

## Chapter 36 - ZONING

*Footnotes:*

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**Cross reference**— *Any ordinance pertaining to rezoning saved from repeal, § 1-11(15); buildings and building regulations, ch. 6; environment, ch. 10; land divisions and subdivisions, ch. 14; planning, ch. 22; streets, sidewalks and other public places, ch. 28; telecommunications, ch. 30.*

**State Law reference**— *Authority to regulate land use, MCL 125.581 et seq.; municipal planning, MCL 125.31 et seq.*

## ARTICLE I. - IN GENERAL

## Sec. 36-1. - Enactment and authority.

The village council under the authority of the City-Village Zoning Act, also known as Public Act No. 207 of 1921 (MCL 125.581 et seq.), hereby ordains, enacts and publishes this chapter.

(Ord. No. 119, § 1.0, 8-1993)

## Sec. 36-2. - Short title.

This chapter shall be commonly known as the "Lake Odessa Zoning Ordinance."

(Ord. No. 119, § 1.1, 8-1993)

## Sec. 36-3. - Purposes.

This chapter is hereby established in accordance with the needs of the incorporated village. The text, map and schedules contained herein shall constitute this chapter. This chapter is expressly adopted for the following purposes:

- (1) To protect and promote the public health, safety, and general welfare of the village;
- (2) To guide and protect the growth and development of the village land use plan, and to implement the growth and development goals and policies contained therein;
- (3) To guard against adverse community impacts upon the existing "small town" character of the village, as well as upon its social and economic climate in all parts of the village by encouraging its orderly and beneficial development;
- (4) To promote and protect the value of land and buildings which are appropriate to the various districts established by this chapter; and
- (5) To prevent against conflicts among the use of land and buildings.
- (6) The purpose of regulating signs within the village zoning districts is to keep the number of signs at a level reasonably necessary to identify a business and its products in a manner that will not conceal or obscure adjacent businesses or other signs, to keep sizes at a reasonable scale with respect to the buildings they identify, to reduce visual distractions and obstructions to motorists traveling along the streets, to preserve the visibility of the natural beauty and small town character, to not detract from the Jordan Lake aesthetic enjoyment and image, to maintain property values, to protect the health, safety and welfare of residents, visitors and pedestrians, and to preserve the right of free speech and expression.

(Ord. No. 119, § 1.2, 8-1993; Ord. No. 2012-1, § 1, 5-21-2012)

## Sec. 36-4. - Scope.

Where this chapter imposes greater restrictions than those imposed by other laws or ordinances or by private restrictions placed upon property by covenant, deed or other private agreements, the provisions of this chapter shall prevail.

(Ord. No. 119, § 1.3, 8-1993)

## Sec. 36-5. - Definitions.

(a) *Usage.*

- (1) For the purpose of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.
- (2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word "herein" means in this chapter; the word "regulation" means the regulations of this chapter; and the words "this chapter" shall mean "the ordinance text, tables and maps included herein, as enacted or subsequently amended."
- (3) A "person" includes a corporation, a partnership, and an unincorporated association of persons such as a club; "shall" is always mandatory; a "lot" includes a plot or parcel; a "building" includes a structure; a "building" or "structure" includes any part thereof; "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."
- (4) The "village" is the Village of Lake Odessa in the County of Ionia, State of Michigan; the "village council," "board of appeals", and "planning commission" are respectively the village council, board of appeals, and planning commission of the Village of Lake Odessa.

(b) *Words and terms defined.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

## (1) "A"

*Accessory building* means a building or structure located on the same lot with the principal or main building, or a portion thereof. An accessory building is detached from the main building. Where a structure is attached to a main building in a manner by a wall or roof, it shall be considered a part of the main building.

*Accessory use* means a use customarily incidental and subordinate to the principal use or structure, and located in the same lot with such principal use or structure.

*Agriculture* means raising of crops, animals and animal products, forestry and commonly accepted agricultural operations for commercial purposes including the sale of products grown on the premises.

