as are required under this Zoning Code and having its principal frontage upon a street.

(64) "Lot, corner" means a lot which has at least two contiguous sides abutting upon a street for their full length.

(65) "Lot, depth of" means the mean distance from the street line of the lot to its opposite rear line, measured in the

general direction of the side lines of the lot.

(66) "Lot, interior" means a lot other than a corner lot.

(67) "Lot line" means the lines bounding a lot as herein described.

(68) "Lot of record" means a lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds in Eaton County, or a lot described by metes and bounds, the deed to which has been recorded in the office of the Register of Deeds in Eaton County.

(69) "Lot, width of" means the width measured along the front lot line or street line.

(70) "Major thoroughfare" means a public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary use or function the provision of access to abutting property, and which has been classified as such upon the Master Plan of the Village. (Ord. 89. Passed 4-10-72.)

(71) "Manufactured housing" means a structure built on a permanent chassis that is designed to be used with or without a permanent foundation when connected to the required utilities. It is transportable in one or more sections and may be placed on private property. Manufactured housing is built to the federal Manufactured Home Construction Safety Standards which are enforced by the U.S. Department of Housing and Urban Development (HUD). The HUD standards set criteria for performance standards for the heating, plumbing, air conditioning, thermal and electrical systems. All new homes sold within the State of Michigan shall comply with the construction standards promulgated by 24 CFR part 1700 to 1799, and parts 3280 and 3282, under the National Manufactured Housing Construction and Safety Standards Act of 1972 as amended. (Adopting Ordinance.)

(72) "Marihuana (also known as marijuana and cannabis)" means the substance defined in Section 7106 of the Public Health Code, PA 1978, No. 368 (MCL 333.7106). (Ord. 2010-8. Passed 2-14-11.)

(73) "Medical marihuana dispensary" means any location at which medical marihuana is transferred from one person to another, other than transfers of marihuana from a registered primary caregiver to a qualifying patient who is directly linked to that qualifying patient through the State of Michigan registration process. (Ord. 2010-8. Passed 2-14-11.)

(74) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Ord. 2010-8. Passed 2-14-11.)

(75) "Minor street" means a public way, the principal use or function of which is to give access to abutting properties. (Ord. 89. Passed 4-10-72.)

(76) "Mobile home" means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling 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.

(77) "Mobile home park" 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 therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home. (Adopting Ordinance)

(78) "Motel" means a building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated as "auto courts," "tourist courts," "motor courts," "motor hotels" and similar appellations, which are designed as integrated units of individual rooms under common ownership.

(79) "Nonconforming use" means a building, structure or use of land existing at the time of enactment of this Zoning Code, and which does not conform to the regulations of the district or zone in which it is situated.

(80) "Open space" means any unoccupied space open to the sky on the same lot with a building.

(81) "Plan, Master," sometimes referred to as "Comprehensive Development Plan," means an adopted statement of policy by the Planning Commission relative to the agreed-upon desirable physical pattern of future community development, consisting of a series of maps, charts and written material that represents a sound conception of how the community should grow in order to bring about the very best community living conditions.

(82) "Planned unit development" means a land area which has both individual building sites and common property, such as a park, and which is designed and developed under one owner or organized group as a separate neighborhood or community unit.

(83) "Planning Act" means the Michigan Planning Enabling Act, Public Act 33 of 2008 and its amendments.

(84) "Primary caregiver or registered primary caregiver" shall mean a person who has agreed to assist with a registered qualifying patient's medical use of marihuana and who has a valid registry identification card identifying said person as a primary caregiver for that qualifying patient. (Ord. 2010-8. Passed 2-14-11.)

(85) "Principal use" means the main use to which the premises are devoted and the principal purpose for which the premises exist.

(86) "Public utility" means any person, firm, corporation, municipal department or board fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, transportation or water.

(87) "Qualifying patient or registered qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition and who has a valid registry identification card issued by the Michigan Department of Community Health which identifies the person as a registered qualifying patient. (Ord. 2010-8. Passed 2-14-11.)

(88) "Recreation, private" means a recreational space or structure, or combination thereof, belonging to and/or operated by private interests for use by private individuals and/or organizations and/or the public, consisting primarily of man-made structures and/or other artificial apparatus which are necessary to or form the basis for said use.

(89) "Recreation, public" means any recreational space or structure owned by the public or any space and structure, or combination thereof, privately owned, and publicly used, consisting primarily of the utilization of natural physical features as the basis for said use. (Structures and artificial apparatus being secondary to the primary outdoor use.)

(90) "Right of way" means a street, alley or other thoroughfare or easement permanently established for the passage of persons, vehicles or the location of utilities.

(91) "Rooming house" means a building where lodging only is provided for compensation.

(92) "Site, net area" means the total area within the property lines of a project or development, excluding streets.

(93) "Solar energy equipment" means any device used to collect direct sunlight for use in the heating or cooling of a structure, domestic hot water, or swimming pool, or the generation of electricity.

(94) "Stable, private" means an accessory building in which horses are kept for private use and not for hire, remuneration or sale.

(95) "Story" means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

(96) "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use. A "half-story" containing independent apartments or living quarters shall be counted as a full story.

(97) "Story, height of" means the vertical distance from the top surface of one floor to the top surface of the next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joints.

(98) "Street line" means the legal line of demarcation between a street and abutting land.

(99) "Street, road-private" means a street or road under private ownership that provides vehicular access to properties within a planned unit development or a site condominium development and has not been dedicated to public use other than access by emergency and public safety vehicles and is maintained by its private owners.

(100) "Street, road-public" means a public thoroughfare accepted by and under the jurisdiction of the Village of Dimondale that provides the principal means of access to abutting property and is open to the general public to travel thereon.

(101) "Structure" means anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

(102) "Structural alteration" means any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof and exterior walls.

(103) "Usable marihuana" means the dried leaves and flowers of the marihuana plant and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant. (Ord. 2010-8. Passed 2-14-11.)

(104) "Use" means the purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

(105) "Wind energy conversion system" means a device or combination of devices, such as free standing towers with wind turbines, structure mounted wind turbines, and all associated facilities and components that convert wind energy to electrical energy. The total height shall be measured from the ground level at the base of the tower for free standing towers or from the highest point of the adjacent roof for structure mounted turbines to the maximum vertical extension of the blade.

(106) "Yard" means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.

(107) "Yard, front" means a yard extending across the front of a lot between the side lot lines and measured between the front line of the lot and the nearest point of the main building or land use.

(108) "Yard, rear" means an open space on the same lot with a main building unoccupied except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the centerline of the alley, if there is an alley, and the rear line of the building.

(109) "Yard, side" means an open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a front line or a rear line shall be deemed a side line.

(110) "Zoning" means the dividing of the Village into districts of a number and shape considered best suited to carry out the purposes of the Zoning Enabling Act and the creation of uniform regulations throughout each individual district. Such districts are referred to as "Zoning Districts" in this chapter.

(111) "Zoning Act" means the Michigan Zoning Enabling Act, Public Act 110 of 2006 and its amendments.

(112) "Zoning Code" means the Village of Dimondale Zoning Ordinance.

(113) "Zoning Ordinance" means the Village of Dimondale Zoning Ordinance.

(Ord. 89. Passed 4-10-72; Ord. 2009-7. Passed 12-14-09; Ord. 2013-6. Passed 11- 11-13; Ord. 2016-4. Passed 11-14-16; Ord. 2016-5. Passed 11-14-16.)

CHAPTER 1262

Administration, Enforcement and Penalty

1262.01 Administration in conformity with State law.

1262.02 Appointment of administrative personnel.

1262.03 Building permits.

1262.04 Building transmittals.

1262.05 Enforcement.

1262.06 Cumulative rights and remedies.

1262.99 Penalty.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Zoning fees - see ADM.208.01(a)(4)

Zoning Officer - see ADM.Ch. 248

Uses authorized by special use permit - see P. & Z.Ch. 1290

1262.01 ADMINISTRATION IN CONFORMITY WITH STATE LAW.

The provisions of this Zoning Code shall be administered by the Planning Commission and Council in accordance with Act 110 of the Public Acts of 2006, as amended, and Act 33 of the Public Acts of 2008, as amended.

(Ord. 89. Passed 4-10-72; Ord. 2009-7. Passed 12-14-09.)

1262.02 APPOINTMENT OF ADMINISTRATIVE PERSONNEL.

Council, with the recommendation of the Planning Commission, may employ such personnel as are deemed necessary to act as its officer(s) to effect proper administration of this Zoning Code. The term of employment, rate of compensation and any other conditions of employment shall be established by Council. For the purpose of this Zoning Code, such officer(s) shall have the power of a police officer. Normal enforcement and administration of this Zoning Code shall be conducted by the proper Village or County officer(s) pursuant to Act 230 of the Public Acts of 1972, as amended, (M.C.L.A. 125.1501 et seq., as amended).

1262.03 BUILDING PERMITS.

All applications for and issuance of building transmittals or permits shall be made in accordance with procedures established by the County and/or by Council. The proper County and/or Village officers shall be empowered to make inspections of buildings or premises to carry out their duties in the enforcement of this Zoning Code.

1262.04 BUILDING TRANSMITTALS.

The following shall apply in the issuance of any building transmittal:

(a) Required. The excavation for any building or structure shall not be commenced, the erection of, addition to, alteration of or moving of any building or structure shall not be undertaken, any land shall not be used or an existing use of land shall not be changed to a use of a different type or class, until a building transmittal has been secured. Except upon a written order of the Board of Appeals, no such building transmittal shall be issued for any building or use of land where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this Zoning Code.

(b) Application Requirements. There shall be submitted with all applications for building transmittals one copy of a site layout or plat plan, drawn to scale, showing:

- (1) The location, shape, area and dimension of the lot;
- (2) The location, dimensions, height and bulk of the existing and/or proposed structure to be erected, altered or moved on the lot;
- (3) The intended uses;
- (4) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;
- (5) The yard, open space and parking space dimensions;
- (6) Any other information deemed necessary by the proper officer(s) to determine and provide for the enforcement of this Zoning Code.

(c) Voiding of Transmittal. Any transmittal granted under this section shall become null and void after ninety days from the date of granting such transmittal, unless the development proposed shall have passed its first building inspection. Before voidance is actually declared, the proper officer shall notify the applicant of such voiding action by sending a notice to the applicant before such voidance is effective.

(d) Building Permits. Upon receipt of a building transmittal, the applicant shall procure a building permit and all related permits from the appropriate Eaton County office and/or the State of Michigan. These permits shall be subject to all rules and regulations as determined by the County or the State.

(e) Inspection. The development or usage proposed by any building transmittal or permit shall be subject to such periodic inspections as may be required by the Village, the County and the State. Failure of the permit holder to make a proper request for inspection shall result in a stop work order upon notification by the proper officer.

(f) Fees. Fees for inspection and the issuance of permits or certificates required under this Zoning Code shall be collected by the proper officer in advance of issuance. The amount of such fees shall be established by Council and/or Eaton County and shall cover the cost of inspection and supervision resulting from the enforcement of this Zoning Code.

1262.05 ENFORCEMENT.

The designated Village, County and/or State officers shall enforce the provisions of this Zoning Code. A violation of any provision of this Zoning Code is declared to be a nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this Zoning Code, observed or communicated to Village employees or officials, shall be reported to the Zoning Officer.

(a) Inspection of Violations. The designated Village, County and/or State officers shall inspect each alleged violation and shall order the correction, in writing, of all conditions found to be in violation of this Zoning Code.

(b) Correction Period. All violations shall be corrected within a period of thirty days after the order to correct is issued or such longer period of time, not to exceed six months, as the designated Village, County and/or State officers shall permit. A violation not corrected within this period shall be reported to the Attorney, who is hereby authorized to and shall initiate procedures to eliminate such violations.

1262.06 CUMULATIVE RIGHTS AND REMEDIES.

The rights and remedies provided in this chapter are cumulative and in addition to any other remedies provided by law.

(Ord. 89. Passed 4-10-72.)

1262.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this Zoning Code is guilty of maintaining a nuisance per se and shall be liable for penalties as set forth in Section 202.99 of the Codified Ordinances of the Village. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues after the expiration of the period of correction of the violation or noncompliance, as set forth in Section 1262.05(b).

(Ord. 99-2. Passed 7-12-99.)

CHAPTER 1264

Board of Appeals

- 1264.01 Establishment.
- 1264.02 Membership; terms of office; removal from office.
- 1264.03 Organization and procedures.
- 1264.04 Hearings.
- 1264.05 Decisions.
- 1264.06 Majority vote required.
- 1264.07 Appeals.
- 1264.08 Powers and duties.
- 1264.09 Decisions subject to review.
- 1264.10 Interpretations.
- 1264.11 Variances.
- 1264.12 Special exceptions.
- 1264.13 Expansion and substitution of nonconformities.
- 1264.14 Site plan review.

CROSS REFERENCES

Board of Appeals - see M.C.L.A. Sec. 125.585

Meetings of the Board; freedom of information - see M.C.L.A. Sec. 125.585a

Review by Circuit Courts; appeals to Supreme Court; procedure - see M.C.L.A. Sec. 125.590

Actions for review; proper and necessary parties; notice; failure to appear - see M.C.L.A. Sec. 125.591

Appeals Board application fee - see ADM.208.01(a)(4)

1264.01 ESTABLISHMENT.

(a) There is hereby established a Board of Appeals which shall perform the duties and exercise the powers as provided in the Zoning Act, and in such a way that the objectives of this title shall be observed.

(1) One member may be a member of the Planning Commission and one member or alternate member may be a member of the legislative body but shall not serve as the chairperson of the Board of Appeals. An employee or contractor of the legislative body may not serve as a member.

(2) The creation, membership and reappointment of a Board of Appeals shall meet the requirements of the Zoning Act.

(b) A member of the Board of Appeals who also serves as a member of the Planning Commission or legislative body must abstain from voting on a matter being considered by the Board of Appeals that he or she voted on as a member of another board. In this instance, an alternate member should sit instead.

(Ord. 89. Passed 4-10-72; Ord. 2009-5. Passed 11-9-09.)

1264.02 MEMBERSHIP; TERMS OF OFFICE; REMOVAL FROM OFFICE.

(a) Appointment of Members. The Board of Appeals shall consist of not less than five members, appointed by Council for a period of three years, except as noted, to serve without pay. All persons serving on this Board shall be residents of the Village. The members shall serve until their successors have been duly appointed. Members serving because of their membership on the Planning Commission or the legislative body shall have their terms limited to the time they are serving on those bodies.

(b) Alternate Members. The Village Council may appoint not more than two alternate members for the same term as regular members of the Board of Appeals. The alternate members may be called on a rotating basis to sit as regular members of the Board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member, having been appointed, shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals.

(c) Removal from Office. Members of the Board shall be removable by Council for nonfeasance, malfeasance and misfeasance in office upon written charges and after a public hearing.

(Ord. 2001-9. Passed 12-10-01; Ord. 2009-5. Passed 11-9-09.)

1264.03 ORGANIZATION AND PROCEDURES.

(a) Rules of Procedure. The Board of Appeals may adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its own Chairperson, and in his or her absence, an Acting Chairperson.

(b) Meetings. Meetings shall be held at the call of the Chairperson and at such times as the Board may determine. All meetings by the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business, without comment or interruption from the public in attendance. A majority of the members of the Board of Appeals shall comprise a quorum for the purpose of conducting a meeting of the Board.

(c) Records. Minutes of all proceedings shall be recorded, which minutes shall contain evidence and dates relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the Clerk and shall be made available to the general public.

(d) Secretary. The Clerk shall act as Secretary to the Board of Appeals, and all records of the Board's action shall be taken and recorded under his or her direction.

(e) Counsel. The Attorney shall act as legal counsel for the Board and shall be present at all meetings upon request by the Board.

(Ord. 89. Passed 4-10-72; Ord. 2001-9. Passed 12-10-01; Ord. 2009-5. Passed 11-9-09.)

1264.04 HEARINGS.

When a notice of appeal has been filed in proper form with the Board of Appeals, the Secretary of the Board shall immediately place said request for appeal on the calendar for hearing and shall cause notices to be given as follows:

(a) The Board of Appeals shall provide notice of the hearing in a newspaper of general circulation not less than 15 days before the date of the hearing. Notice shall be sent by mail or personal delivery to the owners of property for which the approval is considered. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structures are located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice. The notice shall describe the nature of the request, indicate the property that is the subject of the request to include street addresses if such addresses exist, state when and where the request will be considered and indicate where written comments will be received concerning the request.

(b) If the Board of Appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the Board of Appeals shall conduct a public hearing on the request. Notice shall be given as required under division (a) above. However, if the request does not involve a specific parcel of property, notice need only be published in a paper of general circulation and given to the person making the request. The Board may adjourn any meeting held in order to allow the obtaining of additional information or to provide further notice as it deems necessary.

(Ord. 89. Passed 4-10-72; Ord. 2009-5. Passed 11-9-09.)

1264.05 DECISIONS.

The Board of Appeals shall return a decision upon each case in writing within 60 days after a request or appeal has been filed, unless an extension of time is requested by a majority of the members of the Board. Any decision of the Board shall not become final until the expiration of five days from the date of entry of such order, 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. Further appeal from the decision of the Board to the Eaton County Circuit Court shall be in accordance with the Zoning Act.

(Ord. 89. Passed 4-10-72; Ord. 2001-9. Passed 12-10-01; Ord. 2009-5. passed 11-9-09.)

1264.06 MAJORITY VOTE REQUIRED.

The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the designated Village officer(s) appealed from or to decide in favor of the

applicant on a matter upon which they are required to pass under this Zoning Code or to effect any variation in this Zoning Code.

(Ord. Unno. Passed 9-13-76; Ord. 2001-9. Passed 12-10-01.)

1264.07 APPEALS.

(a) Filing. Appeals to the Board of Appeals may be made by any person aggrieved, or by any officer, department or board of the Village. Any appeal from the ruling of the designated Village officer(s) concerning the enforcement of the provisions of this Zoning Code may be made to the Board within ten days after the date of the mailing of the Village officer's decision which is the subject of the appeal. Such appeal shall be filed with the Clerk. The appellant shall submit a clear description of the order, requirement, decision or determination for which the appeal is made and the grounds for the appeal on an application provided by the Clerk. The appellant may be required by the Board of Appeals to submit additional information to clarify the appeal. The Clerk shall transmit to the Board of Appeals copies of all papers constituting the record upon which the action appealed was taken.

(Adopting Ordinance)

(b) Stay. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the designated County and/or Village officer(s) certifies to the Board after notice of appeal has been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or, upon application, by a court of record.

(c) Fees. A fee as established by Council shall be paid to the Secretary at the time of filing the application with the Board. The purpose of such fee is to cover, in part, the necessary advertisements, investigations and other expenses incurred by the Board in connection with the appeal.

(Ord. Unno. Passed 9-13-76; Ord. 2001-9. Passed 12-10-01.)

1264.08 POWERS AND DUTIES.

The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this Zoning Code, but does have power to act on those matters where this Zoning Code provides for an administrative review, interpretation, variance, exception or special approval permit as defined in this chapter.

1264.09 DECISIONS SUBJECT TO REVIEW.

The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Officer or by any other official in administering or enforcing any provisions of this Zoning Code. The Board of Appeals may, so long as such action is in conformity with this Zoning Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed.

(Ord. 89. Passed 4-10-72; Ord. 2001-9. Passed 12-10-01.)

1264.10 INTERPRETATIONS.

The Board of Appeals shall have the power to:

(a) Interpret, upon request, the provisions of this Zoning Code in such a way as to carry out the intent and purpose of this Zoning Code;

(b) Determine the precise location of the boundary lines between zoning districts;

(c) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district, so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.

(d) Determine the off-street parking and loading space requirements of any use not specifically mentioned in Chapter 1288.

(Ord. 89. Passed 4-10-72.)

1264.11 VARIANCES.

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

(a) Basic Conditions. Any variance granted from this Zoning Code shall meet the following basic conditions:

(1) It will not be contrary to the public interest or to the intent and purpose of this Zoning Code.

(2) It shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required.

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

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

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

(6) It does not result from a condition created by the applicant.

(7) It does not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.

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

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

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

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

(c) Rules for Granting. The following rules shall be applied in the granting of variances:

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

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

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

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

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

(Ord. 89. Passed 4-10-72.)

1264.12 SPECIAL EXCEPTIONS.

When, in its judgment, the public welfare will be served and the use of neighboring property will not be injured thereby, the Board of Appeals may hear and decide, in accordance with the provisions of this chapter, requests for exceptions and for decisions on special situations on which this chapter specifically authorizes the Board to pass. Any exception shall be subject to such conditions as the Board may require to preserve and promote the character of the district in question. The granting of a special exception shall in no way constitute a change in the basic uses permitted in the district affected, nor on the property wherein the exception is permitted. The Board may issue either temporary or conditional permits as special exceptions for the following land and structure uses.

(a) Temporary Permits. The granting of such special exceptions for temporary structures for dwelling purposes, including mobile homes, shall be subject to the following procedures and limitations:

(1) An application for a permit for the erection or movement of a temporary structure for dwelling purposes, including mobile homes, shall be made to the Board on a special form used exclusively for that purpose.

(2) The Board shall give due notice to the applicant and to all property owners as provided for in Section 1264.04(a).

(3) A temporary permit shall not be granted unless the Board finds adequate evidence that the proposed location of use will not be detrimental to property in the immediate vicinity and that the proposed water supply and sanitary facilities have been approved by the County Health Department.

(4) The Board may impose any reasonable conditions, including setbacks, land coverage, off-street parking, landscaping and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.

(5) The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed six months. No permit shall be transferable to any other owner or occupant.

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

(1) The Board may authorize a reduction, modification or waiver of any of the off-street parking or off-street loading regulations in Chapter 1288, when it can be demonstrated that circumstances of extreme practical difficulty exist that would unquestionably result in hardship to the applicant when a literal interpretation of the regulations is required. Hardship shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land. A hardship that is a result of any action of the applicant shall not be considered by the Board. Under all these circumstances, in no case shall the off-street parking or off-street loading standards be reduced by more than 25%.

(Ord. 2001-9. Passed 12-10-01; Ord. 2005-4. Passed 10-10-05; Ord. 2009-5. Passed 11-9-09.)

1264.13 EXPANSION AND SUBSTITUTION OF NONCONFORMITIES

The Board of Appeals shall determine whether a nonconforming building or structure may be expanded, except as otherwise provided in Chapter 1286, and whether a nonconforming use may be substituted for another nonconforming use.

(Ord. 2001-9. Passed 12-10-01.)

1264.14 SITE PLAN REVIEW.

If an appeal to the Board of Appeals involves a lot, structure or use for which a site plan approval is required, the appellant shall first apply for preliminary site plan approval as set forth in this Zoning Code. The Planning Commission shall review the site plan and shall determine the layout and other features required to obtain approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Commission's findings thereon to the Board of Appeals. The Board shall, upon deciding on the appeal, return the plan and its decision to the Planning Commission for Commission action.

(Ord. 2001-9. Passed 12-10-01.)

CHAPTER 1266

Districts Generally and Zoning Map

- 1266.01 Establishment of districts.
- 1266.02 Zoning District Map.
- 1266.03 Interpretation of district boundaries.
- 1266.04 Scope of regulations.
- 1266.05 Essential services.
- 1266.06 Uses not permitted in any district.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. Sec. 125.592

General provisions and definitions - see P. & Z.Ch. 1260

1266.01 ESTABLISHMENT OF DISTRICTS.

For the purpose of promoting the public health, safety, morals, convenience and general welfare, the area within the

Village is hereby divided into the following districts:

- R-1A One-Family Rural Residential District
- R-1B One-Family Low Density Residential District
- R-1C One-Family Medium Density Residential District
- R-1D Medium Density Residential District
- R-M1 Multiple-Family Residential District
- B-1 Business District
- B-2 Highway Service District
- TC Town Center District

(Ord. 89. Passed 4-10-72.)

(EDITOR'S NOTE: The M-1 Industrial District was eliminated by Ordinance 2001-10, passed December 10, 2001. The A-1 Agricultural District was eliminated by Ordinance 2010-6, passed January 10, 2011.)

1266.02 ZONING DISTRICT MAP.

(a) The boundaries of these districts are hereby defined and established as shown on a map entitled "Zoning District Map of the Village of Dimondale, Eaton County, Michigan," which accompanies this Zoning Code, which Map, with all explanatory matter thereon, is hereby made a part of this Zoning Code.

(b) The Zoning Map shall be identified by the signature of the President, attested by the Clerk and bearing the following words: "This is to certify that this is the official Zoning Map referred to in Section 1266.02 of the Village of Dimondale Zoning Ordinance, adopted on April 11, 2011."

(c) If, in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall not be considered final and building permits shall not be issued until changes have been made on the Zoning Map. Such Map changes shall be made within three normal working days after the effective date of the ordinance amendment. Each such change shall be accompanied by a reference number on the Map, which number shall refer to the official action of Council.

(Ord. 92-1. Passed 1-13-92; Ord. 92-2. Passed 6-8-92; Ord. 2011-1. Passed 4-11-11.)

1266.03 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Map, the following rules shall apply:

(a) In the case of boundaries indicated as approximately following the streets or highways, the centerlines of said streets or highways shall be construed to be such boundaries.

(b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

(c) Boundaries indicated as approximately following Village boundary lines shall be construed as following such Village boundaries.

(d) Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.

(e) Boundaries following the shoreline of a stream, lake or other body of water shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals or other bodies of water shall be construed to follow such centerlines.

(f) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Appeals after recommendation from the Planning Commission.

1266.04 SCOPE OF REGULATIONS.

No building or structure or part thereof shall hereafter be erected, moved, constructed or altered, and no new use or change in use shall be made unless in conformity with the provisions of this Zoning Code and with the regulations specified for the district in which it is located.

(a) The regulations applying to each district include specific limitations on the use of land and structures, height and bulk of structures, density of population, lot area, yard dimensions and area of lot that can be covered by each structure.

(b) The Board of Appeals shall have the power to classify a use which is not specifically mentioned for the purpose of clarifying the use regulations in any district.

(Ord. 89. Passed 4-10-72.)

1266.05 ESSENTIAL SERVICES.

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

(Ord. 89. Passed 4-10-72.)

1266.06 USES NOT PERMITTED IN ANY DISTRICT.

The following uses are not permitted in any district, subject to the conditions imposed herein:

(a) The wrecking, storage or dismantling of automobiles, or the maintenance and/or operation of junk yards is prohibited, except as provided for in Section 1284.04(p).

(b) No conditions shall be allowed to exist which will constitute a hazard to health, welfare or safety, are unsightly or in any way create a nuisance or damage adjoining property.

(Ord. 89. Passed 4-10-72; Ord. 2001-8. Passed 11-12-01.)

CHAPTER 1267

Conditional Rezoning

1267.01 Purpose.

1267.02 Applications.

1267.03 Definitions.

1267.04 Voluntary offer of conditions.

1267.05 Procedure for application, review, and approval of a conditional rezoning.

1267.06 Evaluation of a conditional rezoning application.

1267.07 Effect of approval of a conditional rezoning.

1267.08 Zoning Map designation.

1267.09 Amendment of a conditional rezoning agreement.

1267.10 Recording of a conditional rezoning agreement.

1267.11 Expiration of a conditional rezoning.

1267.12 Fee for conditional rezoning.

CROSS REFERENCES

Districts generally and Zoning Map - P. & Z.Ch. 1266

Zoning Map changes - Appx. I

1267.01 PURPOSE.

There may be certain land use situations where it is in the best interest of the Village, as well as beneficial to property owners seeking a change in zoning district boundaries, if certain conditions are proposed by property owners as part of a rezoning application. It is the intent of this section to provide a process consistent with the provisions of the Michigan Zoning Enabling Act by which an owner seeking a rezoning may voluntarily propose conditions regarding the land use and development characteristics of land as part of the rezoning application.

(Ord. 2015-2. Passed 7-13-15.)

1267.02 APPLICATION.

(a) An owner of land may voluntarily propose (a) in writing any conditions relating to the use and/or development of land for which a rezoning application is made.

(b) The rezoning application and process for consideration of a rezoning with conditions shall be the same as that for considering rezoning requests made without an offer of conditions, except as provided for in this section.

(c) The voluntary offer of conditions by the property owner may be made at the time the rezoning application is filed or at any time in the rezoning process.

(Ord. 2015-2. Passed 7-13-15.)

1267.03 DEFINITIONS.

“Applicant.” An applicant for a conditional rezoning shall mean the property owner, or a person acting with the written and signed consent of the property owner.

“Rezoning conditions.” Conditions proposed by the applicant and approved by the Village as part of a conditional rezoning under this section, including review and recommendation by the Planning Commission, may include land uses permissible in the zoning district for which the conditional rezoning application is made, dimensional requirements of the proposed zoning district, infrastructure and utility requirements for the proposed development, energy conservation measures, open space provision within the proposed development, preservation of natural resources, donation of land for public purposes, landscape and bufferyard requirements, and other conditions deemed important to the proposed development by the applicant. Applications for conditional rezoning shall not increase the intensity of use for the proposed rezoning district.

“Conditional rezoning agreement.” A written agreement between the Village and the property owner, mutually agreed to by both parties, and which sets forth the conditions for the proposed rezoning.

(Ord. 2015-2. Passed 7-13-15.)

1267.04 VOLUNTARY OFFER OF CONDITIONS.

The voluntary offer of conditions by the applicant shall meet the following requirements:

(a) Contain notarized signatures of all owners of the subject property attesting that they voluntarily offer and consent to the written conditions for the proposed rezoning.

(b) Contain a conditional rezoning plan which provides written descriptions of the proposed conditions for rezoning including graphic representations where necessary and appropriate.

(c) The features contained within the conditional rezoning plan shall be determined by the applicant but shall describe the use, location, size, height, design, architecture, land improvements, relationship to the Comprehensive Development Plan, and describe the relationship to adjacent property.

(Ord. 2015-2. Passed 7-13-15.)

1267.05 PROCEDURE FOR APPLICATION, REVIEW, AND APPROVAL OF A CONDITIONAL REZONING.

(a) Pre-Application Meeting. The applicant shall schedule a meeting with the Zoning Administrator of the Village to review the conditional rezoning application, conditional rezoning requirements, and the conditional rezoning process.

(b) Rezoning Application and Offer of Conditions. The property owner files the voluntary offer of conditions for the proposed rezoning as part of the rezoning application process. The request for conditional rezoning may be made at any time during the rezoning process.

(c) Public Hearing. The Planning Commission conducts the required public hearing as specified for rezoning applications by the Zoning Ordinance.

(d) Planning Commission Recommendation. Following the public hearing, and following appropriate review and discussion, the Planning Commission shall forward a recommendation to the Village Council on the proposed rezoning with conditions.

(e) Village Council Action. Upon receipt of the recommendation from the Planning Commission, the Village Council shall commence deliberations on the proposed rezoning with conditions. If the Village Council approves the proposed rezoning with conditions, it shall direct that the Zoning Administrator work with the Village Attorney and the applicant to prepare a conditional rezoning agreement.

(Ord. 2015-2. Passed 7-13-15.)

1267.06 EVALUATION OF A CONDITIONAL REZONING APPLICATION.

The Planning Commission and the Village Council shall consider customary rezoning review criteria as outlined by a planning professional and/or the Village Attorney; compliance with the Comprehensive Development Plan; the impact on adjacent properties; the ability to provide public utilities and facilities; environmental impacts; compliance with this section and any other applicable sections of the Code of Ordinances; and, whether the proposed conditions bear a relationship to the proposed rezoning, in their review of a proposed conditional rezoning application.

(Ord. 2015-2. Passed 7-13-15.)

1267.07 EFFECT OF APPROVAL OF A CONDITIONAL REZONING.

Approval of a conditional rezoning confirms only the rezoning of the property, subject to any conditions described in the conditional rezoning agreement, and the requirements of the Zoning Ordinance.

(Ord. 2015-2. Passed 7-13-15.)

1267.08 ZONING MAP DESIGNATION.

If approved, the zoning district classification on the Village Zoning Map of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Conditional Rezoning."

(Ord. 2015-2. Passed 7-13-15.)

1267.09 AMENDMENT OF A CONDITIONAL REZONING AGREEMENT.

Amendment of a conditional rezoning agreement shall be in the same manner as a new rezoning with conditions.

(Ord. 2015-2. Passed 7-13-15.)

1267.10 RECORDING OF A CONDITIONAL REZONING AGREEMENT.

A conditional rezoning shall only become effective following publication in the manner provided by law and recording with the County Register of Deeds.

(Ord. 2015-2. Passed 7-13-15.)

1267.11 EXPIRATION OF A CONDITIONAL REZONING.

Unless extended by the Village Council for good cause, the rezoning with conditions shall expire following a period of two years from the effective date of the conditional rezoning unless construction as commenced on the proposed development as defined by the Zoning Ordinance.

(Ord. 2015-2. Passed 7-13-15.)

1267.12 FEE FOR CONDITIONAL REZONING.

The applicant for a conditional rezoning shall pay a fee as established by Council to cover costs of processing the application and all charges and expenses incurred by the Village in the conditional rezoning review and document preparation. An escrow may be initially established by the Village and additional reasonable amounts contributed as required. Any unexpended escrow amounts shall be returned to the applicant.

(Ord. 2015-2. Passed 7-13-15.)

CHAPTER 1268

R-1A One-Family Rural Residential District

1268.01 Purpose.

1268.02 Uses permitted by right.

1268.03 Uses permitted under special conditions.

1268.04 Uses permitted by special use permit.

1268.05 Dimensional requirements.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Nonconforming uses - see P. & Z. Ch. 1286

Off-street parking and loading - see P. & Z. Ch. 1288

Specially permitted uses - see P. & Z.Ch. 1290

Supplementary regulations - see P. & Z.Ch. 1294

1268.01 PURPOSE.

(a) The R-1A One-Family Rural Residential District is established to allow for the development of residential properties of a semi-rural character with larger lots within areas of the Village and to provide for limited agricultural uses. The District includes existing low density one-family properties as well as areas within which such development appears both likely and desirable.

(b) (1) In order to avoid the intrusion of undesirable uses and to foster all possible benefits for a continued high quality residential environment, all nonresidential land and structure uses in the District, as well as other residential districts in this Zoning Code have been classified into three categories:

- A. Those uses permitted by right;
- B. Those uses permitted under special conditions;
- C. Those uses permitted by special permit.

(2) The latter classification has been established to facilitate the inclusion within the District of certain nonresidential uses that have been generally accepted as reasonably compatible with one-family neighborhoods, but that present potential injurious effects upon residential and other property, unless authorized under specific and controlled conditions.

(Ord. 89. Passed 4-10-72; Ord. 2010-5. Passed 1-10-11.)

1268.02 USES PERMITTED BY RIGHT.

The following uses shall be permitted by right:

(a) One-family dwellings;

(b) Customary accessory uses and buildings provided that such uses and buildings are incidental to the principal use. Any accessory building or use shall be located on the same lot with the principal building. Accessory uses shall include additional supplementary uses, including accessory buildings, as stipulated in Section 1294.06.

(c) Nameplates and signs as provided in Section 846.04;

(d) Off-street spaces as specified in Chapter 1288; and

(e) Family day care homes and adult foster care family homes.

(Ord. 2003-7. Passed 1-12-04; Ord. 2009-7. Passed 12-14-09; Ord. 2010-5. Passed 1-10-11.)

1268.03 USES PERMITTED UNDER SPECIAL CONDITIONS.

The following uses of land and structures shall be permitted, subject to the conditions hereinafter imposed for each use:

(a) Temporary buildings for uses incidental to construction work, such buildings to be removed upon the completion or abandonment of the construction work or within the period of one year, whichever is the lesser time period;

(b) Customary agricultural operations, including raising crops, truck farming, fruit orchards, nurseries, greenhouses, apiaries and usual farm buildings, but subject to the following restrictions:

(1) Farm buildings, except as noted below, shall be located no closer than 25 feet to any lot line and must be placed in the rear yard.

(2) Slaughtering of large animals is prohibited without a special use permit.

(3) No products shall be publicly displayed or offered for sale from the roadside except as provided in Section 287.07.

(c) Raising and keeping of large animals, such as cattle, hogs, horses, sheep and goats, subject to the following conditions:

(1) All such raising and keeping shall be for the use or consumption by the occupants of the premises or for not-for-profit raising such as the breeding of critical or threatened breeds.

(2) A minimum of 5 acres shall be provided for the first animal and 1 additional animal may be kept for every 2 acres by which the lot exceeds 5 acres.

(3) Private stables and buildings housing farm animals shall not be closer to any adjoining lot line than 100 feet and must be placed in the rear yard.

(4) No storage of manure or odor or dust producing materials or use shall be permitted within 100 feet of any adjoining lot line except for the application of composted manure.

(d) Raising and keeping of small animals such as poultry and rabbits on a noncommercial basis subject to the following conditions:

(1) All such raising and keeping shall be for the use or consumption by the occupants of the premises or for not-for-profit raising such as the breeding of critical or threatened breeds.

(2) No more than 4 small animals are allowed on lots of less than 5 acres. Up to 10 small animals are allowed on lots of 5 acres or more. Roosters are prohibited.

(3) Enclosures, covered or fenced, for small animals shall not be closer to any adjoining lot line than 10 feet and must be placed in the rear yard.

(4) All enclosures for the keeping of small animals shall be so constructed as to prevent rats, mice or other rodents from being harbored underneath or within. A covered or fenced enclosure shall not be located closer than 40 feet to any residential structure on an adjoining lot.

(5) All feed and other items associated with the keeping of small animals that are likely to attract rats, mice or other rodents shall be protected in a closed container to prevent vermin from gaining access.

(6) Manure must be managed in a sanitary method so that no odor is perceptible beyond the property keeping the animals. The Village municipal trash service may not be used for disposal of manure and any storage must be in a closed container.

(e) Private swimming pools, provided that every person owning land on which there is situated a swimming pool, complies with the requirements set forth in the State of Michigan Building Code as enforced through Eaton County.

(f) Customary home occupations, provided that the requirements set forth in Chapter 1287 are met.

(Ord. 2004-2. Passed 12-13-04; Ord. 2008-2. Passed 2-11-08; Ord. 2009-7. Passed 12-14-09; Ord. 2010-5. Passed 1-10-11.)

1268.04 USES PERMITTED BY SPECIAL USE PERMIT.

The following uses of land and structures may be permitted by the application for and the issuance of a special use permit, when the specified procedures and requirements, as outlined hereinafter, are complied with:

(a) Institutions for Human Care.

(1) Definition. "Institutions for human care" include hospitals, sanitariums, nursing or convalescent homes, homes for the aged, philanthropic and eleemosynary institutions.

(2) Excluded activities. Institutions for the mentally retarded and physically handicapped, drug or alcohol rehabilitation camps or correctional institutions are prohibited in any residential district.

(3) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific zoning district requirements, parking requirements as set forth in Chapter 1288, and sign requirements as set forth in Chapter 846:

A. Minimum lot size: Two acres except for hospitals, which shall require 10 acres.

B. Minimum yard setbacks: 50 feet, except that hospitals which are two stories or greater shall be set back 100 feet to any street or property line.

C. Maximum building coverage: 25%.

D. Ambulance and delivery areas are to be screened from view from adjacent residential uses and districts with a masonry wall which is 6 feet in height.

E. The site shall have access on a public street as defined in this zoning code.

(b) Religious Institutions.

(1) Definition. "Religious institutions" shall include churches or similar places of worship, convents, parsonages and parish houses and other housing for clergy.

(2) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific zoning district requirements, parking requirements as set forth in Chapter 1288, and sign requirements as set forth in Chapter 846:

A. Minimum lot size: For institutions providing worship services to the public, the minimum lot size shall be one acre plus 0.5 acres for every 100 seats in the main area. For residential uses, district regulations shall govern.

B. Minimum yard setbacks: 50 feet.

C. Maximum building coverage: 25%.

D. The site shall have access on a major street as defined in this Zoning Code unless the use is exclusively residential.

(c) Educational and Social Institutions.

(1) Definition. "Educational and social institutions" shall include public and private schools, auditoriums and other places of assembly, centers for social activities.

(2) Excluded uses. Schools or studios for music and dancing instructions are not permitted in any residential district.

(3) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific zoning district requirements, parking requirements as set forth in Chapter 1288, and sign requirements as set forth in Chapter 846.

A. Minimum lot size: 2 acres.

B. Minimum yard setbacks: 50 feet.

C. Maximum building coverage: 25%.

(d) Public Buildings and Public Service Installations.

(1) Definition. "Public buildings and public service installations" include publicly owned and operated buildings, public utility buildings and structures, telephone exchange buildings, transformer stations and substations and gas regulator stations.

(2) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific zoning district requirements, parking requirements as set forth in Chapter 1288 and sign requirements as set forth in Chapter 846.

A. Maximum building coverage: 30%

B. All mechanical equipment located in the open must be fenced and screened from view from adjacent residential uses and districts.

(e) Group Day Care Homes and Adult Foster Care Small and Large Group Homes

(1) Definition. See Section 1260.07.

(2) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific zoning district requirements, parking requirements as set forth in Chapter 1288, and sign requirements as set forth in Chapter 846.

A. The group home shall not be located closer than 1,500 feet to another group home.

B. Appropriate fencing, as determined by the Planning Commission must be provided.

C. The property must be maintained consistent with the visible characteristics of the neighborhood.

D. Hours of operation for group day care homes may not exceed 16 hours during a 24-hour period.

(f) Farms and agricultural operations which exceed the intensity of uses described in Section 1268.03.

(1) Definition. See Section 1260.07.

(2) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific zoning district requirements described in Section 1268.03, parking requirements as set forth in Chapter 1288 and sign requirements as set forth in Chapter 846.

A. Minimum lot size: More than 5 acres.

B. Maximum building coverage: 25%.

C. A complete plan for the use and management of the property, including but not limited to, the number and type of animals raised, the crops cultivated, the number and location of accessory buildings and storage facilities and a description of all proposed farming operations must be included with the application for a special use permit. A description of the proposal's compliance with Generally Accepted Agricultural and Management Practices as described in Act PA93 of 1981 is also required.

(g) Killing and dressing of large animals produced upon the premises for consumption by the occupants of the premises.

(h) Private noncommercial recreation areas, such as private nonprofit swimming pool clubs, community recreation centers or other noncommercial recreation activities.

(i) Special open space uses.

(1) Definition. Special open space uses include public beaches, bath houses, private resorts, recreational camps, public and private conservation areas and structures for the conservation of water, soils, open space, forest and wildlife resources; public areas, such as forest preserves, game refuges, forest-type recreation parks and similar public uses of low intensity character and other open space uses operated for profit; and

(2) Regulations and conditions. The following specific provisions and requirements shall apply in addition to the specific

zoning district requirements, parking requirements as set forth in Chapter 1288 and sign requirements as set forth in Chapter 846:

- A. Minimum lot size: 2 acres;
- B. Maximum building coverage: 25%;
- C. The proposed site shall have at least 1 property line abutting a major or minor arterial. All ingress and egress to the site shall be directly from said arterials; and
- D. All buildings and structures shall be set back at least 200 feet from any property or street line. Whenever the installation abuts upon property within a residential district, this 200-foot setback shall be landscaped with trees, grass and structural screens of a type approved by the Planning Commission to effectively screen the installation from surrounding residential properties.

(Ord. Unno. Passed 9-13-76; Ord. 2001-8. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04; Ord. 2009-7. Passed 12-14-09; Ord. 2010-5. Passed 1-10-11.)

1268.05 DIMENSIONAL REQUIREMENTS.

(a) The following minimum dimensions for lot area and width, front, side and rear yards, and maximum dimensions for lot coverage and building heights, shall be required for every structure and land use in the R-1A One-Family Rural Residential District, except as noted.

(1) Minimum lot area shall be 40,000 square feet. There shall not be more than one dwelling upon each lot. Refer to Section 1294.12 for permitted exceptions to lot area.

(2) Minimum lot width shall be 150 feet along the street upon which the lot principally fronts. Lots located on irregular or curving streets shall have their width measured at the building line. Refer to Section 1294.12 for permitted exceptions to lot widths.

(3) Maximum lot coverage for all buildings, including accessory buildings, shall not cover more than 20% of the lot area.

(4) Minimum yard dimensions shall be as follows:

- A. Front yards, 50 feet;
- B. Side yards, 25 feet each side; and
- C. Rear yards, 50 feet.

(5) Maximum building heights for residential structures shall be two and one-half stories, but shall not exceed 35 feet. Accessory buildings shall not exceed a height of fifteen feet. For permitted exceptions to residential building heights, refer to Section 1294.18. For building height limitations for nonresidential structures in residential districts, refer to Section 1268.04.

(6) Minimum dwelling floor areas shall be 850 square feet for single story dwellings and 750 square feet at the first or main floor level for all dwellings above one story, exclusive of any attached garage, porch or breezeway.

(b) For permitted reductions in yard dimensions, for permitted yard encroachments and for placement of accessory buildings in yard area, refer to Sections 1294.15 and 1294.16.

(Ord. 89. Passed 4-10-72; Ord. 2015-1. Passed 4-13-15.)

CHAPTER 1270

R-1B One-Family Low Density Residential District

1270.01 Purpose

1270.02 Permitted uses.

1270.03 Uses permitted by special use permit.

1270.04 Dimensional requirements.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property

- see M.C.L.A.Sec. 125.583a

Nonconforming uses - see P. & Z.Ch. 1286

Off-street parking and loading - see P. & Z.Ch. 1288

Specially permitted uses - see P. & Z.Ch. 1290

Supplementary regulations - see P. & Z.Ch. 1294

1270.01 PURPOSE.

The only essential difference between the R-1A District and the R-1B One-Family Low Density Residential District is that a higher density of population will be permitted by allowing one-family dwelling unit construction in the R-1B District on smaller lot areas. The District also includes areas within the Village which presently have, or will have within a reasonable future period, public water and sewer facilities.

(Ord. 89. Passed 4-10-72.)

1270.02 PERMITTED USES.

All uses permitted by Section 1268.02 or 1268.03, subject to all the restrictions specified therefor, shall be permitted in the R-1B District. (Ord. 89. Passed 4-10-72.)

1270.03 USES PERMITTED BY SPECIAL USE PERMIT.

The following uses of land and structures may be permitted by the application for and the issuance of a special use permit when the specified procedures and requirements outlined hereafter are complied with:

(a) All uses permitted in the R-1A District, subject to all the restrictions specified therefor.

(b) Private noncommercial recreation areas, such as private, nonprofit swimming pool clubs, community recreation centers or other noncommercial recreation activities.

(Ord. 89. Passed 4-10-72.)

1270.04 DIMENSIONAL REQUIREMENTS.

The following minimum and maximum dimensions for lot coverage and building heights shall be required for every structure and land use in the R-1B One-Family Low Density Residential District, except as noted. Refer to Sections 1294.15 and 1294.16 for permitted reductions in yard dimensions, permitted yard encroachments and placement of accessory buildings in rear yards.

(a) Minimum lot area shall be 15,000 square feet. There shall not be more than one dwelling upon each lot. For permitted exceptions to lot area, refer to Section 1294.12.

(b) Minimum interior lot width shall be 100 feet along the street upon which the lot principally fronts, except as follows:

(1) Lots located on irregular or curving streets shall have their width measured at the building line. Refer to Section 1294.12 for permitted exceptions to lot widths.

(2) A single-family dwelling may be constructed on a lot of record which is of smaller dimensions and of less gross area than the minimum specified, provided that any lot so excepted shall be no less than fifty feet wide at the street line, and that no lot shall be so reduced in area that required open spaces will be smaller than those established as a minimum for the district in which the lot is located.

(c) Minimum corner lot width shall be 110 feet along the street fronted upon, with exceptions to be allowed for lots on curvilinear streets producing nonparallel side lot lines as noted in paragraph (b)(1) hereof, except that any minimum lot width shall be ten feet more for corner lots.

(d) Maximum lot coverage for all buildings, including accessory buildings, shall not cover more than twenty percent of the total lot area. Refer to Section 1294.12 through 1294.14.

(e) Minimum front yards shall be thirty feet, except in the case where forty percent or more of lots are occupied with residential structures in any block, no building hereafter erected or structurally altered shall project beyond the average front yard line so established, provided this regulation shall not require a front yard of more than fifty feet or allow a front yard of less than twenty-five feet.

(f) Minimum side yards shall be fifteen feet on each side.

(g) Minimum rear yards shall be forty feet.

(h) Maximum building heights for residential structures shall be two and one-half stories, but not exceeding thirty-five feet. Accessory buildings shall not exceed a height of fifteen feet. Refer to Section 1294.18 for building height limitations for nonresidential structures in Residential Districts.

(i) Minimum dwelling floor areas shall be 1,000 square feet for single story residences, 750 square feet for two story residences, 800 square feet for bi-level residences and 900 square feet for one and one-half story dwellings at the first or main floor level, exclusive of any attached garage, porch or breezeway.

(Ord. 89. Passed 4-10-72.)

CHAPTER 1272

R-1C One-Family Medium Density Residential District

1272.01 Purpose.

1272.02 Permitted uses.

1272.03 Dimensional requirements.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Nonconforming uses - see P. & Z.Ch. 1286

Off-street parking and loading - see P. & Z.Ch. 1288

Specially permitted uses - see P. & Z.Ch. 1290

Supplementary regulations - see P. & Z.Ch. 1294

1272.01 PURPOSE.

The only essential difference between the R-1C One-Family Medium Density Residential District and the R-1A District or the R-1B District is that a higher density of population will be permitted through one-family dwelling unit construction on smaller lot areas. The District has been designed to include existing one-family developments within the Village which have a similar lot area and character, as well as areas within which such development appears likely and desirable.

(Ord. 89. Passed 4-10-72.)

1272.02 PERMITTED USES.

All uses permitted by Section 1270.02 or 1270.03, subject to all the restrictions specified therefor, shall be permitted in the R-1C District.

1272.03 DIMENSIONAL REQUIREMENTS.

The following minimum and maximum dimensions for lot coverage and building heights shall be required for every structure and land use in the R-1C One-Family Medium Density Residential District, except as noted:

(a) Minimum lot area shall be 10,000 square feet. There shall be no more than one dwelling upon each lot. For permitted exceptions to lot area, refer to Section 1294.12.

(b) Minimum interior lot width shall be eighty feet along the street the lot principally fronts upon, except as follows:

(1) Lots located on irregular or curving streets shall have their width measured at the building line.

(2) A single-family dwelling may be constructed on a lot of record which is of smaller dimensions and of less gross area than the minimum specified, provided that any lot so excepted shall be no less than fifty feet wide at the street line, and that no lot shall be so reduced in area that the required open spaces will be smaller than those established as a minimum for the district in which the lot is located. Refer to Section 1294.12 for permitted exceptions to lot widths.

(c) Minimum corner lot widths shall be ninety feet along the street upon which the lot fronts, with exceptions to be allowed for lots on curvilinear streets producing nonparallel side lot lines, except that any minimum lot width shall be ten feet more for corner lots.

(d) Maximum lot coverage for all buildings, including accessory buildings, shall not cover more than thirty percent of the total lot area. Refer to Sections 1294.12 through 1294.14.

(e) Minimum front yards shall be twenty-five feet, except in the case where forty percent or more of the lots within a block are occupied with residential structures, no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided this regulation shall not require a front yard of more than fifty feet or allow a front yard of less than twenty feet.

(f) Minimum side yards shall be ten feet on each side.

(g) Minimum rear yards shall be thirty-five feet.

(h) Refer to Sections 1294.15 and 1294.16 for permitted reductions in yard dimensions, permitted yard encroachments and placement of accessory buildings in yard area.

(i) Maximum building heights for residential structures shall be two and one-half stories, but not exceeding thirty-five feet. Accessory buildings shall not exceed a height of fifteen feet. Refer to Section 1294.18 for permitted exceptions to residential building heights. Refer to Section 1294.18 for building height limitations for nonresidential structures in Residential Districts.

(j) Minimum dwelling floor areas shall be 750 square feet for single-story residences, 650 square feet for two story residences, 700 square feet for bi-level residences and 700 square feet for one and one-half story dwellings at the first or main floor level, exclusive of any attached garage, porch or breezeway.

(Ord. 89. Passed 4-10-72; Ord. 2015-1. Passed 4-13-15.)

CHAPTER 1274

R-1D Medium Density Residential District

1274.01 Purpose.

1274.02 Permitted uses.

1274.03 Dimensional requirements.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Nonconforming uses - see P. & Z. Ch. 1286

Off-street parking and loading - see P. & Z. Ch. 1288

Specially permitted uses - see P. & Z. Ch. 1290

Supplementary regulations - see P. & Z. Ch. 1294

1274.01 PURPOSE.

The R-1D Medium Density Residential District is intended to provide for a diverse residential environment whereby both single-family and two-family dwellings can be accommodated side by side. It provides for a mixture of these two housing types and thereby offers a greater choice in living environments for Village residents.

(Ord. 89. Passed 4-10-72.)

1274.02 PERMITTED USES.

All uses permitted by Section 1272.02, subject to all the restrictions specified therefor, shall be permitted in the R-1D District, as well as two-family dwellings.

(Ord. 89. Passed 4-10-72.)