*Animal clinic* means a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

*Automobile dealership* means the use of a building, land area, or other premises for the display and sale of new or used automobiles, but may include light trucks or vans, trailers, or recreational vehicles; and which may include vehicle preparation or repair work conducted as an ancillary use.

*Automobile service station* means any building, land area, or other premises or portion thereof, used for the retail dispensing or sales of vehicular fuels; and which may include as an ancillary use the servicing and repair of automobiles and the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

*Automobile wash* means any building or premises or portions thereof used for washing automobiles.

(2) "B"

*Bed and breakfast* means a private residence that offers overnight accommodations to lodgers in the innkeeper's (owner or operator) principal residence and serves breakfasts at no extra cost to its lodgers, provided that:

- a. For the purpose of this definition, a lodger means a person who rents a sleeping room in a bed and breakfast establishment for fewer than 30 consecutive days;
- b. Off-street parking shall be provided in addition to that required for residential purposes at a rate of one vehicle space per sleeping room, and shall be located and screened so as to minimize negative impacts on adjacent lands;
- c. The bed and breakfast shall have no more than five guest sleeping rooms; and,
- d. Meals may be served only to the operator's family and overnight guests of the establishment.

*Boardinghouse (or lodginghouse), residential* means a year round residential dwelling having one kitchen and used for the purpose of providing lodging, or both meals and lodging to three or more persons for a fee. The term "boardinghouse (or lodginghouse), residential" does not include motels, motor hotels, tourist rooms, mobile homes or recreation vehicles, all of which are deemed to be transient and commercial oriented.

*Building* means any structure having a roof.

*Building height* means the elevation measured from the average finished lot grade at the front of the building, to the highest point of the roof.

(3) "C"

*Church* means a building or structure, or groups of buildings or structures, that by design and construction are intended and used for conducting organized religious services.

*Commercial greenhouse* means a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale.

*Construction* means the building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot shall constitute construction.

*Convenience/grocery store* means an establishment offering for sale prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, for off-site consumption.

(4) "D"

*Dwelling, multiple family*, means a building or portion thereof, used or designed for occupancy by more than two families living independently of each other. This definition does not include single-family attached dwellings or two-family dwellings.

*Dwelling, single-family attached*, means a group of three or more single-family dwelling units which are joined consecutively by a common party wall, but not a common floor-ceiling. Each unit shall have its outside entrance. For the purposes of this chapter, dwellings such as semi-detached and rowhouses, shall be deemed a single-family attached dwelling.

*Dwelling, single-family detached* means a unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot.

*Dwelling, two-family* means a detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in said building. It may also be termed a duplex.

*Dwelling unit* or *dwelling* means a dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or temporarily, but in no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a dwelling. In case of a partial occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this chapter and shall comply with the provision thereof relative to dwellings.

(5) "E"

*Efficiency unit (studio)* means a dwelling unit for one individual or small family consisting of one room, exclusive of bathroom, hallway, closets and the like.

*Essential public services* means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission, or distribution system, collection, communication, supply, or disposal system (including towers, structures, poles, wires, drains, sewers, traffic signals, pipes, conduits, cables, fire alarm boxes, police call boxes, hydrants, electric substations, gas regulator stations, and other similar equipment and accessories (in connection therewith)) reasonably necessary for the furnishing of adequate service by such public utilities or municipal department of commissions for the public health, safety or general welfare.

(6) "F"

*Family* means one or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than six persons (exclusive of domestic servants), of whom are not related by blood, marriage or adoption, shall not be considered to constitute a family.

*Farm animal* means any horse, swine, goat, llama, mink, fowl, or any other animal typically raised for commercial profit or slaughter.

*Flood hazard area* means that area subject to flooding on the average of once in every hundred years based on information supplied by the U.S. Department of Housing and Urban Development, Federal Insurance Administration.

*Floor area* means the sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls or from the center line of wall separating two buildings. The floor area of a building shall include the basement floor area when more than one-half of the basement height is above the established curb level, or finished lot grade, whichever is higher. The term "floor area" shall not include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms, breezeways, porches or attached garages are not included.

*Florist shop* means an establishment engaged in selling floriculture or related merchandise to the general public.

*Freestanding ground sign* means a sign which is supported by one or more poles, posts or braces or which rests on the ground or near the ground or on a foundation on the ground. Such sign shall be located outside any street right of way, not block driver vehicle visibility, not be higher than six feet and not exceed 12 square feet.

*Freestanding outdoor furnace* means any device, apparatus or structure that:

- a. Is designed, intended or used to provide heat and/or hot water to any residence or structure; and
- b. Operates by burning wood or other solid fuel such as, but not limited to, coal, paper or agricultural products; and
- c. Is not located within the residence or structure for which it is providing heat and/or hot water.

*Funeral home* means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

(7) "G"

*Garage, public*, means a public building used for the care, repair, or storage of automobiles.

*Garage sale* means home sale, basement sale, attic sale, rummage sale, yard sale, or other type of so-called residential sale of used tangible personal property such as, but not limited to, clothing, household effects, tools, garden implements, toys, recreation equipment or other used or secondhand items customarily found in and about the home and advertised in a manner whereby the public at large is, or can be, aware of such sale.

(8) "H"

*Home occupation* means a legal activity, profession or other occupation not otherwise permitted in the district, which is conducted as an incidental, secondary accessory use on a residential lot by at least one member of the family residing on the premises, does not change the general character of the area, and which conforms to the provisions of this chapter.

*Hotel* means a facility offering transient lodging accommodations to the general public and travelers, containing sleeping units with or without meals or kitchens, for compensation on a transient basis and which may provide additional services, such as restaurants, meeting rooms, and recreational facilities.

(9) "I"

*Inn (or lodge)* means a building for the transient accommodation of sleeping units for guests or travelers with or without kitchens for compensation on a transient basis and which may provide additional services, such as restaurants, meeting rooms, and recreational facilities.

(10) "J"

*Junkyard* means any land over 200 square feet in area including buildings thereon used primarily for the collecting, storage, and abandonment of waste paper, rags, scrap metal, or discarded materials which is for sale; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition for the sale of parts thereof.

(11) "K"

(12) "L"

*Laundromat* means an establishment providing washing, drying, or dry-cleaning machines on the premises for use to the general public.

*Light industry* means any industrial or warehousing operation that meets the performance standards of this chapter; and which is totally contained inside an enclosure of whose operation or storage is totally screened from view, and which does not create excessive demands on public roads, water and sewage facilities or other community facilities.

*Lodger* means a person who rents a room in a public transient overnight facility such as a hotel, motel, inn or lodge.;b2; *Lot* means a parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision or condominium unit intended for individual ownership and use and is also land occupied, or designed to be occupied by one principal building and the accessory buildings and structures customarily incidental in connection with such buildings. A lot may or may not be the land shown on a duly recorded plat. If more than one lot of record is held in common ownership and said lots are contiguous, undeveloped, and substandard in size to the minimum lot size in the zoning districts, they shall, for the purpose of this chapter, be held as one lot or as many lots as shall leave no lot substandard. When adjacent lots under common ownership cannot be combined due to legal or other lawful means, then they may be considered a "zoning lot" for construction permits. Adjacent lots under common ownership may be considered together as part of the primary lot with the principal building to obtain construction permits for accessory uses. Multiple adjacent lots may also be considered one zoning lot in consideration for a zoning or building permit and setbacks are measured from the outside perimeter as if they are one lot (example: multiple platted lots where a house is constructed over the interior boundary lines or a house is on one lot and accessory uses such as a garage or pool are proposed for an adjacent lot). Adjacent lots are defined as lots that share common boundary lines.

*Lot area* means area of a lot bounded by lot lines.

*Lot, corner,* means a lot whose lot lines form an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting on a current street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of 135 degrees.

*Lot coverage* means the amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, or swimming pools.

*Lot line* means the boundary of a lot, as defined herein:

*Lot line, front,* means the exterior line or right-of-way of a road on which a lot fronts or abuts.

*Lot line, rear,* means any lot line, other than a front lot line, which is parallel or nearly parallel at the front of the line.