1274.03 DIMENSIONAL REQUIREMENTS.

The following minimum dimensions for lot and area width, front, side and rear yards, together with maximum dimensions for lot coverage and building heights, shall be required for every structure and land use in the R-1D Medium Density Residential District, except as noted.

(a) Minimum lot area shall be 8,500 square feet for a single-family dwelling and 12,000 square feet for a two-family

dwelling. For permitted exceptions to lot area, refer to Section 1294.12.

(b) Minimum interior lot widths shall be sixty-six feet for single-family and eighty feet for two-family units along the street upon which the lot principally fronts, except as follows:

(1) Lots located on irregular or curving streets shall have their widths measured at the building line.

(2) A dwelling may be constructed on a lot of record which is of smaller dimensions and of less gross area than the minimum specified, provided that any lot so excepted shall be no less than fifty feet wide at the street line for a single-family residence and sixty feet wide at the street line for a two-family residence, and that all other district area requirements will be complied with. Refer to Section 1294.12 for permitted exceptions to lot widths.

(c) Minimum corner lot widths shall be eighty feet for single-family and ninety feet for two-family residences, with exceptions to be allowed for lots or curvilinear streets producing nonparallel side lot lines, except that any minimum lot width shall be ten feet more for corner lots.

(d) Maximum lot coverage for all buildings, including accessory buildings, shall not cover more than thirty percent of the total lot area for single-family units, nor more than forty percent of the total lot area for two-family units. Refer to Sections 1294.12 through 1294.14.

(e) Minimum front yards shall be twenty-five feet, except in the case where forty percent or more of lots within a block are occupied with residential structures, no building hereafter erected or structurally altered shall project beyond the average front yard so established, provided that this regulation shall not require a front yard of more than fifty feet or allow a front yard of less than twenty feet.

(f) Minimum side yards shall be ten feet on each side.

(g) Minimum rear yards shall be thirty-five feet.

(h) Refer to Sections 1294.15 and 1294.16 for permitted reductions in yard dimensions, permitted yard encroachments and placement of accessory buildings in yard areas.

(i) Maximum building heights for residential structures shall be two and one-half stories, but not exceeding thirty-five feet. Accessory buildings shall not exceed a height of fifteen feet. Refer to Section 1294.18 for permitted exceptions to residential building heights. Refer to Section 1294.18 for building height limitations for nonresidential structures in Residential Districts.

(j) Minimum dwelling floor areas shall be as follows:

(1) For single-family dwellings, the same as for the R-1C District; and

(2) For two-family dwellings, 700 square feet per dwelling unit.

(Ord. 89. Passed 4-10-72; Ord. 2015-1. Passed 4-13-15.)

CHAPTER 1276

R-M1 Multiple-Family Residential District

1276.01 Purpose.

1276.02 Uses permitted by right.

1276.03 Uses permitted under special conditions.

1276.04 Uses permitted by special use permit.

1276.05 Dimensional requirements.

1276.06 Group housing site development requirements.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Nonconforming uses - see P. & Z. Ch. 1286

Off-street parking and loading - see P. & Z. Ch. 1288

Specially permitted uses - see P. & Z. Ch. 1290

1276.01 PURPOSE.

The R-M1 Multiple-Family Residential District is provided to accommodate a mixture of housing types, to permit boarding and lodging houses under specified maximum capacities, and to serve the limited needs for garden apartments, townhouses, row houses or other group housing facilities similar in character and density.

(Ord. 89. Passed 4-10-72.)

1276.02 USES PERMITTED BY RIGHT.

Uses permitted by right in the R-M1 Multiple-Family Residential District shall be as follows:

- (a) All uses permitted by right in the R-1C District;
- (b) Two-family dwellings;
- (c) Multiple-family dwellings;
- (d) Signs identifying any of the permitted uses in the District, which signs shall be in accordance with the requirements specified in Chapter 846; and
- (e) Off-street parking spaces, which spaces shall be provided as specified in Chapter 1288.

(Ord. 89. Passed 4-10-72; Ord. 2003-7. Passed 1-12-04.)

1276.03 USES PERMITTED UNDER SPECIAL CONDITIONS.

The following uses of land and structures shall be permitted in the R-M1 Multiple-Family Residential District, subject to the conditions hereinafter imposed for each use:

- (a) All uses permitted under special conditions in Section 1268.03, subject to all the restrictions specified therefor.
- (b) Lodging houses, provided that not more than four nontransient roomers are accommodated in one dwelling and that said dwelling is occupied by a resident family.
- (c) Boarding houses, provided that not more than four nontransient persons are accommodated for the serving of meals.

(Ord. 89. Passed 4-10-72.)

(d) Group housing developments, including those types of residential housing customarily known as garden apartments, terrace apartments, townhouses, row housing units and other housing structures of similar character, provided that a site plan of the proposed development is submitted to and approved by the Planning Commission, that the proposed project is serviced by public water, sanitary sewer and storm sewer systems, and that all of the conditions specified in Section 1276.06 are met.

(Ord. Unno. Passed 9-13-76.)

(e) Group day care homes and adult foster care small and large group homes, provided the requirements described in Section 1268.04(e) are met.

(Ord. 89. Passed 4-10-72; Ord. 2001-8. Passed 11-12-01; Ord. 2009-7. Passed 12-14-09.)

1276.04 USES PERMITTED BY SPECIAL USE PERMIT.

The following uses of land and structures may be permitted by the application for and the issuance of a special use permit when specified procedures and requirements, as outlined hereafter, are complied with:

- (a) All uses permitted by special use permit in Section 1270.03, subject to all the restrictions specified therefor, except those allowed under Section 1276.03;
- (b) Day care centers and adult foster care congregate facilities;
- (c) Funeral homes and mortuaries, provided that the conduct of all aspects of activities related to such uses shall take place within the principal building and not in an accessory building.

(Ord. 2009-7. Passed 12-14-09; Ord. 2013-3. Passed 5-13-13.)

1276.05 DIMENSIONAL REQUIREMENTS.

The following minimum and maximum dimensions for lot coverage and building heights shall be required for every structure and land use in the R-M1 Multiple-Family Residential District, except as noted:

- (a) Minimum lot areas shall be as follows:

- (1) For one-family dwellings, 10,000 square feet for each dwelling unit;
- (2) For two-family dwellings, 6,000 square feet for each dwelling unit;
- (3) For multiple-family dwellings, 4,000 square feet for each dwelling unit; and
- (4) For lodging or boarding houses, 8,000 square feet for each dwelling unit, plus 500 square feet for each nontransient person accommodated.

(b) Minimum interior lot widths shall be seventy feet along the street on which the lot principally fronts, except as follows:

- (1) Lots located on irregular or curving streets shall have their width measured at the building line.
- (2) A single-family dwelling may be constructed on a lot of record which is of smaller dimensions and of less gross area than the minimum specified, provided that any lot so excepted shall be no less than 50 feet wide at the building line, and that no lot shall be so reduced in area that the required open spaces will be smaller than those established as a minimum for the district in which the lot is located. Refer to Section 1286.11 for permitted exceptions to lot widths.

(c) Minimum corner lot widths shall be eighty feet along the street upon which the lot principally fronts, with exceptions to be allowed for lots on curvilinear streets producing nonparallel side lot lines, except that any minimum lot width shall be 10 feet more for corner lots.

(d) Maximum lot coverage for all buildings, including accessory buildings, shall not cover more than 35% of the total lot area. Refer to Sections 1294.12 through 1294.14.

(e) Minimum front yards shall be 25 feet, except in the case where 40% or more of the lots within a block are occupied with residential structures. No building hereafter erected or structurally altered shall project beyond the average front yard so established, provided that this regulation shall not require a front yard of more than 50 feet or allow a front yard of less than 20 feet.

(f) Minimum side yards shall be 10 feet on each side.

(g) Minimum rear yards shall be not less than 30 feet for lots up to 150 feet in depth and not less than 40 feet for lots greater than 150 feet in depth.

(h) Maximum building height shall be as follows:

(1) For one and two-family dwellings, two and one-half stories, but not exceeding 35 feet. Accessory buildings shall not exceed a height of 15 feet. Refer to Section 1294.18 for permitted exceptions.

(2) For multiple-family dwellings, 3 stories, but not exceeding 40 feet. Accessory buildings shall not exceed a height of 15 feet. No space below grade level shall be used for dwelling purposes, except as follows:

A. When the finished floor grade of the space below grade level is no more than 4 feet below finished outside ground level at any point on the periphery of that part of the structure enclosing the below grade dwelling space;

B. On sloping sites, when the finished grade of the space below grade level is above finished outside ground level for at least the length of one wall. In the same instance, such dwelling spaces shall have either adequate through or cross ventilation.

(3) For lodging or boarding houses, two and one-half stories, but not exceeding 35 feet. Accessory buildings shall not exceed a height of 15 feet.

(i) Minimum dwelling floor areas shall be as follows:

- (1) For single-family dwellings, 750 square feet;
- (2) For each dwelling unit in a two-family dwelling, 700 square feet; and
- (3) For each dwelling unit in a multiple-family dwelling, 350 square feet for one room, 550 square feet for two rooms, 750 square feet for 3 rooms, and an average of 200 square feet for each room in excess of 3 rooms.

(Ord. 89. Passed 4-10-72.)

1276.06 GROUP HOUSING SITE DEVELOPMENT REQUIREMENTS.

Two or more residential buildings of similar or different character may be built upon one lot or parcel of land when a site plan is submitted to and approved by the Planning Commission and when the following site development requirements have been complied with:

- (a) Minimum Site Area. No group housing development shall be authorized with a gross site area less than two acres.
- (b) Minimum Lot Area. No group housing development shall be established on a lot or parcel having a width less than 150 feet, provided that for group housing the average lot area per family or dwelling unit shall not be less than 2,500 square feet.
- (c) Maximum Lot Coverage. Not more than 35% of the net area within property lines within a group housing project, including accessory buildings, shall be covered by buildings.

(d) Yards and Other Open Space.

(1) Between buildings. The minimum horizontal distance between buildings front to front, rear to rear, or front to rear shall be 50 feet for buildings one story in height. This distance shall be increased by not less than 5 feet for every story added. The minimum distance between buildings may be decreased by as much as 10 feet toward one end if it is increased by a similar distance at the other and consistent modifications are permitted by the Planning Commission to accommodate plans which are not conventional in their outline or in their relation to other buildings.

(2) Between ends of buildings. The horizontal distance between ends of buildings shall be 20 feet or more for one or two-story buildings. These distances shall be increased by not less than 5 feet for every story added.

(3) Closed courts. No closed courts shall be permitted. However, open arcades or garden walls not over 6 feet in height shall not be deemed enclosing features.

(4) Yard dimensions. For buildings up to 35 feet in height, no building shall be closer than 25 feet to any street, 35 feet to any rear property line or 20 feet to an interior side property line. For each one foot of building height above 35 feet, one foot shall be added to required front, side and rear yards.

(5) Other dimensions. No dwelling unit in a group housing development shall be closer to a street or private access drive than 25 feet or shall be further from a street or private access drive than 150 feet.

(6) Usable open space. A minimum usable open space area of 100 square feet per dwelling unit shall be provided within group housing developments. Such open space shall be provided at ground level, unoccupied by principal or accessory buildings, and available to all occupants of the group housing development. Each open space area so provided shall have a minimum total area of 1,200 square feet and shall be unobstructed to the sky and shall not be devoted to service driveways or off-street parking or loading space, but shall be usable for greenery, drying yards, recreational space and other leisure activity normally carried on outdoors.

(e) Maximum Building Height. The maximum height of buildings housing the principal use shall be governed by the yard and lot area requirements. Accessory buildings shall not exceed 15 feet in height.

(f) Signs. Signs shall be in accordance with requirements specified in Chapter 846.

(g) Off-Street Parking. Off-street parking spaces shall be provided as specified in Chapter 1288.

(h) Private Streets. Private streets or private access drives may be permitted within group housing developments, provided that the following minimum requirements are met:

(1) All streets, roadways or private access drives will be paved to a minimum width of 20 feet when parking is prohibited. Additional widths for streets may be required by the Planning Commission based upon the particular density and building relationship proposals of the proposed group housing development.

(2) No dead-end street or roadway shall serve more than 100 families as a means of vehicular access.

(3) Suitable turning facilities shall be provided for vehicles at the terminus of all dead-end streets or roadways. A minimum radius of 50 feet shall be required for all turnarounds, and additional width may be required by the Commission after consideration of the vehicular needs of a particular group housing development proposal.

(4) Satisfactory arrangements have been made with the Commission regarding the maintenance and repair of streets, roadways or access drives.

(Ord. 89. Passed 4-10-72; Ord. 2003-7. Passed 1-12-04.)

CHAPTER 1278

B-1 Business District

1278.01 Purpose.

1278.02 Uses permitted by right.

1278.03 Uses permitted under special conditions.

1278.04 Uses permitted by special use permit.

1278.05 Site development requirements.

1278.06 Voiding of permit.

1278.07 Supporting evidence required.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Nonconforming uses - see P. & Z.Ch. 1286

Off-street parking and loading - see P. & Z.Ch. 1288

Specially permitted uses - see P. & Z.Ch. 1290

Supplementary regulations - see P. & Z.Ch. 1294

1278.01 PURPOSE.

The B- I Business District is designed to provide convenient, day-to-day retail shopping and service facilities for persons residing in the community with a minimum impact upon surrounding residential development. It is also intended to allow by Special Use Permit (SUP) for residential land uses and mixed use development, intensive service establishments and certain light industrial, and highway-oriented commercial uses.

(Ord. 2001-6. Passed 11-12-01; Ord. 2010-1. Passed 4-12-10.)

1278.02 USES PERMITTED BY RIGHT.

Uses permitted by right in the B-1 Business District shall be all of the following uses which uses must be conducted wholly in a permanent, fully enclosed building and shall be subject to Site Plan Review pursuant to Chapter 1296, parking requirements pursuant to Chapter 1288, and sign requirements of Chapter 846:

(a) Retail food establishments which supply groceries, fruits, vegetables, meats, dairy products, baked goods, confections or similar commodities for consumption off the premises. Foodstuffs may be prepared or manufactured on the premises as an accessory activity if the sale of the product is limited to the local retail store;

(b) Restaurants, including lunch counters, dairy bars and other establishments which provide food for consumption on the premises, excluding establishments with "drive-in" facilities;

(c) Other retail businesses, such as drug, variety, secondhand stores, dry goods, clothing, notions, music, book or hardware stores which supply commodities on the premises;

(d) Personal service establishments which perform services on the premises, such as barber or beauty shops, repair shops for shoes, radios, televisions and jewelry, and self-service laundries and photographic studios;

(e) Offices for professional services, such as medical professionals (doctors, dentists, osteopaths, etc.), consultants, service, sales and similar professions.

(f) Professional offices for architects, engineers, artists and others employed in the graphic arts field;

(g) Banks and other financial corporation offices;

(h) Administrative offices in which the personnel will be employed in one or more of the following fields: executive, administrative, legal, writing, clerical, stenographic, accounting, insurance and similar enterprises;

(i) Printing, publishing, photographic reproduction, blueprinting and related trades and arts;

(j) Computer software development and sales and assembly of hardware computer components for sale;

(k) Business colleges, dancing or musical studios;

(l) Small engine repair facilities.

(m) Other uses of a similar and no more objectionable character which can meet the site development requirements of 1278.05.

(Ord. 2001-6. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04.)

1278.03 USES PERMITTED UNDER SPECIAL CONDITIONS.

The following uses of land and structures shall be permitted in the B-1 Business District, subject to the conditions hereinafter imposed for each use and to Site Plan Review pursuant to Chapter 1296, parking requirements pursuant to Chapter 1288, and sign requirements of Chapter 846:

(a) Accessory uses which comply with the following conditions and standards:

(1) Definition: An "accessory use" is a use which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is related.

(2) The outdoor display of retail merchandise may be permitted as an accessory use, provided that it takes place in an area indicated for such use on an approved site plan. Such display areas shall not encroach on any required parking or maneuvering areas, extend into any required yard setback or interfere with pedestrian safety. The outdoor display area shall not exceed 10% of the floor area of the principal building.

(b) Public buildings, such as post offices, passenger terminals, libraries or similar public office buildings, provided that there is no outside storage and that such public uses serve primarily persons living within the community.

(c) Temporary outdoor uses, such as sidewalk sales, displays, Christmas tree sales lots, revival tents or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the Board of Appeals, provided that such approval shall not be granted for more than 30 days in any one year.

(d) Pet shops, provided that all animals and birds are kept entirely within the building at all times.

(e) Veterinary hospitals, clinics and kennels, provided animals are housed within buildings at all times.

(f) Building supply and equipment stores which meet the following provisions:

(1) Definition: "Building supply and equipment stores" feature retail sales, as typically incidental to contractors, in which a workshop is required for successful operation and in which the retail outlet or show room may in fact be an accessory use, such as, but not limited to: plumber, electrician, lighting fixtures, air conditioning and heating, radio and television, interior decorator, reupholstery and refinishing.

(2) Not more than 50% of the total usable floor area of the establishment (excluding storage areas) shall be used for servicing, repairing, manufacturing or processing activities.

(g) Trade or industrial schools which meet the following provision: vehicles associated with the instructional facility may be left on the site overnight providing:

(1) Vehicles shall be stored within an enclosed building or in an area screened by an opaque fence not less than 6 feet in height which is continuously maintained in good condition;

(2) Areas for the outside storage of vehicles overnight shall be designated on an approved site plan;

(3) There shall be no outdoor repair activity on vehicles.

(h) Public utility installations and buildings without outside storage, provided that all mechanical equipment located in the open must be fenced and screened.

(i) Enclosed storage facilities for building material and supplies, sand, gravel, stone, lumber and contractor's equipment, provided the following conditions are met:

(1) The proposed site shall front upon a major thoroughfare. All ingress and egress to the site shall be directly from said thoroughfare;

(2) On-site circulation areas including areas of ingress and egress shall be paved and graded and drained so as to prevent collection of water.

(j) Institutions for human care, which include hospitals, sanitariums, nursing or convalescent homes, homes for the aged, philanthropic and eleemosynary institutions, provided all of the following conditions are met:

(1) Excluded activities: Institutions for the mentally retarded and physically handicapped, drug or alcohol rehabilitation camps or correctional institutions are prohibited in any residential district.

(2) Minimum lot size: 2 acres, except for hospitals, which shall require 10 acres.

(3) Minimum yard setbacks: 50 feet, except that hospitals which are two stories or greater shall be set back 100 feet to any street or property line.

(4) Maximum building coverage: 25%.

(5) Ambulance and delivery areas are to be screened from view from adjacent residential uses and residential and agricultural districts with a masonry wall which is 6 feet in height.

(k) Funeral homes and mortuaries provided all of the following conditions are met:

(1) All aspects of activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.

(2) Adequate off-street assembly area for vehicles used in funeral processions shall be provided in addition to any required off-street parking area.

(l) Open air business uses, such as retail sales of plant material not grown on the site, sales of lawn furniture, playground equipment and garden supplies provided the following conditions are met:

(1) Any area to be used for outside storage of display materials or equipment shall be designated on the approved site plan and shall be paved, graded and drained so as to prevent the collection of water.

(2) Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard (setback) or occupy any required parking or maneuvering areas for vehicles.

(3) The size of the outdoor storage or display area shall not exceed 10% of the gross floor area of the principal building.

(m) Day care centers and adult foster care congregate facilities, provided that all areas for outdoor recreation shall be fully screened with a solid fence not less than four feet in height.

(Ord. 2001-4. Passed 10-8-01; Ord. 2001-6. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04; Ord. 2009-7. Passed 12-14-09; Ord. 2015-1. Passed 4-13-15.)

1278.04 USES PERMITTED BY SPECIAL USE PERMIT.

Uses of land and structures permitted by special use permit in the B-1 Business District shall be all of the following uses. A special use permit will be issued upon application for both Site Plan Review and special use permit when both are found to be in compliance with the requirements of this Zoning Code, including the parking requirements of Chapter 1288 and the sign requirements of Chapter 846.

(a) Gasoline service stations which comply with the following:

(1) Definition. A "gasoline service station" is any area of land, including any structure or structures thereon, that is used or designed to be used for the retail sales of gasoline, oil and similar products. Also included is automobile maintenance, including minor mechanical repairs. This use is not intended to allow for uses specifically listed under "commercial garages" in division (c) of this section or "vehicular washing facilities" in division (n) of this section.

(2) Prohibited uses. Painting of vehicles is not permitted as a part of a gasoline service station.

(3) Relations and conditions. The following specific provisions and requirements shall apply:

A. Minimum lot size: 15,000 square feet. In addition, gasoline service stations shall have 500 square feet of site area for each additional pump over 4, and 1,000 square feet of site area for each additional service bay over 2.

B. Minimum lot width: 150 feet.

C. Minimum yard setbacks: The principal building shall be setback a minimum of 40 feet from all street right-of-way lines. The principal building shall also be set back a minimum of 25 feet from any property line in a residential district unless separated therefrom by a street or alley. No installations, except walls or fencing and permitted signs, lighting and essential services, may be constructed closer than 15 feet to the line of any street right-of-way.

(b) Public buildings and public service installations with outside storage and/or which are not covered in Section 1278.03(c).

(c) Commercial garages serving automobiles, trucks, trailers and boats under the following conditions:

(1) Definition: A "commercial garage" is a building, structure or parcel of land or any portion used for the repairing, cleaning, sewing, equipping, painting or diagnosing of motor vehicles when operated as a business. The following uses may be permitted in conjunction with a commercial garage:

A. Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repair.

B. Parking and storage of inoperative vehicles, provided that such parking or storage areas shall be within an enclosed building or shall be screened by an opaque fence not less than 6 feet in height. Storage areas for inoperative vehicles shall be designated on an approved site plan.

C. Automobile body repairs.

(2) No more than 10% of the gross area of the district shall be utilized for this use.

(3) Minimum lot size: 15,000 square feet. In addition, commercial garages shall have 1,000 square feet of site area for each additional service bay over two. There shall also be 300 square feet of additional site area for each space intended for storage of inoperable vehicles.

(4) Minimum lot width: 150 feet.

(5) Automobile and truck and trailer repair, including but not limited to hydraulic hoists, pits and all lubrications, greasing, washing or repair equipment, and the sale of automotive accessories shall be conducted within a wholly enclosed building.

(d) Motel, motor-hotel, hotel and transient lodging facilities including bed and breakfasts, but not including trailer camps or tent sites.

(e) Miniature golf, golf driving ranges; race tracks, drive-in theaters, or similar public amusements and temporary and transient amusement enterprises which meet the following provisions:

(1) All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two streets.

(2) Whenever any use that may be permitted in this division abuts property which is zoned or used for residential or agricultural purposes, a transition strip of at least 200 feet in width shall be provided between all operations and structures, including fences, and the adjacent residential or agricultural property. Grass, plant materials and structural screens of a type approved by the Planning Commission shall be placed within said transition strip.

(3) Race tracks and drive-in theaters shall be enclosed for their full periphery with a solid screen fence at least 8 feet in height. Fences shall be of sound construction and well maintained.

(4) Drive-in theater ticket gates shall be provided in accordance with the following ratio: one ticket gate for every 250 cars of capacity provided in the theaters. Vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least 30% of the vehicular capacity of the theater.

(5) Drive-in theater picture screens shall not be permitted to face any public street and shall be so located as to be out of view from any major arterial. The picture screen tower shall not exceed 65 feet in height.

(6) For drive-in theaters, no more than two advertising signs not exceeding in aggregate more than 500 square feet shall be permitted. Said signs shall only advertise the business and shall be so located as not to obstruct traffic or vision upon any public street. In no event is any one sign to exceed 250 square feet.

(f) Fur and dry cleaning establishments, provided that nonflammable and odorless cleaning fluid or solvent is used and that all dry cleaning is limited to that material and clothing picked up over the counter of the premises.

(g) Commercial recreation facilities, such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks or other similar uses, provided that the following provisions are met:

(1) All uses will be conducted wholly within a completely enclosed building.

(2) When such building is adjacent to a Residential District, the buffering requirements contained in the Site Development Standards of Chapter 1296.08(e) shall apply and the Planning Commission shall determine compliance with the standards.

(h) Outdoor sales for new and used automobiles, trailers and boats, provided that:

(1) The space used therefore is paved and adequately maintained so as to provide a durable, smooth and dustless surface.

(2) The space is so graded and provided with adequate drainage facilities that all collected surface water is effectively carried away from the site.

(i) Drive-in businesses, provided that:

(1) Service may be in automobiles or outdoors, but all other activities shall be carried on within a building.

(2) A setback of at least 60 feet from the right-of-way line of any existing or proposed street shall be maintained.

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

(4) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. The number of stacking spaces shall be determined by the Zoning Administrator based on trip generation information for the proposed use.

(j) Drive-in restaurants, provided that:

(1) All of the provisions required for drive-in businesses listed in division (i) above are met.

(2) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of 7 stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through facility.

(3) In addition to the requirements of Chapter 1288, at least one parking space shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.

(k) Banks, credit unions and savings and loan establishments, including drive-through facilities, provided that:

(1) All of the provisions required for drive-in businesses listed in division (i) above are met.

(2) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of 4 stacking spaces for each outdoor teller operation, whether personal or automatic, shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through facility.

(l) Outdoor/patio dining, provided that:

(1) There is a minimum of 6-foot wide sidewalk clearance between curb and any seating area

(2) Seating located on a public sidewalk and/or within a public right-of-way shall have fences or railings provided around seating, which shall be of a demountable type so as to eliminate, when removed, any vertical protrusion above

sidewalk grade which might cause pedestrian hazard and hinder snow removal.

(3) Liability insurance coverage in an amount to be set by the Village Council, which includes the Village, its officers, agents and employees as insureds, shall be provided by the restaurant operator to cover pedestrian or vehicular accident claims.

(4) The outdoor dining area is shown on an approved site plan.

(5) The outdoor dining is associated with dining within the principal building and takes place on the same lot.

(6) The patio area shall be considered an accessory structure and shall be included in calculating the lot coverage.

(m) Contractor's establishment not engaging in retail activities on the site.

(n) Vehicular washing facilities, provided that sufficient stacking capacity for each washing bay is provided to ensure that traffic does not extend into the public right-of-way. A minimum of 4 stacking spaces for each washing bay shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the washing facility. Automobile washing and repair equipment shall be entirely enclosed within a building.

(o) Light industrial and manufacturing land uses which meet the following provisions:

(1) Definition: "Light industrial and manufacturing" is any production, manufacturing, processing, servicing, testing, repair, storage, and distribution of materials, goods, foodstuffs and other products.

(2) All light industrial and manufacturing uses must meet the general standards of the B-1 District.