*Lot line, side,* means any lot line not a front or rear lot line.

A corner lot and a through lot shall have two front lot lines and front yards. Notwithstanding [section 36-63\(d\)\(3\)](#), corner lots and through lots shall have a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines for a corner lot. For a through lot, the principal front lot line shall be the lot line parallel to and adjacent to the street where the street address is taken; if the lot has not been assigned a street address, the principal front lot line shall be consistent with the majority of surrounding properties.

*Lot, through*, means any interior lot having frontage on two parallel streets.

*Lot width* means the horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required building setback line.

(13) "M"

*Marihuana*, also known as *Medical Marihuana*, also known as *Marijuana*, also known as *Cannibis*: that term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d), as amended. Any other term pertaining to marihuana used in this chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

*Marihuana collective or cooperative* means any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marijuana collective or cooperative" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the village.

*Marihuana dispensary or dispensary* means any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marihuana dispensary" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the Village.

*Medical use of marihuana* 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, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq., as amended.

*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 and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder. The term "mobile home" does not include a recreational vehicle. See Public Act No. 96 of 1987 (MCL 125.2301 et seq.)

*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, nonrecreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended or used incidental to the occupancy of a mobile home, and which is not intended for use as a recreation vehicle trailer park. See Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

*Mortuary* means a place for the storage of human bodies prior to their burial or cremation.

*Motel* means an establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

(14) "N"

*Net buildable area* means contiguous land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock out crops and land encumbered by easements.

*Nonconforming lot of record (substandard lot)* means a lot lawfully existing at the effective date of the ordinance from which this chapter is derived, or affecting amendment, and which fails to meet the minimum area requirements of the zoning district in which it is located.

*Nonconforming structure* means a structure, or portion thereof, lawfully existing at the effective date of the ordinance from which this chapter is derived, or affecting amendment, and which fails to meet the minimum yard setback requirements of the zoning district in which it is located.

*Nonconforming use* means a use lawfully existing in a building or on land at the effective date of the ordinance from which this chapter is derived, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

(15) "O"

(16) "P"

*Personal service business* means an establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel, but not including a tattoo or piercing parlor.

*Private road* means a private road or street shall be defined as a street or drive which provides access to two or more adjacent properties which is constructed and maintained by the owner or owners, and which is not dedicated for the general public use.

*Professional office* means the office of a member of a recognized profession maintained for the conduct of that profession, which may include banks and medical and dental establishments, provided that such medical and dental establishments provide services on an out-patient basis.



## (17) "Q"

*Quarry or quarrying operation* means any place where stone, sand, gravel, minerals, or other natural materials, including topsoil, is removed for the purpose of sale or any other commercial purposes, other than such as may be incidental to excavating or regarding in connection with or in anticipation of building development or landscaping on the site.

## (18) "R"

*Recreational vehicle* means a vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. See Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

*Restaurant* means an establishment where food and drink are prepared, served and consumed.

*Retail commercial* means an establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

*Road frontage* means the length of the lot line which borders a public road.

## (19) "S"

*Setback* means the horizontal distance from a lot line inward toward the foundation wall of the building nearest to that lot line or the roof overhang if it is over one foot from the foundation wall.

*Sexually-oriented business* means an establishment engaged in providing services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

*Sidewalk café* means an accessory use to a principal use such as a restaurant, café, bakery, coffee shop or similar establishment that serves food and drinks in a specified enclosed adjacent outdoor area.

*Sign* means any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used or intended to be used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, symbols, figures, design, fixtures, colors, illumination, or projected images, including the following sign types:

- a. *Awning sign* means a sign that is mounted, painted or attached to the front of an awning or canopy.
- b. *Banner sign* means any sign on paper, cloth, fabric or other flexible or combustible material of any kind, either with or without frames.
- c. *Billboard sign* means a pole sign intended to direct attention to a business, commodity, service, establishment, activity or entertainment that is conducted, sold, or offered at a location other than the premises on which the sign is located.
- d. *Electronic message board* means a sign with a fixed or changing display or message composed of a series of lights that may be changed through electronic means.
- e. *Ground sign* means any sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground and is independent of any other structure and which is up to six feet in height.
- f. *Non-conforming sign* means a sign lawfully existing prior to the effective date of this chapter, or affecting amendment thereto, which fails to meet the current location, size, height or other standards required under this chapter.

- g. *Pole sign* means a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign is at least 10 feet or more above grade.
- h. *Projecting sign* means a sign that is wholly or partly dependent upon a building for support and that projects more than 12 inches from such building.
- i. *Portable sign* means any temporary sign constructed to be readily movable from one location to another and not permanently affixed to a building, structure or the ground, for the purpose of advertisement or promotion of a special event at an established business.
- j. *Suspended sign* means a sign hanging down from a marquee, awning, canopy or porch that would exist without the sign.
- k. *Wall sign* means a sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and the exposed face of which shall be on a plane parallel to the building wall to which it is attached.
- l. *Window sign* means a sign indoors attached to, or in close proximity to, the window surface so as to be clearly and comprehensively visible from the outside; excluding decorative painting applied to the glass.
- m. *Village identification sign* means a sign that identifies the village borders or village property, which may include announcements of special events, dates, times or other related information.

*Sign area* means the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure. The area of a sign shall be measured within a single, continuous rectilinear perimeter composed of straight lines which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces or uprights, of the sign. When two sign faces are back to back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 24 inches apart at any point, the sign area shall be computed by the measurements of one of the faces.

*Sign height* shall mean the vertical dimension from the median natural grade to the highest point of the highest attached component of the sign. A sign shall not extend beyond the edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.

*Site plan review* means the submission of plans for review, as part of the process of securing zoning approval.

*Special use permit* means a permit for a use that would not be appropriate generally or without restriction throughout the zoning district; but which, if controlled as to the number, area, location or relation to the village, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. Such uses shall be permitted when the specific review criteria provided in this chapter for them are met.

*Specified anatomical areas* means:

- a. Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means:

- a. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy; or
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in (a), (b) or (c) above.

*Sports and recreational facility* means an establishment designed and equipped for the conduct of sports and leisure-time activities, such as aerobic exercises, jogging tracks, game courts, bowling facilities, swimming and exercise equipment; and which may also include ancillary uses, such as locker rooms, showers and saunas.

*Structural changes or alterations* 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.

*Swimming pool or pool, spa or hot tub.* The terms "swimming pool" or "pool" or "spa" or "hot tub" shall mean artificially constructed, portable above-ground or permanent below-ground pools or spas and hot tubs, including wading pools, which are capable of being used for swimming or bathing.

(20) "T"

(21) "U"

(22) "V"

*Variance* means a varying or relaxation of the dimensional standards of the zoning ordinance by the zoning board of appeals; and where such variance will not be contrary to the public interest; and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in practical difficulty.

*Vehicle repair shop* means any building, premises, and land in which or upon which a business, service or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

(23) "W"

*When fronting on this phrase* shall mean that the building shall be oriented such that the required front yard abuts M-50 or Jordan Lake Avenue; and further, that the use would not encroach into a residential neighborhood.

(24) "X"

(25) "Y"

*Yard* means an open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this chapter.

*Yard, required front,* means the minimum required yard measured from the front lot line into the interior lot area (the minimum setback area).

*Yard, required rear,* means the minimum required yard measured from the rear lot line into the interior lot area (the minimum setback area).

*Yard, required side,* means the minimum required yard measured from the side lot line into the interior lot area (the minimum setback area).

(26) "Z"

*Zoning permit* means a permit signifying compliance with the provisions of this chapter as to use, activity, bulk, and density.