(p) Residential land uses to include single-family, two-family and multiple-family dwellings when established as the sole use or in combination with the "Uses Permitted by Right", "Uses Permitted Under Special Conditions" and "Uses Permitted by Special Use Permit" provided the following conditions are met:

(1) Site development: The site development requirements of the B-1 District shall be met.

(2) Nonconforming uses: A nonconforming use as defined by this Code of Ordinances may be considered as a Class 1 Nonconforming Use by the Planning Commission as part of the special use permit review process.

(3) Principal structures: There shall be only 1 principal structure per lot unless otherwise allowed by the special use permit.

(4) Site plan: A conceptual site plan must be submitted with the special use permit application for consideration by the Planning Commission. Final site plan approval will be required as a condition of special use permit approval. At the applicant's discretion, a final site plan may be submitted with the application.

(Ord. 2001-6. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04; Ord. 2010-1. Passed 4-12-10.)

1278.05 SITE DEVELOPMENT REQUIREMENTS.

Site development requirements in the B-1 Business District for uses permitted by right, by special condition or by special use permit shall be as follows unless otherwise noted:

(a) Number of Structures per Lot. Only one principal structure may be established for each lot. Accessory buildings and structures are permitted provided they meet the following conditions and standards:

(1) Definition. An "accessory building or structure" is a building or structure, whether attached or detached, which is clearly incidental to, and located on the same lot as the principal structure to which it is related.

(2) Setback, front. Accessory buildings and structures must be located behind the rear building line of the principal building.

(3) Setback, side. Accessory buildings and structures must have side setbacks which are greater than or equal to the minimum required for the principal structure, except where otherwise noted.

(4) Setback, rear. Accessory buildings and structures must have a rear yard setback of at least 5 feet.

(5) Height restriction. Accessory buildings and structures shall not exceed a height of fifteen feet. The permitted exceptions of Section 1294.18 shall also apply.

(6) Bulk restriction. Accessory buildings and structures shall comply with the provisions of the B-1 District for lot coverage.

(7) Phasing. Accessory buildings and structures shall not be erected on a lot or parcel prior to the establishment of a principal building upon the premises.

(b) Minimum lot area shall be 10,000 square feet.

(c) Minimum lot width shall be 66 feet.

(d) Yards shall be as follows:

(1) The minimum front yard setback for a building shall be 25 feet, and except for necessary drives and walks, shall remain clear.

(2) Side yards shall be 10 feet. Side and rear yards, except for a strip along the lot boundary 10 feet in width, may be used for parking and loading, but not for storage.

(3) Rear yards shall be 40 feet.

(e) Maximum building height shall be two and one-half stories or 35 feet.

(f) Maximum lot coverage shall be 40% and shall include the total area of the principal building and all accessory buildings.

(g) Off-street parking and loading and unloading shall comply with the following provisions:

(1) Off-street parking, loading and unloading spaces shall be provided in accordance with the requirements specified in Chapter 1288.

(2) In addition to the requirements specified in Chapter 1288, sufficient parking space shall be provided to park all vehicles owned or leased by the occupant, including, but not limited to, passenger cars, trucks, tractors, trailers and similar vehicles.

(h) Any signs may be displayed if they pertain exclusively to the business carried on within the building and meet the provisions of Chapter 846.

(i) Screening for Dumpster/Recycling Areas. All solid waste dumpsters and disposal facilities, recycling bins, and similar areas and structures located in the B-1 Zoning District shall be completely screened by an opaque fence or wall of not less than 6 feet in height.

(j) Access.

(1) All sites shall have access on a public street. All ingress and egress to the site shall be directly from the public road.

(2) No more than one driveway approach shall be permitted per lot, excluding corner lots, where one drive may be permitted from each public road.

(3) Driveways shall be located in compliance with the requirements of the Driveway Policies adopted by the Village. If the site fronts on two or more streets, the driveway shall be located as far from the street intersection as practical.

(4) Commercial driveways in the B-1 District shall be designed to meet the recognized standards of the Eaton County Road Commission, which are published in the Road Commission's Permit Policy Book.

(5) All areas intended to serve vehicular traffic shall be paved with a permanent surface of concrete or asphalt.

(k) Screening. The general landscape development standards of Section 1296.08 shall be applied.

(l) Lighting. Lighting from any lamina shall be shaded, shielded or directed to prevent direct light from being distributed beyond an angle of 35 degrees from a vertical plane onto adjacent properties and/or surrounding areas. Unshielded lamps, bulbs and tubes are not permitted, except for temporary holiday lighting. Lighting shall be designed so that the illumination does not exceed 0.1 footcandles beyond the property line on which the lighting originates.

(m) Uses in this district shall also conform to the following general standards:

(1) Emit no obnoxious, toxic or corrosive fumes or gases which are detrimental to the public health, safety or general welfare.

(2) Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the parcel. For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 of the Ringelmann Chart and an excess of 15 smoke units per hour is prohibited.

(3) Produce no heat or glare to such an extent as to be detrimental to the health, safety and general welfare at or beyond the lot boundaries.

(4) Produce no physical vibrations to such an extent as to be determined detrimental to the health, safety and general welfare at or beyond the lot boundaries.

(5) Discharge no radioactive materials that exceed quantities established by the American National Standards Institute.

(6) Not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor the use of any such material in production.

(7) Noise emanating from a use in this district shall not exceed 65 decibels, as measured at the lot line.

(8) No dust or other particulate matter created by any operation or emanating from any products stored prior or subsequent to processing shall be discharged into the air.

(9) All activities and storage shall be carried on in completely enclosed buildings.

(Ord. 2001-6. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04; Ord. 2015-1. Passed 4-13-15.)

1278.06 VOIDING OF PERMIT

Any building permit granted under this chapter shall become null and void unless the development proposed shall have passed its first building inspection within one year from the date of the granting of the permit.

(Ord. 2001-6. Passed 11-12-01.)

1278.07 SUPPORTING EVIDENCE REQUIRED

In all instances in which the designated County and/or Village officer(s) and/or the Board of Appeals considers the ability of a proposed use to meet all the requirements of this chapter to be reasonably doubtful, it will be incumbent upon the proponent to furnish adequate evidence in support of his or her application. If such evidence is not presented, the building permit shall not be issued.

(Ord. 2001-6. Passed 11-12-01.)

CHAPTER 1280

B-2 Highway Service District

(EDITOR'S NOTE: This chapter was repealed by Ordinance 2001-12, passed March 4, 2002.)

CHAPTER 1281

Town Center District

- 1281.01 Purpose.
- 1281.02 Uses permitted by right.
- 1281.03 Uses permitted under special conditions.
- 1281.04 Uses permitted by special use permit.
- 1281.05 Permitted accessory uses.
- 1281.06 Development standards.
- 1281.07 Parking and loading requirements.
- 1281.08 Signs.
- 1281.09 Town Center Residential Overlay District.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Nonconforming uses - see P. & Z.Ch. 1286

Off-street parking and loading - see P. & Z.Ch. 1288

Specially permitted uses - see P. & Z.Ch. 1290

Supplementary regulations - see P. & Z.Ch. 1294

1281.01 PURPOSE.

(a) The Town Center District is designed and intended to promote a blend of pedestrian accessible commercial and residential uses. The district will provide for a wide range of retail, commercial, office, civic and residential uses which may be concurrent within the same building. The Town Center District is intended to provide and promote attractive development

while at the same time protecting and maintaining existing mature and/or historic areas of the community. A central characteristic of the Town Center is its focus on pedestrian activity. This activity helps to create a unique social environment where people can gather and enjoy the friendly atmosphere, attractive landscaping and greenery and a diversity of retail shops.

(b) The provisions of this District are intended to encourage the planned development of pedestrian amenities and open space, and closely regulate the need for direct automobile access to each establishment. Also important in the development of the Town Center is the concept of mixed-use development, which is defined as the combination of commercial and residential land uses within the same building and/or on the same lot. Since the Town Center contains a limited geographic area for expansion, the mixed-use development is an important tool for expanding both housing and shopping opportunities available in the Town Center.

(Ord. 2001-5. Passed 11-12-01.)

1281.02 USES PERMITTED BY RIGHT.

Uses permitted by right in the Town Center District shall be all of the following uses, which must be conducted wholly in a permanent, fully enclosed building and shall be subject to Site Plan Review pursuant to Chapter 1296:

- (a) One and two-family dwellings;
- (b) Retail food establishments which supply groceries, fruits, vegetables, meats, dairy products, baked goods, confections or similar commodities for consumption off the premises. Foodstuffs may be prepared or manufactured on the premises as an accessory activity if the sale of the product is limited to the local retail store;
- (c) Restaurants, including lunch counters, dairy bars and other establishments which provide food for consumption on the premises, excluding establishments with "drive-in" facilities, outdoor dining areas and walk-up service windows;
- (d) Other retail businesses, such as drug, variety, secondhand stores, dry goods, clothing, notions, music, book or hardware stores which supply commodities on the premises;
- (e) Personal service establishments which perform services on the premises, such as barber or beauty shops, repair shops for shoes, radios, televisions and jewelry, and self-service laundries and photographic studios;
- (f) Offices for professional services, such as medical professionals (doctors, dentists, osteopaths, etc.), consultants, service, sales and similar professions;
- (g) Professional offices for architects, engineers, artists and others employed in the graphic arts field;
- (h) Banks and other financial corporation offices, excluding establishments with "drive-in" facilities;
- (i) Administrative offices in which the personnel will be employed in one or more of the following fields: executive, administrative, legal, writing, clerical, stenographic, accounting, insurance and similar enterprises;
- (j) Printing, publishing, photographic reproduction, blueprinting and related trades and arts;
- (k) Computer software development and sales and assembly of hardware computer components for sale;
- (l) Business or instructional schools, such as accounting, typing, clerical, music, voice, or dance schools;
- (m) Radio and television studios and broadcasting facilities, excluding transmission and receiving towers;
- (n) Religious institutions;
- (o) Art studios, including potters' shops, weavers, painters and creative performance.
- (p) Family day care homes and adult foster care family homes.

(Ord. 2001-5. Passed 11-12-01; Ord. 2009-7. Passed 12-14-09.)

1281.03 USES PERMITTED UNDER SPECIAL CONDITIONS.

Uses permitted under special condition in the Town Center District shall be all of the following uses, which must be conducted wholly in a permanent, fully enclosed building and shall be subject to Site Plan Review pursuant to Chapter 1296:

- (a) Antique stores, provided all displays and sales are conducted within a fully enclosed building, and provided also that no stripping of antiques and/or furniture is permitted on the premises;
- (b) Bed and breakfast facilities, provided that no more than three bedrooms are provided for guests;
- (c) Home occupations, provided that the occupation is an approved use within the Town Center District;
- (d) Pet shops, provided that all animals and birds are kept entirely within the building at all times;
- (e) Public buildings, such as post offices, libraries or similar public office buildings, provided that there is no outside storage and that such public uses serve primarily persons living within adjacent residential areas;
- (f) Fur and dry cleaning "drop off and pick up" establishments, provided that services are limited to drop off and pick up

and that the actual dry cleaning takes place at a different location.

(g) Group day care homes and adult foster care small and large group homes, provided that the conditions described in Section 1268.04(e) are met.

(Ord. 2001-5. Passed 11-12-01; Ord. 2009-7. Passed 12-14-09.)

1281.04 USES PERMITTED BY SPECIAL USE PERMIT.

Uses of land and structures permitted by special use permit in the Town Center District shall be all of the following uses. A special use permit will be issued upon application for both Site Plan Review and special use permit when both are found to be in compliance with the requirements of this Zoning Code, including parking requirements pursuant to Chapter 1288, and sign requirements of Chapter 846, through the specified procedures included hereafter.

(a) Multiple-family dwellings.

(b) Building supply and equipment stores which meet the following provisions:

(1) Definition: "Building supply and equipment stores" feature retail sales, as typically incidental to contractors, in which a workshop is required for successful operation, and in which the retail outlet or showroom may in fact be an accessory use, such as, but not limited to plumber, electrician, lighting fixtures, air conditioning and heating, radio and television, interior decorator, reupholstery and refinishing.

(2) Not more than 50% of the total usable floor area of the establishment, excluding storage areas, shall be used for servicing, repairing, manufacturing or processing activities.

(c) Hotels.

(d) Theaters, public assembly halls, concert halls, meeting rooms, clubs, lodges, or similar places of assembly.

(e) Parking lots and structures available to the general public.

(f) Recreational uses and facilities, including but not limited to video game arcades, billiard or pool parlors, spas, and health clubs.

(g) Restaurants with outdoor dining areas and/or walk-up service windows.

(h) Day care centers provided that all areas for outdoor recreation shall be fully screened with a solid fence not less than four feet in height.

(i) Light manufacturing facilities when combined with a retail space.

(j) Small engine repair facilities.

(Ord. 2001-5. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04; Ord. 2009-7. Passed 12-14-09.)

1281.05 PERMITTED ACCESSORY USES.

(a) Temporary outdoor sales or outdoor display of goods and services that are sold on a regular basis from within the principal building on the same lot, if the following standards are met:

(1) The outdoor sales or outdoor display area shall not exceed 10% of the gross floor area of the principal building and shall be designated on an approved site plan.

(2) The activity shall not be located in any required front, side or rear open space and shall not interfere with pedestrian circulation.

(b) The Village Council may, by resolution, designate certain dates and locations as special events temporary outdoor sales areas. Said resolution shall include conditions and standards of conduct to be in force for outdoor sales and displays on private property.

(Ord. 2001-5. Passed 11-12-01; Ord. 2015-1. Passed 4-13-15.)

1281.06 DEVELOPMENT STANDARDS.

The following standards apply to the Town Center District:

(a) Number of Structures per Lot. Only one principal structure may be established for each lot. Accessory buildings and structures are permitted, provided they are clearly incidental to, and located on the same lot as the principal structure to which they are related.

(b) Space Within Public Ways. No use conducted on any premises within this district shall be permitted to occupy or use space within the public roadway, or operate a business which would unreasonably restrict the use of a public street or sidewalk.

(c) Minimum Front Yard Depth. None.

(d) Minimum Rear Yard Depth. None, except if the rear yard abuts any residential district, then the minimum setback shall be 10 feet.

(e) Minimum Side Yard Width. None, except if the side yard abuts any residential district then the minimum setback shall be 10 feet.

(f) Minimum Lot Area and Width. The minimum lot area and width shall be determined on the basis of parking, loading, yard setbacks, landscape or open space requirements as set forth in this Zoning Code.

(g) Maximum Building Height. Maximum building height shall be two and one-half stories or 35 feet except that accessory buildings shall not exceed a height of fifteen feet.

(h) Maximum Building and Ground Coverage. Maximum building coverage shall be 80%, and shall include the total of area of the principal building and all accessory buildings. Maximum ground coverage shall be 85%, and shall include building coverage and paving necessary for adequate vehicular circulation, including ingress and egress, of street loading and on-site parking. Ground coverage does not include facilities serving pedestrian traffic such as sidewalks, patios and plazas.

(i) Existing Structures. Proposed changes to existing facades which require a building permit shall be in keeping with the architectural character of the neighborhood and shall be reviewed and approved by the Zoning Administrator. Any proposed changes which change the architectural style of the building shall also be reviewed by the Planning Commission, which may reverse or affirm, wholly or partly, or may modify the Zoning Administrator's recommendations. These provisions shall apply to both principal and accessory structures.

(j) New Construction. The architectural style of proposed new structures, both principal and accessory, shall be in keeping with the architectural character of the neighborhood and shall be reviewed and approved as part of the Site Plan Review process by the Zoning Administrator and/or the Planning Commission according to the provisions of Chapter 1296.

(k) Screening for Dumpster/ Recycling Areas. All solid waste dumpsters and disposal facilities, recycling bins, and similar areas and structures located in this district shall be screened from view of passing pedestrians, passing vehicular traffic and any adjacent residential use.

(l) Temporary Buildings. Temporary buildings are prohibited except in the following instances:

(1) Those temporary buildings which are incidental to construction work, which may include "tool trailers" or "job trailers." This would not be for on-site residence during construction, but would be an office for a larger job or a place to lock tools on-site during construction.

(2) Temporary buildings which serve a public or semi-public institutional use.

(m) Access.

(1) No more than one driveway approach shall be permitted per lot, including corner lots.

(2) Driveways shall be located, designed and constructed in compliance with the requirements of the Driveway Policy and Specifications adopted by the Village. If the site fronts on two or more streets, the driveway shall be located as far as possible from the street intersection as practical.

(3) All areas intended to serve vehicular traffic shall be paved with a permanent surface of concrete, asphalt or a structurally equivalent material approved by the Village Engineer.

(n) Lighting. Lighting from any luminaire shall be shaded, shielded or directed to prevent direct light from being distributed beyond an angle of 35 degrees from a vertical plane onto adjacent properties and/or surrounding areas. Unshielded lamps, bulbs and tubes are not permitted, except for temporary holiday lighting. Lighting shall be designed so that the illumination does not exceed 0.1 footcandles beyond the property line on which the lighting originates.

(o) Landscaping. A minimum of 15% of the gross site area of a development shall be devoted to permanently landscaped open spaces and pedestrian plaza areas accessible to the public. Pedestrian plaza areas shall include pedestrian walkways and may also include amenities such as decorative paving, pedestrian scale lighting, benches, trash receptacles, planters, screening walls and major architectural features at entrance ways and focal points of the development (i.e. arch, gateway, tower, fountain). All required setback areas must be landscaped. All landscaped open spaces and pedestrian plaza areas shall be maintained by the owner of the development it serves.

(p) General Standards. Uses in this District shall also conform to the following general standards:

(1) Emit no obnoxious, toxic or corrosive fumes or gases which are detrimental to the public health, safety or general welfare.

(2) Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the parcel. For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 of the Ringelmann Chart and an excess of 15 smoke units per hour is prohibited.

(3) Produce no heat or glare to such an extent as to be detrimental to the health, safety and general welfare at or beyond the lot boundaries.

- (4) Produce no physical vibrations to such an extent as to be determined detrimental to the health, safety and general welfare at or beyond the lot boundaries.
 - (5) Discharge no radioactive materials that exceed quantities established by the American National Standards Institute.
 - (6) Not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor the use of any such material in production.
 - (7) Noise emanating from a use in this District shall not exceed 65 decibels, as measured at the lot line.
 - (8) No dust or other particulate matter created by any operation or emanating from any products stored prior or subsequent to processing shall be discharged into the air.
- (Ord. 2001-5. Passed 11-12-01; Ord. 2015-1. Passed 4-13-15.)

1281.07 PARKING AND LOADING REQUIREMENTS.

The Town Center parking provisions are designed to be consistent with the purpose of the District to facilitate pedestrian circulation through the District and to closely regulate the need for direct automobile access to each establishment for both pedestrian safety and general aesthetics.

(a) The parking space requirements of Section 1288.09 shall apply to uses in the Town Center District. However, consistent with the purpose of the District and a recognition by the Village of the need for additional, off-site parking facilities (both public and private), space requirements may be met through a combination of on- and off-site parking spaces meeting the following conditions. Adjoining lots may propose a joint use of parking areas pursuant to Section 1288.08, with paving extended to the property line.

(1) Parking spaces for customers or residents must be located within 500 feet of the use, as measured along probable pedestrian travel paths. Where a portion of an off-street parking lot or a contiguous series of on- street parking spaces fall within the 500-foot area, all of the spaces within the lot or the series of spaces shall be counted.

(2) The parking spaces must be available at all times consistent with the anticipated peak parking demands of the proposed use.

(b) The applicant shall submit a parking plan study demonstrating compliance with these parking standards. The parking plan study shall include existing traffic volumes passing on all streets abutting the proposed development during the peak hour, projected peak-hour generation rate and peak hours of generation for the proposed development and a statement of the total impact the projected generations will have on the existing level of service and parking as determined and certified by a registered engineer. The study shall be validated by the Planning Commission or by a consultant retained by the Planning Commission. Exceptions to this requirement will be site plans or plats that will generate less than 3 vehicle trips per unit per peak hour or 50 vehicle trips per peak hour. The generation of trips shall conform to the methods specified in the current edition of the *Trip Generation Manual*, a publication by the Institute of Transportation Engineers.

(c) Applications for a building and/or occupancy permit to expand a building or to convert or extend the use of a building which would result in an increased parking demand shall also require a parking plan study be submitted according to the provisions and exceptions listed in division (b) above.

(d) The off-street loading areas shall be provided as required by Section 1288.12, except that a single loading area may be shared by two or more uses which are individually required to maintain an off- street loading area. This practice is encouraged whenever such use is practical, and when all requirements for location, design and construction are met. A copy of an agreement between the joint owners of an off-street loading area shall be recorded with the Eaton County Register of Deeds and the Village Manager. Such agreements shall guarantee the long-term use and maintenance of the parking facility by each party.

(Ord. 2001-5. Passed 11-12-01.)

1281.08 SIGNS.

Signs may be permitted as provided in Chapter 846.

(Ord. 2001-5. Passed 11-12-01; Ord. 2003-7. Passed 1-12-04.)

1281.09 TOWN CENTER RESIDENTIAL OVERLAY ZONING DISTRICT.

(a) Purpose. The Town Center Residential Overlay District exists as an overlay zoning district to the Town Center District in order to expand the physical area of the Town Center District beyond the limits of the existing "downtown," and to provide appropriate site development standards for those parcels. On parcels with an existing residential structure, the Town Center Residential Overlay District is intended to permit the conversion of the structure for commercial use, provided that the residential character of the parcel is retained. By protecting the residential character of the structure and parcel, the overall impact of commercial expansion of the Town Center District into the adjacent neighborhoods will be minimized. The site development standards listed below replace those of Section 1281.06 in the Overlay Zoning District to preserve the residential character of the parcel. All other provisions of the Town Center Zoning Districts apply to the overlay zone as well.

(b) Site Development Standards. The following site development standards shall apply to all areas of the Town Center

Residential Overlay District:

(1) Number of structures per lot. Only one principal structure may be established for each lot. Accessory buildings and structures are permitted provided they are clearly incidental to, and located on the same lot as the principal structure to which they are related and provided they meet the following conditions and standards:

A. Setback, front. Accessory buildings and structures must be located behind the rear building line of the principal building.

B. Setback, side. Accessory buildings and structures must have side setbacks which are greater than or equal to the minimum required for the principal structure, except where otherwise noted.

C. Setback, rear. Accessory buildings and structures must have a rear yard setback of at least 5 feet.

D. Phasing. Accessory buildings and structures shall not be erected on a lot or parcel prior to the establishment of a principal building upon the premises.

(2) Minimum lot area. Minimum lot area shall be 8,500 square feet.

(3) Minimum lot width. Minimum lot width shall be 66 feet.

(4) Minimum front yard depth. The front yard requirements for the Town Center Residential Overlay District shall be equal to the existing front yard of the structure. In the case of new construction, the front yard setback shall not be less than the average front yard setback of the lots which are within 180 feet and within the same block face as the lot involved.

(5) Minimum side yard setback. The side yard requirements for the Town Center Residential Overlay District shall be 10 feet on each side or the existing side yard of the structure, whichever is less.

(6) Minimum rear yard depth. The rear yard setback requirements for the Town Center Residential Overlay District shall be 40 feet or the existing rear yard of the structure, whichever is less.

(7) Maximum height. Maximum height for buildings and structures shall be two and one-half stories or 35 feet except that accessory buildings shall not exceed a height of fifteen feet.

(8) Space within public ways. No use conducted on any premises within this District shall be permitted to occupy or use space within the public roadway, or operate a business which would restrict the use of a public street or sidewalk.

(9) Existing residential structures. The existing residential facade shall be retained. Any proposed change to the exterior of the structure which requires a building permit shall be reviewed and approved by the Zoning Administrator. Any proposed changes which change the architectural style of the building shall also be reviewed by the Planning Commission, which may reverse or affirm, wholly or partly, or may modify the Zoning Administrator's recommendations. These provisions shall apply to both principal and accessory structures.

(10) Existing nonresidential structures. Proposed changes to existing nonresidential facades which require a building permit shall be in keeping with the architectural character of the neighborhood and shall be reviewed and approved by the Zoning Administrator. Any proposed changes which change the architectural style of the building shall also be reviewed by the Planning Commission, which may reverse or affirm, wholly or partly, or may modify the Zoning Administrator's recommendations. These provisions shall apply to both principal and accessory structures.

(11) New construction. The architectural style of proposed new principal and accessory structures shall be in keeping with the architectural character of the neighborhood and shall be reviewed and approved as part of the required review process.

(12) Maximum lot coverage. Maximum building coverage shall be 40% and shall include the total of areas of the principal building and all accessory buildings. Maximum ground coverage shall be 60% and shall include building coverage, solid waste disposal areas and paving necessary for adequate vehicular circulation including ingress and egress, off-street loading and on-site parking. Ground coverage does not include facilities serving pedestrian traffic such as sidewalks, patios and plazas.

(13) Screening for dumpster/ recycling areas. All solid waste dumpsters and disposal facilities, recycling bins, and similar areas and structures located in this District shall be screened from view of passing pedestrians, passing vehicular traffic and any adjacent residential use.

(14) Temporary buildings. Temporary buildings are prohibited except in the following instances:

A. Those temporary buildings which are incidental to construction work, which may include "tool trailers" or "job trailers." This would not be for on-site residence during construction but would be an office for a larger job or a place to lock tools on-site during construction.

B. Temporary buildings which serve a public or semi-public institutional use.

(15) Access.

A. No more than one driveway approach shall be permitted per lot, including corner lots.

B. Driveways shall be located, designed and constructed in compliance with the requirements of the Driveway Policy and Specifications adopted by the Village. If the site fronts on two or more streets, the driveway shall be located as far as

possible from the street intersection as practical.

C. All areas intended to serve vehicular traffic shall be paved with a permanent surface of concrete, asphalt or a structurally equivalent material approved by the Village Engineer.

(16) Lighting. Lighting from any luminaire shall be shaded, shielded or directed to prevent direct light from being distributed beyond an angle of 35 degrees from a vertical plane onto adjacent properties and/or surrounding areas. Unshielded lamps, bulbs and tubes are not permitted, except for temporary holiday lighting. Lighting shall be designed so that the illumination does not exceed 0.1 footcandles beyond the property line on which the lighting originates.

(17) Landscaping. A minimum of 40% of the gross site area of a development shall be devoted to permanently landscaped open spaces and pedestrian plaza areas accessible to the public. Pedestrian plaza areas shall include pedestrian walkways and may also include amenities such as decorative paving, pedestrian scale lighting, benches, trash receptacles, planters, screening walls and major architectural features at entrance ways and focal points of the development (i.e. arch, gateway, tower, fountain). All required setback areas must be landscaped. All landscaped open spaces and pedestrian plaza areas shall be maintained by the owner of the development it serves.

(18) General standards. Uses in this District shall also conform to the following general standards:

A. Emit no obnoxious, toxic or corrosive fumes or gases which are detrimental to the public health, safety or general welfare.

B. Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the parcel. For the purpose of grading the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 of the Ringelmann Chart and an excess of 15 smoke units per hour is prohibited.

C. Produce no heat or glare to such an extent to be detrimental to the health, safety and general welfare at or beyond the lot boundaries.

D. Produce no physical vibrations to such an extent to be determined detrimental to the health, safety and general welfare at or beyond the lot boundaries.

E. Discharge no radioactive materials that exceed quantities established by the American National Standards Institute.

F. Not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor the use of any such material in production.

G. Noise emanating from a use in this District shall not exceed 65 decibels, as measured at the lot line.

H. No dust or other particulate matter created by any operation or emanating from any products stored prior or subsequent to processing shall be discharged into the air.

(Ord. 2001-5. Passed 11-12-01; Ord. 2015-1. Passed 4-13-15.)

CHAPTER 1282

M-1 Industrial District

EDITOR'S NOTE: This chapter was repealed by Ordinance 2001-10, passed 12-10-01.

CHAPTER 1284

A-1 Agricultural District

EDITOR'S NOTE: This chapter was repealed by Ordinance 2010-6, passed 1-10-11.

CHAPTER 1286

Nonconforming Uses

EDITOR'S NOTE: This chapter, formerly a codification of Ordinance Unno., passed September 13, 1982, and Ordinance 89, passed April 10, 1972, was repealed and replaced in its entirety by Ordinance 2002-4, passed June 10, 2002, codified herein.

- 1286.01 Purpose.
- 1286.02 Definitions.
- 1286.03 Nonconforming use classification process.
- 1286.04 Evaluation criteria for determining a nonconforming use classification.
- 1286.05 Class I nonconforming use regulations.
- 1286.06 Class II nonconforming use regulations.
- 1286.07 Nonconforming lot of record.
- 1286.08 Repair of nonconforming buildings.
- 1286.09 Reconstruction of nonconforming buildings.
- 1286.10 Discontinuance or abandonment.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Specially permitted uses - see P. & Z.Ch. 1290

1286.01 PURPOSE.

(a) The purpose of this chapter is to provide for the continuance of lawful uses of land or structures which do not conform with the provisions of this Zoning Code and existed before the effective date of an amendment to this Zoning Code.

(b) Such nonconformities are regulated as Class I or Class II nonconformities and are permitted to continue under the regulations established in this chapter.

(Ord. 2002-4. Passed 6-10-02.)

1286.02 DEFINITIONS.

As used in this chapter:

(1) "Abandonment" or "discontinuance of a nonconforming use" means the cessation for use for six consecutive months or for 18 months during a three year period. Abandonment or discontinuance shall be measured by the following documentation provided to the Village Zoning Administrator by the property owner, continuous utility connection, continuous marketing activity (rent and/or sale), and proof of tenant occupancy.

(2) "Class I nonconforming use" means a desirable nonconforming use determined by the Village Planning Commission based on criteria established in the Zoning Ordinance which concludes that a low land use impact (low intensity of use) exists between the nonconforming use and adjacent land uses and the immediate area. Class I uses are considered permissive and are regulated by Section 1286.05.

(3) "Class II nonconforming uses" means an undesirable nonconforming use determined by the Village Planning Commission based on criteria established in the Zoning Ordinance which concludes that a high land use impact (high intensity of use) exists between the nonconforming use and adjacent land uses in the immediate area. Class II uses are considered restrictive and are regulated by Section 1286.06.

(4) "Intensity of use" means a measurement of land use impact which utilizes specific, measurable characteristics which can reasonably be evaluated by the Planning Commission to determine the effect on adjacent properties and/or the immediate area. The characteristics of the existing nonconforming use utilized to determine the intensity of use shall be, but are not limited to, the following:

- A. The number of existing off-street parking spaces and their proximity to adjacent uses;
- B. Existing outdoor storage;
- C. Exterior lighting;
- D. Hours of operation;
- E. Existing noise, odor and vibration;
- F. Existing landscaping, screening and buffering;

- G. Existing front, side or rear yard setbacks;
- H. The residential density of the existing use; and
- I. The lot coverage of the existing use.

(5) "Nonconforming use" means a use of land and/or structure which is legally in existence prior to the adoption or amendment of the ordinance which made it nonconforming.

(6) "Permissive nonconforming use" means nonconforming uses determined to be Class I uses by the Village Planning Commission which would allow one nonconforming use to change to another nonconforming use, building or structure as long as the change is equal to or less intense than the original use.

(7) "Restrictive nonconforming use" means nonconforming uses determined to be Class II uses by the Village Planning Commission and which can only be changed to conforming uses.

(Ord. 2002-4. Passed 6-10-02.)

1286.03 NONCONFORMING USE CLASSIFICATION PROCESS.

The following process shall be utilized by the Village in the classification of a nonconforming use:

- (a) All nonconforming uses shall be considered a Class II use until changed to a Class I use by the Planning Commission.
- (b) Before the Planning Commission shall make a determination on a Class I request, a completed application must be filed with the Village.
- (c) The Planning Commission may require a public hearing for any classification application.
- (d) The Planning Commission shall utilize the criteria outlined in Section 1286.04 in making a determination on a nonconforming use classification.
- (e) The Planning Commission may place reasonable conditions on a Class I nonconforming use.
- (f) Nonconforming uses determined to be Class I by the Planning Commission shall file a final site plan with the Village which meets the requirements of Section 1296.05 and contains any conditions imposed by the Planning Commission.

(Ord. 2002-4. Passed 6-10-02.)

1286.04 EVALUATION CRITERIA FOR DETERMINING A NONCONFORMING USE CLASSIFICATION.

The Planning Commission shall utilize the following criteria in determining the classification of a nonconforming use:

- (a) A completed application with fees.
- (b) A recommendation from the Zoning Administrator based on a review of the intensity of use characteristics.
- (c) The impact of the existing nonconforming use on adjacent properties and the immediate area.
- (d) Any additional data from the applicant that the Planning Commission requires to evaluate the intensity of use at the applicant's expense.
- (e) The intent of the Master Plan in the immediate area.
- (f) The purpose and intent of the existing zoning districts which abut the nonconforming use.

(Ord. 2002-4. Passed 6-10-02; Ord. 2009-7. Passed 12-14-09.)

1286.05 CLASS I NONCONFORMING USE REGULATIONS.

(a) Class I nonconforming uses may be enlarged or expanded if approved by the Planning Commission through the Site Plan Review process as outlined in Chapter 1296. The Planning Commission or Zoning Administrator may approve the enlargement or expansion of a Class I nonconforming structure when the proposed construction does not enlarge or expand the nonconforming aspect(s) of the structure. In addition to the site plan review criteria, the Planning Commission and the Zoning Administrator shall utilize the following additional criteria in considering any enlargement or expansion:

- (1) The expansion will not unreasonably extend the duration of the nonconforming use and that the expansion takes place on the same parcel as the existing use.
- (2) The need for the expansion should not be created by an increase in the intensity of use.
- (3) The expansion will not lead to requests for similar expansions in the immediate area.
- (4) The expansion will not have a negative effect on adjacent properties.
- (5) The expansion will not require additional off-street parking.
- (b) Class I nonconforming uses may be substituted with another nonconforming use provided that the new use is equal to

or less intense than the existing nonconforming use. The Planning Commission may approve a substitution based on a written request from the property owner and a determination regarding the level of intensity.

(Ord. 2002-4. Passed 6-10-02.)

1286.06 CLASS II NONCONFORMING USE REGULATIONS.

Class II nonconforming uses shall not be enlarged or expanded except in conformance with the Zoning Code. Class II nonconforming uses shall not be substituted.

(Ord. 2002-4. Passed 6-10-02.)

1286.07 NONCONFORMING LOT OF RECORD.

A lot of record is a parcel that is legally recorded in the Register of Deeds Office. A nonconforming lot of record is a parcel which does not meet the existing dimensional requirements of the Zoning Code and is recorded in the Register of Deeds Office. Nonconforming lots of record may be used if they meet the average of the front, side and rear yard setbacks within 200 feet of either side of the subject property on the same side of the street. The Board of Zoning Appeals may reduce the average front, side or rear yard setbacks which have been established for a nonconforming lot of record.

(Ord. 2002-4. Passed 6-10-02.)

1286.08 REPAIR OF NONCONFORMING BUILDINGS.

Nonconforming buildings may be repaired to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not result in the enlargement of the structure or an increase in the intensity of use.

(Ord. 2002-4. Passed 6-10-02.)

1286.09 RECONSTRUCTION OF NONCONFORMING BUILDINGS.

Any nonconforming structure damaged by fire, explosion, flood, or other causes may be restored, rebuilt or repaired, provided that such reconstruction does not exceed 50 percent of the fair market value which existed prior to damage and provided that it does not increase the intensity of use on the property. If damage is greater than 50 percent, the reconstruction may be permitted with the approval of the Board of Appeals.

(Ord. 2002-4. Passed 6-10-02.)

1286.10 DISCONTINUANCE OR ABANDONMENT.

Whenever a nonconforming use has been discontinued for six consecutive months, or for 18 months during any three-year period, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of the Zoning Code.

(Ord. 2002-4. Passed 6-10-02.)

CHAPTER 1287

Home Occupations

1287.01 Purpose.

1287.02 Authorization.

1287.03 Appeal.

1287.04 Definition.

1287.05 Performance standards.

1287.06 Permitted home occupations.

1287.07 Permitted home occupations with special conditions.

1287.08 Prohibited home occupations.

1287.09 Exempt activities.

1287.01 PURPOSE.

The regulations of this Section are designed to protect and maintain the residential character of established neighborhoods while understanding the need of some citizens to use their place of residence for limited non-residential activities to produce or supplement personal or family income. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure and is intended to protect the integrity of residential areas.

(Ord. 2004-2. Passed 12-13-04.)

1287.02 AUTHORIZATION.

Except as otherwise expressly provided or limited in this Section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit or accessory structure pursuant to the conditions defined herein. Any question of whether a particular use is permitted as a home occupation by the provisions of this Section shall be determined by the Zoning Administrator pursuant to his or her authority to interpret the provisions of this chapter.

(Ord. 2004-2. Passed 12-13-04.)

1287.03 APPEAL.

An appeal to a determination made by the Zoning Administrator may be filed with the Board of Appeals in writing within 30 days of the decision. At the next regularly scheduled meeting, the Board of Appeals shall hear the evidence pertaining to the action from which the appeal was taken. The Board of Appeals shall render a decision within 45 days after the conclusion of said hearing and may reverse, affirm or modify the action of the Zoning Administrator.

(Ord. 2004-2. Passed 12-13-04.)

1287.04 DEFINITION.

A "home occupation" is a non-residential activity, business, profession, occupation or trade conducted for gain or support. Except as provided in Section 1287.07, a home occupation must be conducted entirely within a residential building or a structure accessory thereto and must be incidental and secondary to the use of such building for residential purposes. A home occupation cannot change the essential residential character of the buildings, property or neighborhood in which it is located.

(Ord. 2004-2. Passed 12-13-04.)

1287.05 PERFORMANCE STANDARDS.

In addition to any use limitations applicable in the district in which it is located, no home occupation shall be permitted unless it complies with the following criteria:

(a) Not more than one person, other than members of the immediate family permanently residing on the premises, shall be employed on a full-time or part-time basis in the home occupation.

(b) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted on the premises shall not exceed the performance standards described herein.

(c) Unless otherwise provided for herein, a home occupation shall be conducted entirely within the dwelling unit or an accessory building and shall not occupy more than 50% of the combined total floor area of the dwelling unit and accessory buildings on the premises, excluding any unenclosed areas such as decks and open porches, etc.

(d) Unless otherwise provided herein, no alteration of the buildings or premises shall be made which changes the residential character and appearance thereof.

(e) Unless otherwise provided for herein, there shall be no outside operations, storage or display of products, materials, goods, supplies or equipment associated with the home occupation.

(f) Not more than one truck and no more than one trailer which will each individually fit within a standard parking space are permitted on the premises or on any adjacent residentially zoned area. The truck may not be a tow-truck. A home occupation shall not involve the use or storage of truck tractors, semi-trailers, pole-trailers or heavy equipment such as, but not limited to, fuel trucks, logging or construction trucks or equipment.

(g) Unless otherwise provided for herein, any need for parking generated by the home occupation shall be met off street and accommodated within the existing residential parking layout.

(h) The home occupation shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood. Unless otherwise provide for herein, a home occupation shall not generate more than an average of one truck delivery per day.

(i) No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structures shall be used.

(j) No home occupation shall be permitted which is noxious, offensive or hazardous by the generation or emission of

noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.

(k) Unless otherwise provided for herein, no sign, other than one unlit sign not over four square feet in area attached flat against the building and displaying only the occupant's name, address and occupation, shall advertise the presence or conduct of the home occupation.

(l) Home occupations shall comply with all local, state or federal regulations pertinent to the activity pursued and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

(m) The sale of merchandise shall be limited to products manufactured or substantially altered on the premises or to incidental supplies connected to a permitted home occupation (i.e. a beautician's sale of hair care products).

(Ord. 2004-2. Passed 12-13-04; Ord. 2008-1. Passed 2-11-08; Ord. 2008-5. Passed 8-11-08.)

1287.06 PERMITTED HOME OCCUPATIONS.

Home occupations are permitted in the following zoning districts: A-1, R-IA, R-1B, R-1C, R-1D, R-M1 and Town Center. Except as provided in Sections 1287.07, 1287.08, and 1287.09 below, permitted home occupations include all occupations which meet the purposes, standards and requirements of Sections 1287.01 through 1287.06 and include, but are not necessarily limited to, the following list of examples:

- (a) Private instruction to not more than four students at a time, except for occasional groups.
- (b) Day care, with six or less children, subject to State of Michigan guidelines.
- (c) Consultation or emergency treatment by a doctor or a dentist, but not the general practice of this profession.
- (d) Studio of an artist, photographer, craftsman, writer, composer or similar person.
- (e) Shop of a beautician, barber, hair stylist, dressmaker, tailor or similar person.
- (f) Homebound employment of a physically, mentally or emotionally handicapped person who is unable to work away from home by reason of their disability.
- (g) Direct sale product distribution (Amway, Avon, Tupperware, etc.) provided that the primary function is not the wholesale or retail sale of goods on the premises.
- (h) Typing and computing services.
- (i) Mail-order and telephone sales.
- (j) Office of an accountant, architect, engineer, lawyer, income tax preparer, minister, psychotherapist, counselor, consultant, tradesman, or similar professional.
- (k) Repair of small appliances, office machines, cameras and similar items.

(Ord. 2004-2. Passed 12-13-04.)

1287.07 PERMITTED HOME OCCUPATIONS WITH SPECIAL CONDITIONS.

- (a) The seasonal sale of farm-direct trees, plants and produce is permitted subject to the following conditions:
 - (1) Only one temporary structure may be erected for this purpose (i.e. roadside stand, tent, etc.). No accessory structure shall be closer than ten feet to any abutting property or right-of-way line.
 - (2) Any product(s) for sale must be seasonal with availability limited to the specific harvest period, holiday or season that pertains to the item(s). The resale of items purchased off site is prohibited. In no case shall sales on a property exceed 90 days per calendar year.
 - (3) A minimum lot size of 20,000 square feet is required for this activity. No more than 50% of the lot may be used for purposes of the home occupation.
 - (4) One temporary, free-standing, unlit sign not to exceed 4 square feet in area may be placed on the property to advertise the sales during the time the activity takes place.
 - (5) The property must be maintained in an orderly fashion at all times and all refuse or trash related to the activity must be removed on a daily basis. In no way can the property become unsightly as a result of the activity. All evidence of the use must be removed immediately upon the discontinuance of the activity.
 - (6) Any need for parking generated by the activity shall be met off street and accommodated in an area provided for that purpose.
 - (7) The hours of operation are limited from 8:00 a.m. to 8:00 p.m. All evidence of the activity (i.e. lighting) must discontinue by 8:00 p.m.
 - (8) Except for the provisions described in this section, all other performance standards listed in Section 1287.05 must

be met at all times.

(b) Medical Marihuana Primary Caregiver. A primary caregiver, subject to the restrictions set forth in the definitions and requirements of the Michigan Medical Marihuana Act and the general rules of the Michigan Department of Public Health and this section may furnish and provide the services of a registered primary caregiver as a home occupation, subject to the following restrictions:

(1) The existing home occupation regulations of Section 1287.05, unless modified by this section, shall be applicable to the medical marihuana primary caregiver.

(2) A registered primary caregiver's marihuana growing operations shall be limited to the number of plants allowed by the Michigan Medical Marihuana Act.

(3) No signs or advertisements of any kind shall be permitted which are visible from the exterior of the property or structure utilized as a registered primary caregiver home occupation.

(4) A registered primary caregiver functioning as a home occupation from a dwelling shall not be located within a radius of 1,000 feet from any school, licensed day care center, licensed family or group day care home, church or drug rehabilitation facility.

(5) A registered primary caregiver functioning as a medical marihuana home occupation shall be the only person engaged in the conduct of that activity at that address.

(6) The use of a dwelling as a home occupation under this section shall be limited to 1 registered primary caregiver providing usable marihuana to not more than 5 qualifying patients; provided, however, that transfers of medical marihuana from the registered primary caregiver to his or her qualifying patient shall be accomplished only by the delivery of medical marihuana by the primary caregiver at the home of the qualifying patient.

(7) Marihuana growing facilities, which are part of a registered primary caregiver home occupation shall not generate light which is visible from the public right-of-way and may be subject to public safety inspections such as, but not limited to, mechanical, electrical and fire prevention inspections.

(8) All medical marihuana shall be contained within the dwelling within a secure, enclosed, locked facility, accessible only by the registered primary caregiver as required by the Michigan Medical Marihuana Act.

(9) A primary caregiver medical marihuana home occupation shall not be located in a multiple family dwelling as identified by these Codified Ordinances.

(Ord. 2004-2. Passed 12-13-04; Ord. 2010-8. Passed 2-14-11.)

1287.08 PROHIBITED HOME OCCUPATIONS.

The following uses and other uses similar in character shall not be considered to meet the intent of this section:

- (a) Nursing homes.
- (b) Funeral homes, mortuaries and embalming establishments.
- (c) Restaurants.
- (d) Stables, kennels or veterinary hospitals.
- (e) Tourist homes or the letting of rooming units.
- (f) Clinics, hospitals or the general practice of medicine or dentistry.
- (g) Clubs, including fraternities and sororities.
- (h) Instruction of more than four students at a time except for occasional groups.
- (i) Day care centers.
- (j) Vehicle or boat repair, painting or body work.
- (k) Construction equipment or materials storage.
- (l) Equipment or vehicle rental.
- (m) Sale of motor vehicles.
- (n) Commercial parking lots.
- (o) Major appliance repair.
- (p) Any activity regulated by Special Use Permit in any zoning district.

(Ord. 2004-2. Passed 12-13-04.)

1287.09 EXEMPT ACTIVITIES.

The following activities shall not be classified as home occupations and are exempt from the provisions of this section.

- (a) Garage/yard sales.
- (b) Hobbies which do not result in payment to those engaged in such activity.
- (c) Holiday craft sales.
- (d) Fundraising sales.

(Ord. 2004-2. Passed 12-13-04.)

CHAPTER 1288

Off-Street Parking and Loading

- 1288.01 Purpose.
- 1288.02 General requirements.
- 1288.03 Floor area defined.
- 1288.04 Fractional spaces.
- 1288.05 Requirements for a use not mentioned.
- 1288.06 Use of parking areas.
- 1288.07 Building additions or other increases in floor area.
- 1288.08 Joint use of parking areas.
- 1288.09 Parking space requirements.
- 1288.10 Site plan review.
- 1288.11 Site development requirements.
- 1288.12 Reduction, modification or waiver of requirements.
- 1288.13 Loading and unloading space requirements.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Parking - see TRAF. Ch. 420

1288.01 PURPOSE.

It is the intent of this Zoning Code that off-street parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the use of occupants, employees and patrons of each building and premises constructed, altered or enlarged after the effective date of this Zoning Code.

(Ord. 89. Passed 4-10-72.)

1288.02 GENERAL REQUIREMENTS.

- (a) Off-street parking spaces for residential uses shall be located on the same lot or parcel as the residence they are intended to serve.
- (b) Off-street parking for non-residential uses shall be located on the same lot or parcel unless otherwise provided for in these Codified Ordinances.
- (c) Vehicle parking is permitted only on approved surfaces as regulated by Section 1288.11 (Site Development Requirements).
- (d) No person shall store, stand or park a truck tractor, truck tractor and trailer, semi-trailer, pole-trailer or dump truck upon any property within the Village for any purpose or length of time other than for the expeditious unloading and delivery

or pickup and loading of materials, goods, merchandise or passengers, or for the purpose of carrying on a use permitted on the property on which the vehicle is parked or standing as provided in Part Twelve of the Codified Ordinances of the Village of Dimondale.

(Ord. 2005-4. Passed 10-10-05; Ord. 2008-1. Passed 2-11-08; Ord. 2008-5. Passed 8-11-08.)

1288.03 FLOOR AREA DEFINED.

The term "floor area," as applied to offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients or tenants, including those areas occupied for fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, for housing of mechanical equipment integral with the building, for maintenance facilities or for those areas where customers, patients, clients, salespersons, and the general public are denied access. "Floor area" shall be measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.04 FRACTIONAL SPACES.

When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.05 REQUIREMENTS FOR A USE NOT MENTIONED.

In the case of a use not specifically mentioned, the requirements of off-street parking facilities for a use which is mentioned and which is most similar to the use not listed shall apply.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.06 USE OF PARKING AREAS.

(a) No commercial repair work, servicing or selling of any kind shall be conducted on any parking area. Required parking spaces shall be used only for the parking of vehicles used to service the establishment to which they are accessory and by the patrons of such establishment.

(b) No advertising sign shall be erected on required parking areas, except that not more than one directional sign at each point of ingress or egress may be erected, which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed twenty square feet in area and shall not project beyond the property line of the premises.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.07 BUILDING ADDITIONS OR OTHER INCREASES IN FLOOR AREA.

Whenever there is a change in use, or change in the number of employees, or increase in floor area, or other unit of measurement utilized by Section 1288.09 that creates a need for an increase of more than fifteen (15) percent in off-street parking requirements as defined by this chapter, there shall be provided additional parking spaces as regulated by Section 1288.09.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.08 JOINT USE OF PARKING AREAS.

The joint use of parking facilities by two or more uses is recommended and may be granted by the Planning Commission whenever joint use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction can be satisfied.

(a) Computing Capacities. In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.

(b) Record of Agreement. A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the Register of Deeds of Eaton County. The agreement shall include a guarantee for continued use of the parking facility for each party to the joint use.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.09 PARKING SPACE REQUIREMENTS.

The number of required off-street parking spaces in all districts for every residential, recreational, institutional, cultural,

business and industrial use shall be provided in accordance with the following minimum requirements:

<i>Use</i>	<i>Required Parking Spaces</i>
<i>Use</i>	<i>Required Parking Spaces</i>
(1) One and two-family dwellings	2 spaces for each family dwelling unit
(2) Multiple dwellings	2 spaces for each dwelling unit
(3) Boarding and lodging houses, fraternities, private clubs	1 space for each bedroom or 2 occupants of the structure, whichever is greater
(4) Motels, auto courts, tourist homes	1 space for each sleeping unit, plus 2 spaces for operating personnel
(5) Hotels	1 space for each 2 guest rooms, plus 1 additional space for every 5 employees
(6) Convalescent homes, convents, or similar uses	1 space for each 4 beds, plus 1 space for every 4 employees, including nurses
(7) Hospitals sanitariums	1 space for each 3 patient beds, plus 1 space for each staff or visiting doctor and plus 1 space for each 4 employees, including nurses
(8) Clinics	1 space for every 200 square feet of gross floor area
(9) Auditoriums (incidental to schools), churches, theaters, buildings of similar use with fixed seats	1 space for each 4 seats plus 1 space for every 2 employees
(10) Auditoriums (other than incidental to schools), lodge halls, meeting halls, community centers, or buildings of similar use without fixed seats	1 space for each 3 seats plus 1 per each employee of the largest working shift
(11) Elementary and junior high schools	1 space for every 2 employees, including administrators and teachers plus 1 for each classroom plus auditorium requirement
(12) High schools and colleges	1 space for each employee plus 1 space for each 10 students or requirement for auditorium parking whichever is larger
(13) Libraries, museums, post offices	1 space for every 800 square feet of floor area, plus 1 space for every 4 employees
(14) Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	1 space for every 2 member families or individuals
(15) Golf courses open to the general public, except miniature or "par 3" courses	4 spaces for each 1 golf hole, plus 1 space for each employee
(16) Stadiums and sport arenas	1 space for each 4 seats
(17) Dance halls, pool and billiard rooms, exhibition halls, roller rinks	1 space for each 100 square feet of floor area used for dancing or assembly
(18) Bowling alleys	5 spaces for each alley, plus 1 space for every employee
(19) Miniature or "par 3" golf courses	3 spaces for each 1 golf hole, plus 1 space for each employee
(20) Professional offices and banks	1 space for every 200 square feet of floor area
(21) General offices	1 space for every 400 square feet of floor area
(22) Clothing, furniture, appliance, hardware, automobile, machinery sales; shoe repair, personal services (other than beauty and barber shops), wholesale sales	1 space for every 400 square feet of floor area
(23) Barber shops and beauty parlors	2 spaces for each beauty and/or barber shop chair
(24) Supermarket, self-service food store	1 space for every 200 square feet of floor area
(25) Restaurants, cafeterias, taverns, bars	1 space for every 100 square feet of floor area
(26) Automobile service and repair garages; gasoline filling and service stations	2 spaces for each repair and service stall, plus 1 space for each worker on each shift
(27) Drive-in businesses	On-site stacking space for 4 vehicles per lane

(28) Retail stores, except as otherwise specified herein	1 space for every 150 square feet of floor area
(29) Funeral homes and mortuaries	1 parking space for every 50 square feet of floor area in slumber rooms, chapels, assembly rooms.
(30) Warehouses, wholesale stores	1 space for every 800 square feet of floor area
(31) Industrial or manufacturing establishments, including research and testing laboratories, creameries, bottling works, printing and engraving shops	1 space for every 2 employees for industries using 2 or more shifts; 1 space for every 3 employees for industries using 1 shift only; or 1 space for every 400 square feet of gross floor area, whichever is greater.
(32) Child care centers	5 spaces, plus 1 space for each full-time employee, 1 space for every 2 part-time employees, and 1 space for every 5 children of the total licensed capacity.
(33) Housing for the Elderly	Number of spaces to be determined by the type of housing (independent living, transitional) as identified in site plan review.