(Ord. No. 119, §§ 2.0, 2.1, 8-1993; Ord. No. 2006-1, § 1, 3-20-2006; Ord. No. 2006-4, § 1, 11-20-2006; Ord. No. 2006-5, § 1, 11-20-2006; Ord. No. 2006-6, § 1, 12-18-2006; Ord. No. 2006-7, § 1, 12-18-2006; Ord. No. 2007-4, § 1, 7-16-2007; Ord. No. 2008-4, § 2, 5-19-2008; Ord. No. 2010-2, § 1, 12-13-2010; Ord. No. 2012-1, § 2, 5-21-2012; Ord. No. 2013-3, § 1, 11-18-2013; Ord. No. 2014-5, § 1, 11-10-2014; Ord. No. 2015-5, §§ 1—3, 3-16-2015; Ord. No. 2016-4, § 1, 4-18-2016; Ord. No. 2017-1, § 1, 5-15-2017; Ord. No. 2017-3, § 1, 12-18-2017; Ord. No. 2019-2, § 1, 1-28-2019)

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

Sec. 36-6. - Interpretation of chapter.

- (a) *Chapter as minimum requirements.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare.
- (b) *More restrictive standard to prevail.* Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or higher standard shall control.
- (c) *Chapter not to abridge other regulations.* This chapter shall not abridge the provision of a validity adopted building code, mobile home ordinance, subdivision or other regulation.
- (d) Where a use is defined or listed as a permitted use or a special land use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

(Ord. No. 119, § 8.0, 8-1993; Ord. No. 2013-3, § 1, 11-18-2013)

Secs. 36-7—36-30. - Reserved.

## ARTICLE II. - ESTABLISHMENT OF DISTRICTS

Sec. 36-31. - Districts enumerated.

The village is hereby divided into the following districts:

R-1	Low Density Residential
R-2	Low Density Lakeside Residential
R-3	Low/Medium Density Residential (One-Family and Two-Family)
MF	Medium/High Density: Multiple Family
MH	Medium/High Density: Mobile Home Park
CBD	Central Business District
HC	Highway Commercial

LC	Lakeside Commercial
LI	Light Industrial
FH	Flood Hazard Limit (overlay)
PR	Public Recreational

(Ord. No. 119, § 3.0, 8-1993; Ord. No. 2011-2, § 1, 5-16-2011)

Sec. 36-32. - Zoning map.

- (a) *Established.* The areas and boundaries of the districts noted in section 36-31 are hereby established to scale as shown on a map entitled, Zoning Map of Lake Odessa, and referred to herein as the "Zoning Map." Such zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) *Official zoning map; amendment.* Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the village administration building and shall be the final authority as to the current zoning status in the village. No amendment of this chapter which involves a change of a mapped zoning district, shall become effective until such change and entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the village president and attested by the village clerk.

(Ord. No. 119, § 3.1, 8-1993)

Sec. 36-33. - Interpretation of district boundaries.

When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- (3) Boundaries indicated as approximately following village boundaries shall be construed to follow village boundaries.
- (4) Boundaries indicated as following shoreline or streambeds shall be construed to follow the generally established seasonal high water limit of such shoreline or streambed, and in the event of a more than temporary or seasonal change in shoreline or streambed shall be construed as moving with the newly formed or established seasonal high water limit.
- (5) Boundaries indicated as following railroad lines shall be construed to follow the centerline of the railroad right-of-way.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (6) of this section shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the zoning map,

or in other circumstances not covered by subsections (1) through (6) of this section, the zoning administrator shall interpret the district boundaries. Upon appeal, the zoning board of appeals reserves the right to override the interpretation of the zoning administrator.

(Ord. No. 119, § 3.2, 8-1993)

Sec. 36-34. - Area not included within a village district.

In every case where property has not been specifically included within a district, including all cases of property becoming a part of the village's jurisdiction after the effective date of the ordinance from which this chapter is derived, such property shall be zoned by amendment within one year from the official date of discovery or annexation.

(Ord. No. 119, § 3.3, 8-1993)

Sec. 36-35. - Zoning district regulations.