(Ord. 89. Passed 4-10-72; Ord. 2001-4. Passed 10-8-01; Ord. 2005-4. Passed 10-10-05; Ord. 2013-3. Passed 5-13-13.)

1288.10 SITE PLAN REVIEW.

Whenever more than five parking spaces are required for a given use under the requirements of this chapter, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the Clerk before a building permit can be issued. Such plans and specifications should show the location, basis of capacity calculation, size, site design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits and any other detailed feature essential to the complete design and construction of the parking area.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.11 SITE DEVELOPMENT REQUIREMENTS.

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements:

- (a) A minimum area of 180 square feet shall be provided for each vehicle parking space. Each space shall be definitely designated and reserved for parking purposes, exclusive of space requirements for adequate ingress and egress.
- (b) Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.
- (c) Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.
 - (1) Except for parking space provided on single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than 20 feet wide and so located as to secure the most appropriate development of the individual property.
 - (2) Each entrance to and exit from any off-street parking area shall be at least 25 feet from any adjacent lot within a Residential District.
- (d) Each vehicular parking space within an off-street parking area shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- (e) Parking areas with a capacity of more than five vehicles shall be surfaced with a material that shall provide a durable, smooth and dustless surface and shall be graded and provided with adequate drainage facilities to dispose of all collected surface water.
- (f) Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation. Such lighting shall not exceed an intensity of 5 footcandles nor shall it be less than 1.5 footcandles. All lighting shall be so arranged as to reflect light away from any residential property adjacent to the parking area.
- (g) Where a parking area with a capacity of more than five vehicles abuts a residential district or public right of way in a Residential District, a buffer strip at least 10 feet wide shall be provided between the parking area and the adjoining property, and a vertical screen shall be erected consisting of structural or plant materials no less than four feet in height and spaced so as to effectively screen the parking area from the residential area.
- (h) Parking areas will have to conform to front yard setback requirements and shall be no closer to any principal building than five feet.

(i) Each off-street parking area that serves a building, except single and two family dwelling units, shall have barrier free parking spaces which meet the requirements of the building Code and other state and federal regulations.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.12 REDUCTION, MODIFICATION OR WAIVER OF REQUIREMENTS.

The Board of Appeals may authorize reduction, modification or waiver of these parking requirements under specified conditions by the issuance of a conditional permit.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

1288.13 LOADING AND UNLOADING SPACE REQUIREMENTS.

(a) Purpose. In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary and other use similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use.

(b) Additional to Parking Space. Loading space required under this section shall be provided as area additional to off-street parking space as required under this chapter and shall not be considered as supplying off-street parking space.

(c) Space Requirements. There shall be provided adequate space for standing, loading and unloading services not less than twelve feet in width, twenty-five feet in length and fourteen feet in height, open or enclosed, for all uses indicated in subsection (d) hereof for uses listed in the following table, or for similar uses similarly involving the receipt or distribution by vehicles of materials or merchandise.

<i>Use</i>	<i>Floor Area</i>	<i>Required No. of Spaces</i>
<i>Use</i>	<i>Floor Area</i>	<i>Required No. of Spaces</i>
(1) Commercial uses, such as retail stores, personal services, amusement, automotive service	fraction thereof	0
	First 2,000	1
	Next 20,000 or fraction thereof	1
(2) Hotels, offices	Each additional 20,000 or fraction thereof	1
	First 2,000	0
	Next 50,000 or fraction thereof	1
(3) Wholesale and storage, including building and contractor's yards	Each additional 100,000 or fraction thereof	1
	First 20,000	1
	Each additional 20,000 or fraction thereof	1
(4) Manufacturing uses	First 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
	First 5,000 or fraction thereof	1
(5) Funeral homes and mortuaries	Each additional 10,000 or fraction thereof	1
	First 10,000	0
	Next 100,000 or fraction thereof	1
(6) Hospitals	Each additional 200,000 or fraction thereof	1
	For each building	1
	Similar uses not listed	1

(d) Access. Access to a truck standing, loading and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space, as well as adequate ingress

and egress to and from a street or alley.

(e) Site Requirements. Off-street loading spaces and access drives shall be paved, drained and lighted and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational or religious purposes or abuts a Residential District, there shall be provided a masonry wall or solid fence, not less than four feet in height, between the off-street loading space and said residential, educational, recreational or religious premises or Residential District.

(Ord. 89. Passed 4-10-72; Ord. 2005-4. Passed 10-10-05.)

CHAPTER 1290

Special Use Permits

1290.01 Purpose.

1290.02 Permit procedures.

1290.03 Basis for determinations.

1290.04 Amendments.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Special use permit application fee - see ADM.208.01(a)(4)

Nonconforming uses - see P. & Z. Ch. 1286

1290.01 PURPOSE.

This chapter, together with previous references in other chapters of this Zoning Code, designates specific uses that require a special use permit and, in addition, specifies the procedures and standards which must be met before such a permit can be issued.

(Ord. 2001-7. Passed 11-12-01.)

1290.02 PERMIT PROCEDURES.

An application for a special use permit for any land or structure use permitted under this chapter shall be submitted and processed, along with an application for site plan review, under the following procedures:

(a) Submission of Application. An application for a special use permit shall also require site plan approval according to Section 1296.03. Any application shall be submitted through the Zoning Administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by Council to cover costs of processing the application.

(b) Data Required. Every application shall be accompanied by the following information and data:

(1) The application form for a special use permit supplied by the Zoning Administrator, filled out in full by the applicant, including a statement of supporting evidence concerning the required findings specified in Section 1290.03;

(2) A complete application for Site Plan Review, including site plan, as required in Sections 1296.05; and

(3) Preliminary plans and specifications of the proposed development and for all construction.

(c) Planning Commission Review and Hearing. Upon receipt of the application, the Planning Commission shall review the application at its next regular meeting following filing and shall set a date for public hearing within 45 days thereafter. The Village Clerk shall provide notice of the hearing in accordance with the Zoning Act as described in Section 1264.04(a). Upon the conclusion of such hearing procedures, the Commission shall transmit a written recommendation within 60 days to Council, setting forth the reasons for the acceptance, denial or modification of the special use permit application.

(d) Council Action. Upon receipt of the Commission's recommendation, Council shall consider the special use permit application at its next regular meeting. Council shall approve or disapprove the recommendations of the Commission. Only

upon the approval of Council may a special use permit be issued by the Zoning Administrator.

(e) Issuance of Special Use Permits A special use permit shall be issued in writing, specifying all conditions of approval, the specific requirements and a copy of the site plan stamped "Approved" and signed by the Zoning Administrator.

(f) Duration of a Special Use Permit A special use permit shall be valid as long as the permitted use continues in accordance with the conditions, requirements and site plan included in said permit, unless otherwise stated in the SUP. Provided, however, that an applicant must have all exterior work completed within one year from the date of issuance of said permit. Approval of a SUP shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by the subsequent owner.

(g) Revocation by Council. Council shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable requirements in this chapter. After a revocation notice has been given, the use for which the permit was granted must cease within 60 days.

(h) Reapplication. No application for a special use permit which has been denied wholly or in part by Council shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions.

(i) Transfer of Special Use Permit In order to insure continued compliance with the terms of this chapter and a special use permit issued under it, each SUP shall specify reasonable terms for transfer of a valid SUP from the present landowner or operator to a subsequent owner or operator. The responsibility for said transfer in accordance with the terms of the SUP shall be that of the permit holder of record with the Village. Failure of a SUP holder to properly transfer a SUP shall not release the permit holder of record from ordinance penalties for any subsequent action undertaken on the land in violation of the terms of the SUP. Transfer of a SUP shall be made on a form supplied by the Village for that purpose. Proper completion of the form shall require documentation of assumption by the new owner of an interest in the land/operation in question and a written agreement that the new owner/operator will assume obligations and responsibilities specified in the SUP, including deposit of a bond or other performance guarantee when so required by the SUP. When such transfer has been properly completed and any bond or other performance guarantee deposited properly with the Village by the new permit holder, any bond or performance guarantee on deposit with the Village by the previous permit holder shall be returned in accordance with the terms of this chapter.

(j) Bonding. The Planning Commission may require that a bond be furnished to insure compliance with conditions imposed with the granting of a SUP. The amount and type of bond shall be determined by the Planning Commission. The bond shall be reasonable, appropriate and commensurate with the scope of the project. The amount of the bond shall be reduced at a rate equal to the percent of work completed on the required improvements as work progresses. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project which are deemed necessary to protect the health, safety and welfare of the Village residents, resources, environment, and future users or inhabitants of the proposed project.

(k) Appeal of Decisions. A person aggrieved by the decision of the Planning Commission may have that decision reviewed by the Board of Appeals; provided the petition for appeal is filed with the Village Manager within 15 days of the Planning Commission decision.

(Ord. 2001-7. Passed 11-12-01; Ord. 2009-5. Passed 11-9-09.)

1290.03 BASIS FOR DETERMINATIONS.

Before making a recommendation on a special use permit application, the Planning Commission shall establish beyond a reasonable doubt that the following general standards, as well as the specific standards outlined in each applicable section of this chapter, shall be satisfied:

(a) General Standards. The Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:

- (1) Be harmonious with and in accordance with the general principles and proposals of the Master Plan of the Village;
- (2) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and so that such a use will not change the essential character of the area in which it is proposed.
- (3) Not be hazardous or disturbing to existing or future uses in the same general vicinity, and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (4) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
- (5) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (6) Be consistent with the intent and purposes of the zoning district in which it is proposed to locate such use.

(b) Conditions and Safeguards. The Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, the protection of individual property rights and for insuring that the intent and objectives of

this Zoning Code will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.

(c) Specific Requirements. The general standards and requirements of this section are basic to all uses authorized by special use permit. In addition, there may be specific, applicable requirements set forth in the zoning district provisions and/or in Chapter 1294, Supplementary Regulations.

(Ord. 2001-7. Passed 11-12-01; Ord. 2009-5. Passed 11-9-09.)

1290.04 AMENDMENTS.

Amendments to an approved site plan shall be made according to the provisions of Section 1296.11. No change may be made to an existing special use permit except through reapplication, according to the procedures of Section 1290.02.

(Ord. 2001-7. Passed 11-12-01.)

CHAPTER 1292

Planned Unit Developments

- 1292.01 Intent.
- 1292.02 Definitions.
- 1292.03 Development standards and modifications.
- 1292.04 Improvements.
- 1292.05 Application procedure.
- 1292.06 Preliminary plan; Planning Commission review and approval.
- 1292.07 Preliminary plan; Council review and approval.
- 1292.08 Final plan; review and approval.
- 1292.09 Approval period.
- 1292.10 Performance guarantee.
- 1292.11 Amendments to plans.
- 1292.12 Subdivision requirements.
- 1292.13 Developer's fees.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Planned Unit Development submittal fee - see ADM.208.01(a)(4)

1292.01 INTENT.

The intent of this chapter is to provide an optional method for residential land development which allows for flexibility in the application of the standards governing the types of residential structures permitted and their placement on the property. A Planned Unit Development will provide for the development of residential land as an integral unit which incorporates within a single plan the location and arrangement of all buildings, drives, parking areas, utilities, landscaping and any other improvements or changes within the site. Deviation from the specific site development standards of this Zoning Code may be allowed, so long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed. A Planned Unit Development shall be designed to achieve compatibility with the surrounding area, and shall also be designed to encourage innovation and variety in the design, layout and type of residential development; to achieve economy and efficiency in the use of land, natural resources and energy; to provide for efficiency and economy in providing public services and utilities and to encourage the development of more useful open space.

1292.02 DEFINITIONS.

As used in this chapter:

- (a) "Planned Unit Development" means a residential development, planned and developed as a unit, under unified control, developed according to comprehensive and detailed plans, including a program providing for the continual maintenance and operation of such improvements, facilities and services which will be for the common use of the occupants of the Planned Unit Development.
- (b) "Common open space" means lands within the Planned Unit Development, under the common ownership of all residents in the Planned Unit Development, to be used for park, recreation or environmental amenity. These lands shall not include public or private streets, driveways or parking areas. Within these lands only facilities and structures for recreational purposes may be constructed, with the total impervious areas of roofs and paving constituting not more than 10% of the total open space.
- (c) "Attached single-family dwelling" means a single-family dwelling unit attached to one or more single-family dwelling units by means of a common party wall or by a connecting wall or similar architectural feature, such as a garage or carport, and with such dwelling having its own doors which open to the outdoors.
- (d) "Homeowners association" means an association of all owners of a project organized for the purpose of administering, managing and maintaining the common open space and common property and facilities. This association shall be described in all covenants, deeds or other recorded legal documents which affect the title to any land within the development.

1292.03 DEVELOPMENT STANDARDS AND MODIFICATIONS.

A Planned Unit Development will be developed in accordance with the following standards, except that upon a recommendation by the Planning Commission, Council may waive part or all of these requirements where, because of parcel size or shape or other extenuating factors, such a restriction would be to the detriment of quality development, and through site design any adverse effects to adjoining properties can be eliminated.

- (a) Location and Minimum Lot Area. Planned Unit Developments may be located in any residential zoning district and shall be a minimum of three acres.
- (b) Permitted Principal Uses. All uses permitted in the district for which the Planned Unit Development is located and approved.
- (c) Allowable Densities. The maximum density (dwelling units per acre) shall not exceed the density of the zone in which the Planned Unit Development is located.
- (d) Permitted Accessory Uses. Permitted accessory uses are:
- (1) Common open space for passive or active recreation such as a golf course area specifically for the residents of the Planned Unit Development;
 - (2) Streams or ponds;
 - (3) Parking lots; and
 - (4) Other uses which, as the result of the plan review process, are determined to be designed to serve the residents of the Planned Unit Development.
- (e) Common Open Space. At least 40% of the total land area within a Planned Unit Development shall be in common open space.
- (f) Unified Control. All lands within a proposed Planned Unit Development shall be under the control of a single applicant, with that applicant being an individual, partnership, corporation or group of individuals, partnerships or corporations. All buildings, structures, landscaping and other improvements in a Planned Unit Development shall be under the unified control of the same applicant.

(g) Access and Circulation.

(1) Public roadway access and roadways shall be constructed in accordance with the standards, regulations and specifications adopted by the Eaton County Road Commission, the Michigan Department of Transportation and the Village.

(2) Private roadway access and roadways shall be constructed in accordance with the standards, regulations and specifications adopted by the Eaton County Road Commission, the Michigan Department of Transportation and the Village.

(h) Parking Standards.

(1) One and one-half spaces are required for one bedroom units and two spaces are required for units of two or more bedrooms. Guest parking shall be as dictated by project design.

(2) Design and layout shall be as follows:

A. Parking must be arranged so as to be compatible with the surrounding development in the District. Parking for residents and guests must be considered in the overall design. Private drives and garages are allowed.

B. Parking lot size shall be as follows:

1. Parking space dimensions shall be in accordance with Section 1288.10.
2. A single parking area shall contain not more than 20 parking spaces.
3. Within a parking area, not more than ten spaces shall be permitted in a continuous row without being interrupted by landscaping.

C. Separate parking or storage areas shall be provided to accommodate motor homes, campers, boats and similar vehicles and equipment. Such areas will be screened from both within and without the Planned Unit Development.

(3) Parking lots and loading areas shall be screened from adjacent roads and buildings with hedges, fences, walls, dense plantings or berms.

(4) All parking lots shall be adequately lighted. Lighting shall be so arranged as to direct light away from any residential buildings.

(i) Yard Requirements: Site Perimeter.

(1) Where a Planned Unit Development abuts a residential zoning district, all structures shall be at least 30 feet from any perimeter boundary line, except that such structures in excess of 40 feet in length shall be set back an additional foot for every five feet of building length parallel to such boundary line.

(2) Where a Planned Unit Development abuts a zoning district other than a residential zoning district, all structures shall be set back at least 25 feet from any perimeter boundary line.

(3) Where a Planned Unit Development abuts a residential zoning district, no intensive recreational building or facility shall be located within 50 feet of any perimeter boundary line.

(4) Except for single-family detached dwelling units, where a Planned Unit Development abuts a residential zoning district, no parking area shall be within 50 feet of any perimeter boundary line.

(j) Yard Requirements: Interior. A yard in the interior of a Planned Unit Development may be smaller than the requirements in the zoning district within which it is located. Development may occur without any provision for interior yards, but in no case shall buildings be closer than 20 feet from each other.

(k) Lot Sizes. Lot sizes may be reduced from the regulation of the specific zoning district within which they are located. Provisions may be made for developments without lot area.

(l) Dwelling Unit Access. Dwelling units may front on and take access from private roadways which are part of the commonly held lands within the development.

(m) Improvements and Utilities. Improvements and utilities shall be required in accordance with Section 1292.04.

(n) Landscaping. Acceptable landscaping shall be provided in open spaces around buildings and within parking areas.

(o) Solid Waste Disposal. A satisfactory solid waste disposal system shall be provided.

(Ord. 2002-5. Passed 12-9-02; Ord. 2009-6. Passed 11-9-09.)

1292.04 IMPROVEMENTS.

(a) Required Improvements.

(1) Water supply system. When a proposed Planned Unit Development is located adjacent to or reasonably near the service area of a public water supply system, fire hydrants or other required water system appurtenances shall be constructed in such a manner as to adequately service all lots shown on the approved site plan both for domestic use and fire protection. In the event of the nonexistence or nonavailability of a public water supply system, a development water supply system, if considered economically feasible (as determined by the Planning Commission with the advice of the designated Village Engineer and approval by Council) shall be installed by the developer. If it is not feasible to install any type of public water supply system in a proposed development (in the judgment of the Planning Commission with the advice of the designated Village Engineer and the County Health Department), then the developer shall, with the approval of the Planning Commission, install individual wells in accordance with the requirements of the Barry-Eaton District Health Department.

The sizes of watermains, the location and type of valves and hydrants, the amount of soil cover over the pipes, and other features of the installation shall be approved by the designated Village Engineer, and shall conform to the accepted standards of sound practices for municipal water supply and fire protection systems.

All easements and water supply improvements shall be dedicated to the public and accepted by Council for administration, operation and maintenance. No proprietary rights of any type or description shall be retained by the developer or owners of the Planned Unit Development. In the event that land reserved for well sites is not used for that purpose and it is appropriate for lot development, such land shall revert to the developer for such use.

(2) Sanitary sewer system. Planned Unit Developments shall be served by the public sanitary sewer system and shall

meet the design requirements of the Village.

(3) Storm drainage. Each site shall be provided with adequate storm drainage. Open drainage courses and stormwater retention ponds may be permitted if properly engineered.

(4) Utilities. Electrical, telephone and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the final site plan and shall be screened from view to the height necessary by evergreen vegetation, earth berm, decorative wall or fence or a combination of these elements.

(5) Street name signs, traffic control signals, devices and signs. Street name signs shall be installed in the appropriate locations at each intersection in accordance with the requirements of the Village. Appropriate traffic and parking control signals, devices and signs meeting the standards of the Michigan Manual of Uniform Traffic Control Devices shall be installed as directed by the Village Street Administrator.

(6) Sidewalks. Sidewalks and crosswalks shall be constructed in accordance with the requirements of the Village.

(7) Lighting Plan. A site lighting plan shall be submitted and approved which provides effective and efficient site illumination without negatively impacting adjacent properties.

(Ord. 2002-5. Passed 12-9-02; Ord. 2009-6. Passed 11-9-09.)

(b) Procedure; Submittal. One complete set of reproducible as-built engineering plans of each required public improvement shall be filed with the Village Clerk upon completion of construction.

1292.05 APPLICATION PROCEDURE.

Applications shall be filed with the Village as follows:

(a) Applicant. An application for approval of a Planned Unit Development shall be submitted by or on behalf of an applicant who has a demonstrable legal interest in all of the lands within the proposed development.

(b) Preapplication Conference. An applicant shall meet with the Planning Commission staff prior to the submission of a formal application. The purpose of the conference is to review the procedure necessary for the submission of an application. Special problems concerning utilities, street access, site design and zoning will be identified to enable the developer to better plan for the project. Time requirements for plan approval shall be reviewed.

(c) Preliminary Plan Application. Before submitting a final plan, an applicant shall submit a preliminary plan of the Planned Unit Development in accordance with this section. Such plan shall show the name, location and principal design elements so as to enable the Village to make a determination as to whether the Planned Unit Development is in conformity with this Zoning Code. The approval of a preliminary plan shall confer on the applicant the conditional right that the general terms and conditions under which the preliminary plan approval was granted will not be changed.

(d) Final Plan Application. Upon approval of a preliminary plan application, a developer shall prepare and submit a final plan application in accordance with this section. Upon approval of a final plan application by Council, the developer may obtain necessary building permits for the construction of the Planned Unit Development.

(e) Submission Requirements for Preliminary Plan Application. A preliminary plan application shall include:

(1) Two copies of the applicant's name, address, phone number, proof of property interest and the name, address and phone number of the architect, engineer or designer preparing the application;

(2) Two copies of a written legal description of the total site area proposed for development;

(3) Ten copies of a site plan and supporting maps and drawings containing the following information, at a scale of not more than one inch equals 100 feet and sufficiently dimensioned so as to identify the size and location of the various elements of the plan, including:

A. A location map;

B. Site topography, existing and proposed, at intervals not greater than two feet;

C. The location of all existing and proposed buildings and structures;

D. Public and private roadways within and adjacent to the site;

E. Walkways within and adjacent to the site;

F. Park areas, driveways and loading and service areas;

G. Open areas and a description as to use;

H. A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space and the number of parking spaces provided;

I. A general plan of landscaping within the site, with specific details of plan size to be shown for any landscaping provided to comply with any required screening within the project;

J. The location and screening of any outside trash containers;

- K. The location and size of all existing utilities and drainage facilities;
 - L. The general location and size of all proposed utilities and drainage facilities; and
 - M. The dimensions of all parcels to be created as a part of the development;
- (4) Two copies of building elevation drawings showing the architectural style to be used in the development;
- (5) The organizational structure of the homeowner's association to be formed for the operation and maintenance of all common open space and common property and facilities within the development, for review by the Village Attorney;
- (f) Submission Requirements for Final Plan Application. A final plan application shall include:
- (1) Two copies of the applicant's name, address, phone number, proof of property interest, and the name, address and phone number of the architect, engineer or designer preparing the application;
 - (2) Two copies of a written legal description of the total site area proposed for development;
 - (3) Two copies of a letter of transmittal setting forth the proposed development schedule, including the sequence of any phases of development;
 - (4) Ten copies of a site plan and supporting maps and drawings containing the following information at a scale of not more than one inch equals 100 feet, and dimensioned so as to identify the size and location of the various elements of the plan, including:
 - A. A location map;
 - B. Site topography, existing and proposed at intervals not greater than two feet;
 - C. The location of all existing and proposed buildings and structures;
 - D. Public and private roadways within and adjacent to the site;
 - E. Walkways within and adjacent to the site;
 - F. Park areas, driveways and loading and service areas;
 - G. Open areas, and a description as to use;
 - H. A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space and the number of parking spaces provided;
 - I. A general plan of landscaping within the site, with specific details of plan size to be shown for any landscaping provided to comply with any required screening within the project;
 - J. The location and screening of any outside trash containers; and
 - K. The dimensions of all parcels to be created as part of the development;
- (5) The organizational structure of the homeowner's association to be formed for the operation and maintenance of all common open space and common property and facilities within the development;
- (6) Two copies of all covenants pertaining to the development; and
- (7) Plans and specifications for all sanitary sewer, storm drainage, water and roadways within the project. Such plans and specifications shall be prepared by a professional engineer in accordance with the standards of the Michigan Department of Public Health, as they pertain to public utilities.

(Ord. 2009-6. Passed 11-9-09.)

1292.06 PRELIMINARY PLAN; PLANNING COMMISSION REVIEW AND APPROVAL.

(a) Public Hearing and Notice. Prior to making a recommendation on the proposed Planned Unit Development the Planning Commission shall conduct a public hearing. Notice of the hearing shall be provided in a newspaper of general circulation not less than 15 days before the date of the hearing. Notice shall also be sent by mail or personal delivery to the owners of property for which the approval is being considered. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property regardless of whether the property or structures are located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice. The notice shall describe the nature of the request, indicate the property that is the subject of the request to include street addresses if such addresses exist, state when and where the request will be considered and indicate where written comments will be received

concerning the request.

(b) **Planning Commission Action.** After a study of the application for a Planned Unit Development, and within sixty days of receipt of such application, the Planning Commission shall recommend to Council the approval, approval with modification or disapproval of the project. The Planning Commission shall prepare a report explaining its action and any modifications and conditions of approval or denial. The decisions of the Planning Commission shall be based on:

(1) The standards incorporated in Section 1292.03 and any other applicable standards set forth in the ordinances and regulations of the Village;

(2) A determination that the development is not detrimental to the health, safety and welfare of the community; and

(3) A determination that the development will not be detrimental or injurious to the character of the neighborhood in which it is to be located and that the development is compatible with such neighborhood.

The review period may be extended upon receipt of a written request by the applicant. Materials and information to be considered in this study and review process may include input from such agencies as the County Health Department, utilities and drain officials and other agencies required to review the Planned Unit Development.

(Ord. 2009-6. Passed 11-9-09.)

1292.07 PRELIMINARY PLAN; COUNCIL REVIEW AND APPROVAL.

(a) Within forty-five days after receipt of a recommendation from the Planning Commission, Council shall review the application and site plan and shall approve, approve with modification or disapprove of the proposed Planned Unit Development. Changes in the application or site plan desired by Council shall be referred to the Planning Commission for review and recommendation prior to Council's action thereon. The basis for Council action and any conditions of the approval of the Planned Unit Development shall be set forth in writing as a part of official Council action.

(b) This review and approval by Council shall be based on:

(1) The standards incorporated in Section 1292.03 and any other applicable standards set forth in ordinances and regulations of the Village;

(2) A determination that the development is not detrimental to the health, safety and welfare of the community; and

(3) A determination that the development shall not be detrimental or injurious to the character of the neighborhood in which it is to be located and that the development is compatible with such neighborhood.

1292.08 FINAL PLAN; REVIEW AND APPROVAL.

(a) Submission of Plan. A developer may submit to the Village for final plan approval all or part of the plan for which preliminary approval has been received. Any final plan for a part of the larger development shall be such that its proportional share of the common space shall be included in and contiguous to the area to be developed, and such partial development shall be capable of standing on its own with respect to necessary improvements, circulation, facilities and open space.

(b) Planning Commission Action. After a study of the proposed final plan for a Planned Unit Development or part thereof, the Planning Commission shall, within 60 days of the receipt of such plan, recommend to Council approval, approval with modification or disapproval of the project. The Commission shall prepare a report explaining its action. The Commission shall recommend approval of a final plan unless it is determined that such final plan is not in accordance with the approved preliminary plan, or unless such final plan, when a part of a total proposed plan, does not represent a proportion of all of the critical elements of such plan.

(c) Council Action. Within 60 days of the receipt of a recommendation from the Planning Commission, and after the execution of the agreement by the developer, as required in subsection (d) hereof, Council shall approve, approve with modification or disapprove of the final plan. A final plan shall be approved unless it is determined that it is not in conformance with the approved preliminary plan or that such final plan, when a part of the total proposed plan, does not represent a proportional part of all the critical elements of such plan. Council shall set forth in writing the basis for its decision and any conditions relating to an affirmative decision.

(d) Agreement Required. Prior to final plan approval by Council, the developer shall have executed and submitted, in duplicate to the Clerk, an agreement with the Village setting forth:

(1) The specific location and use of all common lands and common facilities within the development;

(2) The organizational structure of the homeowner's association and the provisions for implementation of transfer of control to such association from the developer;

(3) The methods for levying assessments on the common lands and facilities, both with respect to taxes, and operation and maintenance fee;

(4) Provisions enabling the Village to enter in and maintain such common lands and facilities when the developer or the homeowner's association has failed to do so, along with the procedure for assessing such costs back to the development;

(5) Provisions for a financial guarantee sufficient to cover the cost of any public and common improvements; and

(6) Provisions to allow the Village to enter and complete such improvements if the developer has failed to do so within the stated period of time.

This agreement shall be approved as to form and content by the Village Attorney.

(Ord. 2002-5. Passed 12-9-02.)

1292.09 APPROVAL PERIOD.

(a) Preliminary Plan. The length of approval of the preliminary plan for a Planned Unit Development shall be 18 months from the date of Council action. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by Council twice, each for a period of one year.

(b) Final Plan. The length of approval of a final plan for a Planned Unit Development shall be two years from the date of Council action. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by Council twice, each for a period of one year. Where a Planned Unit Development is being developed in phases, the initiation of each new development phase shall automatically extend the approval for two years from the date of issuance of a building permit.

1292.10 PERFORMANCE GUARANTEE.

(a) Required. The developer must provide a financial guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount sufficient to cover the cost of public and common improvements.

(b) Amount. The amount of the performance guarantee shall be limited to cover the estimated cost of improvements necessary to comply with this Zoning Code and any conditions attached to the Planned Unit Development approval. Such improvements shall include, but are not limited to, roadways, lighting, utilities, sidewalks, screening, drainage and monuments.

(c) Exemptions. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit or surety bond has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended (M.C.L.A. Sections 560.101 to 560.293).

(d) Completion Time. If all required improvements are not completed within the time period provided, the Village, by resolution of Council, may proceed to have such work completed and may reimburse itself for the cost thereof from the security furnished by the proprietor.

(e) Release. Upon the written request of the developer for the release of all or a portion of the financial security provided for the completion of the improvements, and upon certification by the designated Village Engineer that the proportion of the financial security requested to be released is equal to or less than the proportion of the improvements installed at the date of such request, the Village may authorize the the release of such financial security to the developer or to such other source as shall be directed by the developer. Any written request from the developer seeking the release of a portion of the financial security shall be accompanied by written certification from the developer's engineer or architect certifying what part of the improvements have, in fact, been completed.

(Ord. 2009-6. Passed 11-9-09.)

1292.11 AMENDMENTS TO PLANS.

Minor changes in the location, siting or character of buildings and structures may be authorized by Council, if required by engineering or other circumstances not foreseen at the time the final development program was approved. No change authorized under this section may increase by more than ten percent, or decrease by more than twenty percent, the size of any building or structure, or change the location of any building or structure by more than ten feet in any direction. Council shall not permit changes beyond the minimum or maximum requirements set forth in this Zoning Code.

All other changes in the Planned Unit Development, including changes in the site plan and the development schedule, must be made under the procedures that are applicable to the initial approval of the Planned Unit Development.

1292.12 SUBDIVISION REQUIREMENTS.

Any Planned Unit Development which will result in the creation of parcels of land under separate ownership, as defined in Act 288 of the Public Acts of 1967, the Subdivision Control Act, or Act 59 of the Public Acts of 1978, the Condominium Act, shall comply with such Acts, as amended.

1292.13 DEVELOPER'S FEES.

A Planned Unit Development proposal submitted to the Village shall not be reviewed or acted upon unless the required fee, as set forth in the Village General Fee Schedule, accompanies the proposal. Any expense incurred by the Village in excess of the fee collected for the examination or review of any document pertaining to the Planned Unit Development shall be reimbursed in total by the developer.

(Ord. 2009-6. Passed 11-9-09.)

CHAPTER 1294

Supplementary Regulations

- 1294.01 Flag lots permitted.
- 1294.02 Rear dwelling prohibited.
- 1294.03 Mobile homes.
- 1294.04 Required water supply and sanitary sewerage facilities.
- 1294.05 Temporary buildings and dwellings.
- 1294.06 Accessory buildings.
- 1294.07 Customary home occupations. (Repealed)
- 1294.08 Signs and advertising structures. (Reserved)
- 1294.09 Exempt signs and advertising structures. (Reserved)
- 1294.10 Excavation of soils and minerals.
- 1294.11 Fences, walls and screens.
- 1294.12 Exception to required lot area for Residential Districts.
- 1294.13 Lot area can be allocated once.
- 1294.14 Lot area of accessory buildings.
- 1294.15 Permitted yard encroachments.
- 1294.16 Yards with accessory buildings
- 1294.17 Private in-ground swimming pools.
- 1294.18 Height regulations.
- 1294.19 Flood plain regulations.
- 1294.20 Wireless communication towers and antennas. (Recodified)
- 1294.21 Mobile home parks. (Reserved).
- 1294.22 Solar energy equipment.
- 1294.23 Wind energy conversion system.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

1294.01 FLAG LOTS PERMITTED.

Flag lots may be permitted in any residential zoning district provided they conform to the requirements of this section.

(a) Definition. "Flag lot" means a lot for single family or duplex residential development which abuts and connects to a public street by means of a strip of land (the access pole) that does not comply with the dimensional requirements for minimum lot frontage for the zoning district in which the lot is located. A flag lot can be created to serve only one building.

(b) Standards. Flag lots must meet the following criteria and the requirements of Chapters 1244 and 1246 (as applicable) and any other part of this Code as deemed appropriate or necessary by the Zoning Administrator.

(1) Lot size. The minimum land area for a flag lot shall meet the requirements of the zoning district in which it is located not including the land area utilized for the flag lot access pole.

(2) Access pole. A minimum 20-foot width is required for the entire length of the flag lot access pole. The Zoning Administrator may require a width greater than 20 feet if the proposed development of the lot requires public utility, drainage or other easements necessary to the development of the lot. The flag lot access pole shall not be created by easement unless such easement was in effect and recorded prior to the effective date of Ord. 2013-2. The flag lot access pole must

connect to a public street and the separating lot must own the access pole. No additional lots may be served by the flag lot access pole.

(3) Access pole ownership. The flag lot access pole must be part of the flag lot and under the same ownership as the flag portion of the lot.

(4) Dimensional requirements. The flag portion of the lot shall meet the dimensional requirements of the zoning district in which it is located.

(5) Creation. Flag lots may be created by meeting the standards of the Village of Dimondale Land or Lot Division Ordinance.

(6) Building coverage. Only the flag portion of the lot may be utilized in calculating the building coverage requirement.

(7) Setbacks. Front, side and rear yard setbacks shall meet the requirements of the zoning district in which the lot is located. The flag lot property owner may determine the location and placement of the buildings and corresponding yard setbacks except that a minimum front yard setback must be maintained between the building(s) and the nearest lot line parallel to the public road.

(8) Address information. The house number for a flag lot shall be posted on the public street near the intersection of the public street and the access pole.

(Ord. 2013-2. Passed 6-10-13.)

1294.02 REAR DWELLING PROHIBITED.

No building in the rear of and on the same lot with a principal building shall be used for residential purposes, except for watchmen, caretakers and domestic employees whose employment functions are related to the functions of the principal building, provided that all other requirements of this Zoning Code are satisfied.

(Ord. 89. Passed 4-10-72.)

1294.03 MOBILE HOMES.

No mobile home shall be occupied as a dwelling within the Village, except as permitted under this Zoning Code or as occupied under the temporary dwelling provisions as approved by the Board of Appeals and outlined in Section 1264.12.

1294.04 REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES.

After the effective date of this Zoning Code, no structure shall be erected, altered or moved upon a lot or premises and used in whole or in part for dwelling, business, industrial or recreational purposes unless it shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human excreta and domestic, commercial and industrial wastes. All such installations and facilities shall conform with the minimum requirements of the Barry- Eaton District Health Department and the Michigan Department of Public Health.

(Ord. 89. Passed 4-10-72.)

1294.05 TEMPORARY BUILDINGS AND DWELLINGS.

(a) Temporary Dwelling. No structure shall be used for dwelling purposes that does not meet the minimum standards, as defined in this Zoning Code and the Building and Housing Code. No garage or other accessory building, mobile home, cellar, basement, tent, cabin or partial structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purpose for any length of time unless authorized by the Board of Appeals by the issuance of a temporary permit.

(b) Temporary Buildings. Temporary buildings are prohibited except in the following instances:

(1) Those temporary buildings which are incidental to construction work which may include "tool trailers" or "job trailers." This would not be for on-site residence during construction, but would be an office for a larger job or a place to lock tools on-site during construction.

(2) Temporary buildings which serve a public or semi-public institutional use.

(Ord. 2001-8. Passed 11-12-01.)

1294.06 ACCESSORY BUILDINGS.

Authorized accessory buildings may be erected as a part of the principal building or may be connected to it by a roofed over porch, patio, breezeway or similar structure, or they may be completely detached. If attached to the principal building, an accessory building shall be made structurally a part of it and shall comply in all respects with the requirements applicable to the principal building. An accessory building not attached and not made a part of the principal building as provided in the preceding statement shall not be nearer than 10 feet from any other separate structure on the same lot.

1294.07 CUSTOMARY HOME OCCUPATIONS [REPEALED].

[EDITOR'S NOTE: Section 1294.07 was repealed in its entirety, and replaced by Ordinance 2004-2, passed December 13, 2004. For current provisions concerning Home Occupations, see Chapter 1287.]

1294.08 SIGNS AND ADVERTISING STRUCTURES [RESERVED].

[EDITOR'S NOTE: Section 1294.08 was repealed and reserved in its entirety by Ordinance 2003-7, passed January 12, 2004.]

1294.09 EXEMPT SIGNS AND ADVERTISING STRUCTURES [RESERVED].

[EDITOR'S NOTE: Section 1294.09 was repealed and reserved in its entirety by Ordinance 2003-7, passed January 12, 2004.]

1294.10 EXCAVATION OF SOILS AND MINERALS.

(a) The excavation of peat, muck, sand, gravel, clay, shale or other natural mineral deposits, including the quarrying of rock minerals, but except crude oil, may be authorized in any district by the Board of Appeals by the issuance of a special permit upon completion of procedures and with the imposition of the conditions and safeguards outlined in Section 1284.04.

(b) Top soil shall not be stripped, excavated or otherwise removed on any premises for sale or for any other use than on the premises on which the top soil was originally located, except when as a product of an authorized excavation of other soils as provided in this section or as provided in Section 1284.04(i).

(Ord. 89. Passed 4-10-72.)

1294.11 FENCES, WALLS AND SCREENS.

(a) No fence, wall or structural screen, other than plant materials, shall be erected on any residential property higher than 6 feet.

(b) No fence, wall, screen, hedge or other planting shall exceed a height of 3 feet within any residential front yard within an area closer than 20 feet to the street line. On any corner lot, no fence or planting shall exceed a height of 3 feet within 20 feet of any corner so as to interfere with traffic visibility across the corner.

(Ord. Unno. Passed 9-13-76.)

1294.12 EXCEPTION TO REQUIRED LOT AREA FOR RESIDENTIAL DISTRICTS.

Any residential lot created and recorded prior to the effective date of this Zoning Code may be used for any permitted use, even though the lot area and/or dimensions are less than those required for the district in which the lot is located, provided that:

(a) The other requirements of the district are met;

(b) No adjacent land or lot is owned by the owner of the lot in question; and

(c) No lot shall be so reduced in area that the required open spaces will be smaller than those established as a minimum for the district in which the lot is located.

(Ord. 89. Passed 4-10-72.)

1294.13 LOT AREA CAN BE ALLOCATED ONCE.

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for the construction of a proposed or the alteration of an existing building.

(Ord. 89. Passed 4-10-72.)

1294.14 LOT AREA OF ACCESSORY BUILDINGS.

An accessory building shall not occupy more than 30% of the area of any rear yard.

(Ord. 89. Passed 4-10-72.)

1294.15 PERMITTED YARD ENCROACHMENTS.

(a) (1) Paved terraces, patios and uncovered porches shall not be subject to yard requirements, provided that:

A. The paved area is unroofed and without such walls or other forms of solid, continuous enclosure that link the paved area to the principal building.

B. The highest finished elevation of the paved area is not over three feet above the average surrounding finished ground grade.

C. No portion of any paved area is closer than 5 feet from any lot line or projects into any front yard setback area.

(2) Such paved areas may have an open railing or fence not over 3 feet high and may have noncontinuous windbreaks or visual screen fences or walls not over 6 feet high and not enclosing more than one-half the perimeter of the paved area.

(b) Unenclosed porches, roofed or unroofed, may project into a required side or rear yard area a distance not to exceed 8 feet, provided that:

(1) The porch is unenclosed, no higher than one story and is erected on piers.

(2) The porch shall not be closer than 8 feet at any point to any side or rear lot line.

(c) Enclosed porches shall be considered an integral part of the building and shall be subject to all yard and area dimensional requirements established for principal buildings.

(d) Special structural elements, such as cornices, sills, chimneys, eaves and similar structural features may project into any yard up to a maximum of two and one-half feet.

(e) Fire escapes, outside stairways and balconies, if of open construction, may project into the yard area up to a maximum of five feet.

(Ord. 89. Passed 4-10-72.)

1294.16 YARDS WITH ACCESSORY BUILDINGS.

(a) Front Yards. No accessory building shall project into any front yard.

(b) Rear Yards. No accessory building, including detached garages, shall be closer than 5 feet to any lot line of a rear yard.

(c) Side Yards. No accessory building, including garages, shall be erected closer to any side lot line than the permitted distance within that district for principal buildings; except in a Residential District when an accessory building is located ten feet or more to the rear of the principal building, then the accessory building shall be no closer than 5 feet to the side lot line.

(d) Corner Lots. No accessory building shall be closer to the side street lot line than the side yard setback of the principal building on the lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a Residential District, an accessory building shall not be closer than 8 feet to the common lot line.

(e) Garage Entrances. In no case shall the entrance to a garage be less than 25 feet from a street right-of-way line.

(Ord. 89. Passed 4-10-72; Ord. 2015-1. Passed 4-13-15.)

1294.17 PRIVATE IN-GROUND SWIMMING POOLS.

No private in-ground swimming pool shall be erected closer than 5 feet to any lot line.

(Ord. Unno. Passed 9-13-76.)

1294.18 HEIGHT REGULATIONS.

(a) Permitted Exceptions for Structural Appurtenances. The following kinds of structural appurtenances shall be permitted to exceed the height limitations for authorized uses:

(1) Ornamental in purpose, such as church spires, belfries, cupolas, domes, ornamental towers, flag poles and monuments.

(2) Appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio and television towers, aerials, fire and hose towers, and cooling towers.

(3) Solar Energy Equipment that is attached to a roof of a structure, may extend above the roofline a maximum of four feet in height as specified in Section 1294.22.

(4) A Wind Energy Conversion System that is attached to a roof of a structure, may extend above the roofline a maximum of fifteen feet in height as specified in Section 1294.23.

(5) The foregoing permitted exceptions shall not be used for human occupancy.

(b) Permitted Exceptions for Residential Districts. There shall be no exceptions permitted for residential structures. Certain nonresidential structures in Residential Districts may be permitted to exceed height limitations as specified in Section 1268.04.

(c) Permitted Exceptions for Business and Industrial Districts. In any Business or Industrial District, any principal building

may be erected to a height in excess of that specified for the District, provided each front, side and rear yard is increased one foot for each one foot of such additional height above the district maximum.

(Ord. 89. Passed 4-10-72; Ord. 2016-4. Passed 11-14-16; Ord. 2016-5. Passed 11-14-16.)

1294.19 FLOOD PLAIN REGULATIONS.

(a) Purpose. The purpose of the regulations set forth in this section is to protect those areas of the Village which are subject to predictable flooding in the flood plain areas of the major rivers, their branches and tributaries within the Village, so that the reservoir capacity shall not be reduced, thereby creating danger to areas previously not so endangered in time of high water, impeding, retarding, accelerating or changing the direction of the flow or carrying capacity of the river valley, or otherwise increasing the possibility of flood. All land included in the flood plain area shall be subject to the requirements specified herein, in addition to the normal zoning district requirements in which said land shall be located.

(Ord. 89. Passed 4-10-72.)

(b) Delineation of the Flood Plain Area

(1) The flood plain area shall overlay existing zoning districts delineated on the official Village of Dimondale Zoning Map. The boundaries of the flood plain area shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the Flood Insurance Rate Maps referenced in subsection (h) hereof.

(2) In addition to other requirements of this Zoning Code applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within the flood plain area.

(Ord. Unno. Passed 9-8-80.)

(c) Permitted Principal Uses. Notwithstanding any other provisions of this Zoning Code, no building or structure shall be erected, converted or structurally altered and no land and/or structure shall be used, except for one or more of the following uses:

(1) Open space uses, such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, preserves, bridle trails, nature paths, private or commercial recreation, and other similar open uses.

(2) Off-street parking uses, provided that all parking shall be at grade level and in conformance with the provisions of Chapter 1288.

(3) Utilities, roads, railroads, dams, rivers, structures and buildings for public or recreational uses, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety and welfare.

(4) Yard and setback areas required for any district may be included within the flood plain areas.

(Ord. 89. Passed 4-10-72.)

(d) Uses Permitted by Special Use Permit The following uses of land and structures may be permitted by the application for and the issuance of a special use permit with specified procedures and requirements, subject to presentment by the applicant of certification by a registered engineer that the requirements of this section are met and further subject to presentment of all required State and Federal permits:

(1) Dumping or backfilling in the flood plain areas with any material in any manner, provided the flow and natural impoundment capacity of the flood plain will be maintained or improved so that no significant or measurable change in flow or reduction in impoundment capacity of the flood plain would thereby result, and provided further that said dumping or backfilling is in compliance with Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, as certified by the Michigan Department of Natural Resources.

(2) Facilities for the storage of materials or equipment, provided such elements shall not cause any significant obstruction to the flow or reduction in the water impoundment capacity of the flood plain, and also provided that such development is in compliance with Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, as certified by the Michigan Department of Natural Resources.

(Ord. Unno. Passed 9-8-80.)

(e) Restricted Uses. Any structure where human habitation is contemplated, either as a place of residence, or employment, shall be prohibited from locating within flood plain areas.

(f) Data Submission. Prior to the issuance of a special use permit or a building permit, the Zoning Administrator or designated Eaton County officer shall require the applicant for such permit to submit any topographic data, engineering studies, proposed site plan or other similar data that is needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by technically qualified professionals.

(Ord. Unno. Passed 9-13-76.)

(g) Construction Standards. This section acknowledges that the Eaton County, Department of Construction Codes is the enforcing agency that will discharge the responsibilities of, and will designate regulated flood hazard areas under the provisions of the State Construction Act, PA230 of 1972, as amended, being the Stille-Derossett-Hale Single State

Construction Code Act, within the corporate boundaries of the Village of Dimondale, Eaton County.

(1) Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(5) of PA230 of 1972, as amended, the Director of the Department of Construction Codes for Eaton County is hereby acknowledged as the Enforcing Officer to discharge the responsibilities of the Flood Plain Management Provisions of the Michigan Building Code by adoption of this section.

(2) Pursuant to the provisions of the State Construction Code, Appendix G of the Michigan Building Code has been adopted by, and will be enforced by, the Eaton County, Department of Construction Codes within the boundaries of the Village of Dimondale.

(3) Assurance has been provided to the Village of Dimondale and the Federal Insurance Administrator by the Eaton County Board of Commissioners, that it intends to review all amended and revised Flood Hazard Boundary Maps and Flood Insurance Rate Maps and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, criteria for Land Management Regulations as may be necessary to assure compliant participation in the program.

(h) Designation of Regulated Flood Prone Hazard Areas. The Federal Emergency Management Agency Flood Insurance Study Entitled Eaton County, Michigan (All Jurisdictions) and dated November 26, 2010 and the Flood Insurance Rate Maps 26045C: 0217E, 0218E and 0219E, dated November 26, 2010 are adopted by reference for the purposes 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 R301.2(1) of the Michigan Residential Code.

(i) Disclaimer of Liability. The degree of flood protection required by this section 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. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Dimondale, Eaton County, any officer thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under it.

(j) Penalties. No development, structure or land use shall be constructed, located, extended, converted or altered by any person within areas of special flood hazard without full compliance with the terms of this chapter and other applicable regulations. Violation of any provisions of this chapter shall constitute a civil infraction and shall constitute a nuisance per se.

(k) Appeals.

(1) The Board of Appeals shall hear and decide appeals and requests for variances from this chapter that relate to zoning and the conditions established herein under the authority of the Village, per the process and requirements defined in Chapter 1264 of this Code. In evaluating an application for a variance, the Board of Appeals shall consider all technical evaluations and relevant factors and the applicant shall provide any information necessary for such consideration.

Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant; and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense or conflict with existing laws or ordinances.

(2) The Eaton County Building Board of Appeals shall hear and decide appeals and requests for variances that relate to the State Construction Code as it pertains to this chapter.

(l) Precedence. The provisions of this chapter shall, if there is a conflict with other provisions of the Zoning Code, take precedence and supercede such other provisions so as to give this section full force and effect.

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

(Ord. 2010-4. Passed 11-23-10.)

1294.20 WIRELESS COMMUNICATION TOWERS AND ANTENNAS.

(EDITOR'S NOTE: Section 1294.20 was recodified as part of the 2003 updating and revision of these Codified Ordinances. See Chapter 822 of the Business Regulation and Taxation Code.)

1294.21 MOBILE HOME PARKS [RESERVED].

(EDITOR'S NOTE: Section 1294.21 was repealed and reserved in its entirety by Ordinance 2013-1, passed May 13, 2013.)

1294.22 SOLAR ENERGY EQUIPMENT.

(a) Solar Energy equipment shall be a permitted accessory use in all zoning districts.

(b) Solar Energy equipment may be building mounted systems, either photovoltaic or thermal panels, building integrated systems that are photovoltaic applications such as solar shingles or pole or ground mounted equipment.

- (1) These types of systems are permitted as an accessory use to the principle use on the property.
- (2) Building integrated systems that are attached to a roof of a structure, may extend above the roofline a maximum of four feet in height.
- (3) Pole or ground mounted equipment shall not exceed a height of fifteen feet.
- (4) Pole or ground mounted equipment setback requirements:
 - A. Shall be at least 5 feet from any rear or side lot line.
 - B. Equipment that is 6 feet in height or less may be placed within the front yard provided it meets the front yard setbacks for the principle building. Equipment may project into the front yard setback provided that the zoning official finds that the modification is necessary for the effective use of the equipment.
- (5) Solar Energy Equipment shall not count towards lot coverage for buildings on a lot or calculated towards the total amount of accessory square footage.
- (6) Solar Energy Equipment installed on non-conforming buildings shall not be considered an improvement or expansion to the structure unless the building has to be structurally altered to handle the equipment.

(Ord. 2016-4. Passed 11-14-16.)

1294.23 WIND ENERGY CONVERSION SYSTEM.

- (a) Wind Energy Conversion Systems (WECS) shall be a permitted accessory use in all zoning districts.
- (b) Wind Energy Conversion Systems may be free standing towers with wind turbines or structure mounted wind turbines, along with associated components, that convert wind energy to electrical energy that are subject to building permits.
- (c) The total height of a structure mounted WECS shall not exceed fifteen feet above the highest point of the roof or structure, excluding chimneys, antennae or other similar features.
 - (1) The WECS shall be attached to a roof system or portion of a structure not facing a public road unless no other option exists and shall not utilize guy wire supports.
 - (2) A licensed engineer or architect shall provide an engineering or structural analysis to demonstrate the structure meets current building code requirements.
- (d) Free standing WECS shall not exceed a height of forty five feet provided the following conditions are adhered to:
 - (1) Setback one and one-tenth times the height of the tower measured from the top of its blade in vertical position from all adjoining property lines, easements, or rights-of-way. The WECS may only encroach the setback of an adjacent property if an easement is recorded for that purpose. Under no circumstance, shall a free standing WECS be located closer than ten feet from a property line.
 - (2) WECS shall only be permitted in the rear or side yard area provided it is further from the road right-of-way than the principle structure and shall not utilize guy wire supports.
 - (3) WECS shall not count towards lot coverage for buildings on a lot or calculated towards the total amount of accessory square footage.
 - (4) WECS installed on non-conforming buildings shall not be considered an improvement or expansion to the structure unless the building has to be structurally altered to handle the equipment.
- (e) WECS structural plans. A building permit application for a WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings.
- (f) Noise. The WECS shall not cause noise or sound that exceeds fifty-five decibels at the property line and the property owner shall demonstrate compliance with the building permit application.
- (g) Number. No more than two free standing WECS shall be permitted on a property. Roof mounted WECS may be permitted without limitation provided the roof or structure can sustain the loads based on an engineering or structural analysis.
- (h) Aesthetics. WECS shall utilize non-reflective surfaces and neutral colors to the maximum extent feasible.
- (i) WECS removal. The WECS owner shall advise the Village of discontinuance of the WECS use or abandonment within 60 days of such discontinuance or abandonment. Any WECS that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such WECS shall remove the same within 90 days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned WECS within said 90 days shall be grounds for the Village to initiate enforcement action as described in Section 1262.05 .

(Ord. 2016-5. Passed 11-14-16.)

CHAPTER 1296

Site Plan Review

- 1296.01 Purpose and intent.
- 1296.02 Site plan defined.
- 1296.03 Site plan review requirements.
- 1296.04 Site plan review coordination.
- 1296.05 Site plan review procedures.
- 1296.06 Standards for site plan review approval.
- 1296.07 Landscape, screening and buffer requirements.
- 1296.08 General landscape development standards.
- 1296.09 Conditions of approval.
- 1296.10 Planning Commission review of Zoning Administrator's decision.
- 1296.11 Amendments.
- 1296.12 Appeals.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Planned unit developments - see P. & Z.Ch. 1292

Site condominium developments - see P. & Z.Ch. 1298

1296.01 PURPOSE AND INTENT.

It is the purpose of this chapter to require site plan review approval for certain building structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent land uses, and the character of future development in the area.

The requirements contained in this chapter are intended to reduce the hazards to life and property due to fire, flooding, soil erosion, poor surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise vibrations, noxious odors and other hazards; to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage disposal, drainage, public education, recreation and other public requirements; and to promote the harmonious relationship of uses through proper design. (Ord. 99-5. Passed 7-12-99.)

1296.02 SITE PLAN DEFINED.

As used in this chapter, "site plan" includes the documents and drawings specified in this Zoning Code necessary to insure that a proposed land use or activity is in compliance with Village of Dimondale ordinances and Federal and State law.

(Ord. 99-5. Passed 7-12-99.)

1296.03 SITE PLAN REVIEW REQUIREMENTS.

No building shall be erected, moved, externally altered, added to, or have any change in use which would affect its approved off-street parking, landscaping, or other requirements, and no building or land shall be used, nor shall any building, grading or occupancy permit be issued, except in accordance with a plan approved under this section. Special use permits, site condominium projects, and planned unit developments shall also obtain site plan review. All public and governmental facilities shall submit site plans to the Village for review under this chapter. Single-family detached structures shall not be subject to site plan review under this section.

The following procedures shall apply:

(a) Site plans with five or less parking spaces The Zoning Administrator shall review and approve in accordance with the standards for site plan approval (Section 1296.06). The Zoning Administrator may require review and approval by the

Planning Commission based on the land use intensity of the proposed use.

(b) Site plans with more than five parking spaces. The Planning Commission shall review and approve in accordance with the standards for site plan approval (Section 1296.06).

The intent of the conceptual site plan is to minimize errors and improve communication of ordinance requirements prior to the official submission of the regular site plan. This voluntary submission enables the applicant to communicate informally with the Planning Commission and receive information which will improve the quality of the final site plan.

(Ord. 99-5. Passed 7-12-99.)

1296.04 SITE PLAN REVIEW COORDINATION.

Prior to approving a site plan submitted under this chapter, the Zoning Administrator and the Planning Commission may obtain the review and recommendations of the County Drain Commissioner, the Village Street Administrator, the appropriate public health official, and any other appropriate technical reviews.

(Ord. 99-5. Passed 7-12-99.)

1296.05 SITE PLAN REVIEW PROCEDURES.

(a) Application. The owner or designated agent shall file an application requesting site plan review with the Zoning Administrator on a special form designed for that purpose. The application shall be accompanied by the appropriate fees as established by the Village of Dimondale and the various agencies having jurisdiction.

(b) Site Plan. Each application for site plan review shall be accompanied by a site plan. The site plan shall consist of a scale drawing of not less than one inch equals forty feet for parcels less than three acres and one inch equals 100 feet for parcels three acres or more. The site plan may also be of a scale acceptable to the Zoning Administrator. Three copies shall be submitted to the Village. The drawing shall also include:

- (1) North arrow and property dimensions, the date prepared and the name and address of the preparer.
- (2) Existing and proposed topography at contour levels of not more than two feet and a site drainage plan.
- (3) Zoning classifications of the subject property and all adjacent properties.
- (4) Existing public and/or private rights-of-way and easements.
- (5) Watercourses and water bodies, including surface drainage ways, within 500 feet of the subject property.
- (6) Accurate location of abutting streets and proposed alignment of streets, drives, and easements serving the development.
- (7) Accurate location and use of all existing and proposed structures and the intended uses thereof, lot lines, including setbacks from property lines, and dimensions.
- (8) Location and design of parking areas in compliance with this Zoning Code.
- (9) Location of water supply, wastewater systems, and all other utilities (existing and proposed).
- (10) Proposed location of common open spaces and facilities, if applicable.
- (11) Proposed location of accessory buildings and uses, including signs.
- (12) Proposed landscape plan and significant existing vegetation.
- (13) Proposed location of refuse receptacles.
- (14) Recorded legal description and property tax I.D. number of the subject property.
- (15) Any other information which the Zoning Administrator or the Planning Commission may reasonably require of the applicant.

(Ord. 99-5. Passed 7-12-99.)

1296.06 STANDARDS FOR SITE PLAN REVIEW APPROVAL.

In reviewing an application for site plan review, the following standards shall apply:

- (a) The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.
- (b) All buildings or groups of buildings shall be so arranged to permit emergency vehicle access by some practical means to all sites.
- (c) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- (d) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring

properties or the Village storm drainage system.

(e) Provisions shall be made for the construction of storm sewer facilities, including grading, gutters, piping and treatment of turf, to manage storm water, and to prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create puddles in paved areas.

(f) Secondary containment for above-ground areas where regulated hazardous substances are stored or used shall be provided and shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances.

(g) General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.

(h) State and Federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without permits and approvals.

(i) All refuse receptacles shall be screened from casual view from the public rights-of-way and adjoining land uses.

(j) All landscape requirements of Section 1296.08 shall be met.

(k) The site plan shall meet all requirements of this Zoning Code.

(Ord. 99-5. Passed 7-12-99.)

1296.07 LANDSCAPE, SCREENING AND BUFFER REQUIREMENTS.

(a) Intent. It is the intent of this section to require landscape buffers and screening to reduce negative effects between incompatible land uses; to provide landscaping within parking areas; and to enhance aesthetic qualities, character, privacy, and land values in the Village. Landscape plans shall preserve, to the extent practical, the existing vegetation on the site.

(b) Definitions. As used in this section:

(1) Fence. A fence means any wall (except a retaining wall), screen, partition or similar structure existing on a yard or parcel of land, which structure encloses land, divides land into distinct portions, separates contiguous properties, obstructs the passage of light or air into adjacent land or obstructs the vision of motorists or pedestrians on or near public roads. Barbed wire shall not be considered part of a fence for purposes of determining the height thereof.

(2) Landscaping. Landscaping means an arrangement of elements which may include plant materials such as trees, shrubs, ground covers, perennial and annual plants; landscape elements such as rocks, water features, fences, screens, walls, paving materials, and site lighting; and site furnishings such as benches, drinking fountains, trash receptacles, and planters for aesthetic and functional purposes.

(3) Screen. A screen means a fence, landscaping, berm, or combination thereof that obscures the view from one site to another to a reasonable extent.

(4) Buffer. A buffer means a strip of land or space, including a specified type and amount of planting or structures, which may be required to protect or screen one type of land use from another, or minimize or eliminate conflicts between them.

(Ord. 99-5. Passed 7-12-99.)

1296.08 GENERAL LANDSCAPE DEVELOPMENT STANDARDS.

It is the intent of this section to require landscape buffers and screening to reduce negative effects between incompatible land uses; to provide landscaping within parking areas; and to enhance aesthetic qualities, character, privacy and land values.

(a) Definitions. Landscaping may include plant materials such as trees, shrubs, ground covers, perennial and annual plants; landscape elements such as rocks, water features, fences, walls, paving materials, and site lighting; and site furnishings such as benches, drinking fountains, trash receptacles, and planters.

(b) Landscape Plans. The following information shall be provided:

(1) Existing and proposed topography, correlated with the grading plan.

(2) Location, size, type, and condition of existing plant materials to be saved, or moved; and proposed means of protecting plant material during construction.

(3) Location of proposed planting materials; and a planting list of proposed materials (size, quantity, botanical and common names, spacing, and root type).

(4) Sections, elevations, plans and details of landscape elements, such as berms, walls, ponds, retaining walls, and tree wells.

(5) Proposed planting dates.

(6) Planting and staking details.

(c) Plant Materials. Plant and grass materials shall be of acceptable varieties and species, hardy in Eaton County, and shall conform to the current minimum standards of the American Association of Nurserymen.

(d) Installation and Maintenance. Plant materials shall be installed in a sound, workmanlike manner, and according to acceptable planting procedures. All plant materials shall be maintained in a healthy and growing state. All landscape elements shall be kept in good repair.

(e) Required Buffers and Landscaping.

(1) Commercial land uses adjacent to existing residential land uses Landscaping and fencing material shall be required which provide an appropriate and reasonable visual screen.

(2) Commercial land uses adjacent to residentially zoned vacant land Landscaping and fencing material shall be required which provide an appropriate and reasonable visual screen.

(3) Commercial land uses adjacent to commercial land uses There shall be no landscape requirement.

(4) Multiple family residential uses adjacent to single-family and two- family land uses Landscaping and fencing material shall be required which provide an appropriate and reasonable visual screen.

(5) Multiple family residential uses adjacent to multiple family residential uses There shall be no landscape requirement.

(6) Parking lots adjacent to the public right-of-way Landscape materials shall be required which will provide an appropriate and reasonable visual screen.

(Ord. 99-5. Passed 7-12-99.)

1296.09 CONDITIONS OF APPROVAL.

As part of an approval of a site plan, the Planning Commission may impose any additional conditions which, in the judgment of the Planning Commission, may be necessary for the protection of the public health, safety, and welfare.

(Ord. 99-5. Passed 7-12-99.)

1296.10 PLANNING COMMISSION REVIEW OF ZONING ADMINISTRATOR'S DECISION.

Any applicant for site plan review aggrieved by a decision of the Zoning Administrator may have the decision reviewed by the Planning Commission at its next regular meeting or a special meeting called for that purpose. The Planning Commission shall review the matter based on the standards contained in this chapter and shall give written justification for any reversal of the decision of the Official.

(Ord. 99-5. Passed 7-12-99.)

1296.11 AMENDMENTS.

Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan. The Zoning Administrator shall determine if the proposed amendment shall be reviewed and approved by the Planning Commission.

(Ord. 99-5. Passed 7-12-99.)

1296.12 APPEALS.

The decision of the Planning Commission is final. When it is alleged that the decision is inconsistent with the provisions of this chapter or that there was an error of fact involved in the decision, the applicant may file an appeal with the Village Zoning Board of Appeals. The Zoning Board of Appeals shall review the matter and take action to sustain, reverse, or remand the decision of the Planning Commission.

(Ord. 99-5. Passed 7-12-99.)

CHAPTER 1298

Site Condominium Developments

1298.01 Intent.

1298.02 Definitions.

- 1298.03 Approval required.
- 1298.04 General requirements and standards.
- 1298.05 Preliminary site plan requirements.
- 1298.06 Final site plans.
- 1298.07 Revision of site condominium subdivision plan.
- 1298.08 Streets and roads.
- 1298.09 Amendments to master deed or bylaws.
- 1298.10 Development agreements.
- 1298.11 Construction in general common elements.
- 1298.12 Monuments and lot irons.
- 1298.13 Rights of way and utility easements.
- 1298.14 Improvements.
- 1298.15 Performance guarantee.
- 1298.16 Developer's fees.

CROSS REFERENCES

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Planned unit developments - see P. & Z.Ch. 1292

Site plan review - see P. & Z.Ch. 1296

1298.01 INTENT.

The intent of this chapter is to ensure that plans for site condominium developments within the Village of Dimondale proposed under the provisions of the Condominium Act, Act 59 of the Michigan Public Acts of 1978, as amended, shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Michigan Land Division Act, Act 27 of the Public Acts of 1997, as amended. It is also the intent of this chapter to ensure that such development is in compliance with the requirements of this Zoning Code, as amended, other applicable Village ordinances and County, State and Federal regulations.

(Ord. 99-4. Passed 7-12-99.)

1298.02 DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings set forth herein:

- (a) Building Envelope. The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.
- (b) Building Site or Lot. The building envelope and the limited commons area together in a site condominium development are considered the functional equivalent of a standard subdivision lot.
- (c) Condominium Act. The Condominium Act, Act 59 of the Michigan Public Acts of 1978, as amended.
- (d) Condominium Building or Structure. The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures, e.g. in a residential development, the condominium structure would refer to the house and any attached garage. A "condominium structure" can also be a "building envelope".
- (e) Condominium Project or Site Condominium Subdivision Project. A condominium project developed under Act 59 of the Michigan Public Acts of 1978, as amended, consisting of more than one condominium unit which is not subject to the provisions of the Subdivision Control Act 288 of 1967, as amended.
- (f) General Commons Elements or Areas. The land area, other than the limited commons areas of the site condominium development, that is held in common by all co-owners and used for parks, streets, open space or other common activities.

(g) Limited Commons Elements or Areas. A portion of the general commons elements reserved in the master deed for the exclusive use of less than all of the co-owners and used for landscaping, vehicle parking areas, or driveways.

(h) Master Deed. The condominium document recording the condominium project, to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project. All other information required by Section 8 of the Michigan Condominium Act are included.

(i) Setback - Front, Side, and Rear Yard. The distance measured from the respective front, side and rear yard boundary lines associated with the building lot to the respective front, side and rear of the condominium structure or building envelope.

(j) Site Condominium Unit. A condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

(k) Condominium Documents. The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner of the condominium.

(l) Condominium Subdivision Plan. The drawings and information prepared in accordance with Section 66 of the Condominium Act.

(m) Contractible Condominium. A condominium project from which any portion of the submitted land or buildings may be withdrawn in accordance with this chapter and the Condominium Act.

(n) Conversion Condominium. A condominium project containing condominium units, some or all of which were occupied before filing of a Notice of Taking Reservations under Section 7 of the Condominium Act.

(o) Expandable Condominium. A condominium project to which additional land may be added in accordance with this chapter and the Condominium Act.

(p) Notice of Proposed Action. The notice required by Section 7 of the Condominium Act, to be filed with the Village of Dimondale and the appropriate agencies of the County.

(Ord. 99-4. Passed 7-12-99; Ord. 2013-3. Passed 5-13-13.)

1298.03 APPROVAL REQUIRED.

(a) All proposals to divide property other than according to the Land Division Act must go through the site plan review process of the Zoning Code. In determining whether to approve a site plan for a site condominium, the Planning Commission shall consult with the Zoning Administrator, the Village Attorney, the County Drain Commission and the Street Administrator, regarding the adequacy of the master deed, deed restrictions, utility systems and streets, site layout and design, and compliance with all requirements of the Condominium Act and this chapter. A special use permit may be required for a site condominium project where the provisions of particular sections of this chapter identify the need for such a permit.

(b) Prior to making a recommendation on the proposed Site Condominium Development the Planning Commission shall conduct a public hearing. Notice of the hearing shall be provided in a newspaper of general circulation not less than 15 days before the date of the hearing. Notice shall also be sent by mail or personal delivery to the owners of property for which the approval is being considered. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property regardless of whether the property or structures are located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice. The notice shall describe the nature of the request, indicate the property that is the subject of the request to include street addresses if such addresses exist, state when and where the request will be considered and indicate where written comments will be received concerning the request.

(Ord. 99-4. Passed 7-12-99; Ord. 2009-6. Passed 11-9-09.)

1298.04 GENERAL REQUIREMENTS AND STANDARDS.

(a) No construction, grading, work, or other development shall be done upon the land intended to be used for a site condominium until a final site plan has been approved, except with the express permission of the Planning Commission. No permits for erosion or sanitary sewage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the Planning Commission and is in effect. This requirement shall include contractible, conversion, and expandable site condominiums.

(b) A building, structure, or use to be placed on a condominium lot requires site plan approval under this Zoning Code before a certificate of zoning compliance may be issued.

(c) The Planning Commission shall have the authority to review and approve or deny preliminary and final site plans for site condominiums.

(d) Each site condominium unit shall be located within a zoning district that permits the proposed use and can include commercial, industrial or residential buildings.

(e) The building envelope and the limited commons area together in a site condominium development are considered the functional equivalent of a standard subdivision lot. The total of these site condominium lots shall not cover more than seventy-five percent of the total land area in the site condominium development, thereby leaving a minimum of twenty-five percent for general commons area.

(f) The site condominium developments must meet the use and dimensional requirements of the zoning district in which they are located.

(g) For the purposes of this chapter, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located. In the case of a site condominium containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from the boundaries of a condominium lot. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium lot.

(h) Each condominium lot shall be connected to public water and sanitary sewer facilities or have an approved water/utility system by the appropriate County and/or State agencies.

(i) Relocation of boundaries between adjoining condominium lots, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which they are located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

(j) Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which it is located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

(k) All information required by this chapter shall be updated and furnished to the Village and the applicable certificates of zoning compliance must be approved prior to the issuance of the building permits.

(Ord. 99-4. Passed 7-12-99.)

1298.05 PRELIMINARY SITE PLAN REQUIREMENTS.

(a) A preliminary site plan shall be filed for approval with the Planning Commission on or before the time the notice of proposed action is filed with the Zoning Administrator.

(b) The preliminary site plan shall include all land that the developer intends to include in the site condominium project and prepared in accordance with the following requirements. Fifteen copies of the site plan shall be submitted to the Village. The preliminary plan shall be drawn at a scale of not more than 100 feet to the inch and shall include or be accompanied by the following information:

(1) The name of the project; the name and address of the developer; the name, address and seal of a registered surveyor or engineer preparing the plan; and a description of the property to be developed.

(2) A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area, including existing zoning of abutting areas.

(3) North arrow, scale, contour interval, and legend, when appropriate.

(4) Contour elevations adjusted to USGS datum at not more than five-foot intervals.

(5) Where appropriate, flood plain contours and elevations adjusted to USGS datum.

(6) The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on or abutting the property.

(7) The lot lines, intended layout, and intended use of the entire property owned or represented by the developer. The following shall be included:

A. Street and sub-street rights-of-way (locations, width and curve radii).

B. Proposed street names.

C. Boundaries of all limited common elements, general common elements and building envelopes.

D. Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten square feet.

(8) The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.

(9) The locations and tentative sizes of proposed sanitary sewers, storm sewers, and catch basins, water mains, culverts, bridges, ponding areas, ponds, and lagoons.

(10) Statements of intent, including:

A. Intent to utilize private water or sewerage facilities.

B. Zoning and lot size requirements.

C. Zoning requirements for front, side, and rear yards.

D. Size and type of street(s). (Developers are encouraged to utilize the road design and construction standards of the County Road Commission.)

E. Intent to install gas, sidewalks, street lights, and shade trees.

F. Use of rivers, streams, creeks, lakes, or ponds.

(11) The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the master deed.

(Ord. 99-4. Passed 7-12-99.)

1298.06 FINAL SITE PLANS.

(a) A final site plan for any phase of development shall not be filed for review by the Planning Commission unless a preliminary site plan has been approved by the Planning Commission and is in effect.

(b) A final site plan shall be filed for review by the Planning Commission for the total site condominium project or for each phase of development shown on the approved preliminary site plan.

(c) In addition to the provisions of this section, the final site plan shall meet the requirements of this Zoning Code.

(d) A final site plan shall include all information required in Section 66 of the Condominium Act, the master deed and the bylaws. The final site plan shall also include all information required in the site plan review section of this chapter.

[EXCEPTION: In the case of a site plan application for a site condominium project that consists only of condominium lots with no buildings or other structures, the locations of and the dimensions of condominium lots, setbacks, and required yards shall be shown on the final site plan.]

(e) The applicant shall provide proof of approvals by all County and State agencies having jurisdiction over the improvements in the site condominium development, including, but not limited to, the County Drain Commissioner, the County Road Commission, and the District Health Department. The Planning Commission shall not approve a final site plan until each County and State agency having such jurisdiction has approved that portion of the final site plan that is subject to its jurisdiction.

(Ord. 99-4. Passed 7-12-99.)

1298.07 REVISION OF SITE CONDOMINIUM SUBDIVISION PLAN.

If a site condominium subdivision plan is revised, the final site plans shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.

(Ord. 99-4. Passed 7-12-99.)

1298.08 STREETS AND ROADS.

All streets and roads, whether public or private, proposed for any site condominium, shall be developed with the minimum design, construction, inspection, approval, and maintenance requirements of the County Road Commission. In a case where private streets are proposed, the Planning Commission may approve a different set of design and construction standards if approved by the Village Engineer. The Site Condominium Association shall be responsible for maintenance, signage, and snow removal on all private roads and for the ingress and egress of all emergency and public service vehicles. Whenever a private street, as recorded in the master deed, is to be dedicated for public use, it is necessary to obtain the consent of all co-owners, mortgagees, and other persons interested in the condominium.

(Ord. 99-4. Passed 7-12-99.)

1298.09 AMENDMENTS TO MASTER DEED OR BYLAWS.

Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan shall be reviewed and approved by the Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of any amended site plan if, in its opinion, such changes in the master deed or

bylaws require corresponding changes in the approved site plan.

(Ord. 99-4. Passed 7-12-99.)

1298.10 DEVELOPMENT AGREEMENTS.

The Planning Commission may require, as a condition of approval, that an applicant enter into a development agreement with the Village of Dimondale, incorporating the terms and conditions of final site plan approval and record the same in the Office of the Register of Deeds for the County.

(Ord. 99-4. Passed 7-12-99.)

1298.11 CONSTRUCTION IN GENERAL COMMON ELEMENTS.

Any application for a building permit for construction to be located in a general common element shall include written authorization by the Condominium Association for the application.

(Ord. 99-4. Passed 7-12-99.)

1298.12 MONUMENTS AND LOT IRONS.

Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

(Ord. 99-4. Passed 7-12-99; Ord. 2009-6. Passed 11-9-09.)

1298.13 RIGHTS OF WAY AND UTILITY EASEMENTS.

All rights of way and utility easements shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights of way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities. The developer shall dedicate to the appropriate agency all easements for utilities. All streets shall be dedicated to the Village and shall be constructed in accordance with the standards of the Village Engineer and the Village of Dimondale.

(Ord. 99-4. Passed 7-12-99.)

1298.14 IMPROVEMENTS.

All improvements in a site condominium shall comply with the design specifications as adopted by the Village of Dimondale.

(Ord. 99-4. Passed 7-12-99.)

1298.15 PERFORMANCE GUARANTEE.

(a) Required. The developer must provide a financial guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount sufficient to cover the cost of public and common improvements.

(b) Amount. The amount of the performance guarantee shall be limited to cover the estimated cost of improvements necessary to comply with this Zoning Code and any conditions attached to the site condominium development approval. Such improvements shall include, but are not limited to, roadways, lighting, utilities, sidewalks, screening, drainage and monuments.

(c) Completion Time. If all required improvements are not completed within the time period provided, the Village, by resolution of Council, may proceed to have such work completed and may reimburse itself for the cost thereof from the security furnished by the developer.

(d) Release. Upon the written request of the developer for the release of all or a portion of the financial security provided for the completion of improvements, and upon certification by the designated Village Engineer that the proportion of the financial security requested to be released is equal to or less than the proportion of the improvements installed at the date of the request, the Village may authorize the release of such financial security to the developer or to such other source as shall be directed by the developer. Any written request from the developer seeking the release of a portion of the financial security shall be accompanied by written certification from the developer's engineer or architect certifying what part of the improvements have, in fact, been completed.

(Ord. 2009-6. Passed 11-9-09.)

1298.16 DEVELOPER'S FEES.

A site condominium proposal submitted to the Village shall not be reviewed or acted upon unless the required fee, as set forth in the Village General Fee Schedule, accompanies the proposal. Any expense incurred by the Village in excess of the

fee collected for the examination of or review of any document pertaining to the site condominium development shall be reimbursed in total by the developer.

(Ord. 2009-6. Passed 11-9-09.)

APPENDIX I

Zoning Map Changes

EDITOR'S NOTE: Following is a list of ordinances amending the Zoning District Map adopted in Section 1266.02 of the Planning and Zoning Code, together with their passage dates and a description of the amendment.

Ord. No.	Date	Description
Motion	7-10-72	Property owned by Kenneth Burt (parts of Lots 9, 10, 15 and 16, Block 14), from R-1C to B-1.
89(A)	8-11-75	Property owned by J. Campbell (231 N. Bridge), from R-1D to R-M1.
89(B)	12-8-75	Property owned by T. and B. Forsberg and C. and H. Loveberry, from A-1 to R-1B.
89(C)	5-10-76	Property owned by Rumseyk Investment Co., from A-1 to R-1B.
89(D)	8-15-77	Property owned by C.T. and L. Sherman (769 Creyts), from A-1 to R-1B.
89(E)	11-21-77	Property owned by Dreher, Bowerman and Burch, at Creyts Rd., from A-1 to R-1A.
89(F)	2-11-80	Property owned by R. and Y. Rich, from R-1C to R-1D.
89(G)	11-10-80	Property owned by A. Simarel and L. Ranshaw, from A-1 to R-1B.
89(H)	5-11-81	Property owned by Daisy Welby, from B-1 to B-2.
89(I)	2-8-82	Property owned by Village, from B-1 to R-1C.
89(J)	1-11-88	Property owned by First Presbyterian Church, from R-1C to B-1.
89(K)	9-12-88	320 E. Rd., owned by R. Pollum, from A-1 to R-1B.
89(L)	4-9-90	Property owned by S. Markucki (245 Bridge St.), from B-1 to R-1C.
92-3	11-9-92	Property owned by K. Ramont on East Rd., from R-1C to R-M1.
93-2	9-13-93	Property owned by J. and E. Rocho, from A1 to R-1B.
96-1	3-11-96	Portion of vacated Fifth St., from R-1C to R-1D.
98-1	2-9-98	9223 Windsor Hwy. and 530 W. Jefferson, zoned R-1C. Other property on Windsor Hwy. zoned R-1D.
99-10	12-13-99	Property located on W. Jefferson St. and owned by Richard and Deborah Albert, zoned R-1C; property located on Walnut Hwy. and owned by Richard and Deborah Albert, zoned A-1.
2000-4	6-12-00	Property owned by M. and K. Brooks (226N. Bridge St.), zoned R-1D.
2001-13	3-4-02	Property owned by Adolf Rabanus and located at 126 W. Jefferson St., zoned B-1.
2002-1	3-4-02	Multiple properties to Town Center and Town Center Residential Overlay.
2002-7	9-9-02	Property owned by Peter and Gail Helgemo and located at 127 East Road from R-1C to B-1.
2003-6	6-9-03	Property owned by Union Bank and located at 246 N. Bridge Street zoned B-1.
2010-2	4-12-10	Property owned by Union Bank and located at 239 East Road zoned B-1.

2010-7

1-10-11

Property located at: 404 W. Jefferson St; 424 W. Jefferson St.; 729 Creyts Rd.; 725 Creyts Rd. and an undeveloped parcel from A-1 to R1-C.

Property located at: 532 E. Jefferson St; 6 undeveloped parcels; 717 Creyts Rd.; 620 Creyts Rd.; 602 Creyts Rd.; 560 Creyts Rd.; 534 Creyts Rd.; 518 Creyts Rd.; 522 W. Jefferson St.; 603 Creyts Rd.; 555 Creyts Rd.; 561 Creyts Rd.; 559 Creyts Rd.; 537 Creyts Rd.; 255 Reedy Ct.; and 539 Creyts Rd. from A-1 to R1-A.