- (a) *R-1, Low density residential district.* Zoning district regulations for the R-1, low density residential district shall be as follows:
- (1) *Intent and purpose.* The R-1 zoning district is characteristically a single-family housing area. While all of the village is serviced with utilities, the low density status is designed to preserve and protect those areas which have developed strictly as single-family detached units on separate lots. No further subdivision of single-family lots would be desirable or contributory to the existing residential character. The dwelling unit-density, however, would still be at a sufficient scale to support utility system operation and maintenance costs.
  - (2) *Uses permitted by right.* Uses permitted by right in the R-1 district shall be as follows:
    - a. Single-family dwellings.
    - b. Type 1 home occupations within a dwelling.
  - (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the R-1 district shall be as follows:
    - a. Churches;
    - b. Schools;
    - c. Parks and playgrounds;
    - d. Essential public services;
    - e. Type 2 home occupations within an accessory building.
  - (4) *Accessory uses permitted when located on the same lot as a permitted primary use.* Accessory uses permitted when located on the same lot as a permitted primary use in the R-1, low density residential district shall be as follows:
    - a. Private auto garages, carports;
    - b. Child playhouses, swingsets, and similar apparatus;
    - c. Doghouses, pens, and similar structures;
    - d. Swimming pools and bathhouses;
    - e. Porches, gazebos, decks and similar structures;
    - f. One for sale or rent sign per lot.
    - g. Tennis, basketball or volleyball court and similar uses for private use;
    - h. Identification name plate not more than two square feet in size.

- (5) *Bulk Regulations.* Bulk regulations in the R-1 district shall be as follows:
- a. *Minimum lot area:* Single-family dwelling: 8,700 square feet; planned development: five acres; and all other permitted uses: two acres.
  - b. *Minimum lot width:* Single-family dwelling: 66 feet; planned development: 200 feet; and all other permitted uses: 150 feet.
  - c. *Required front yard:* Single-family dwelling: 15 feet set back; and all other non-residential permitted uses: 30 feet setback.
  - d. *Required side yard:* Single-family dwelling: six feet; and all other non-residential permitted uses: 25 feet.
  - e. *Total width for both required side yards:* Single-family dwelling: 12 feet; and all other non-residential permitted uses: 50 feet.
  - f. *Required rear yard depth:* Single-family dwelling: 20 feet; and all other non-residential permitted uses: 25 feet.
  - g. *Maximum building height:* All permitted uses: two and one-half story or 35 feet.
  - h. *Minimum floor area:* Single-family dwelling shall have a minimum finished living area of 864 square feet with minimum of 650 square feet on the other floor.
  - i. *Minimum off-street parking spaces:* One space (ten feet by 20 feet) per residence: one-half dwelling unit. For other permitted uses such as churches, public building, theaters, community and recreation building: one space for every 200 square feet of floor area, but not less than one space for each three seats where provided. For schools and nursery schools: one space for each 12 seats or students.
- (b) *R-2, low density lake side residential district.* Zoning district regulations for the R-2, low density lake side residential district shall be as follows:
- (1) *Intent and purpose.* The R-2 zoning district is strictly characterized as a single-family housing area located along the shoreline of Jordan Lake. While most of the lake frontage is platted and developed, the low density status is intended to preclude further division into smaller and narrower housing sites and to preserve the existing lakeside residential character without loss of neighborhood appeal.
  - (2) *Uses permitted by right.* Uses permitted by right in the R-2 district shall be as follows:
    - a. Single-family dwellings and public parks and beaches.
    - b. Type 1 home occupations within a dwelling.
  - (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the R-2 district shall be as follows:
    - a. Essential public services.
    - b. Type 2 home occupations within an accessory building.
  - (4) *Permitted accessory uses.* Permitted accessory uses in the R-2 district shall be as follows:
    - a. Same as R-1; except
    - b. Private docks and boat launches.
  - (5) *Bulk regulations.* Bulk regulations in the R-2 district shall be as follows:
    - a. *Minimum lot area:* Single-family dwelling: 8,700 square feet.
    - b. *Minimum lot width:* Minimum lot width in this district shall be 33 feet.
    - c. *Required front yard:* Minimum front yard set back in this district shall be ten feet.
    - d. *Required side yard:* Minimum side yard in this district shall be three feet. Total width of both required side yards shall be six feet.

- e. *Required rear yard depth:* Minimum rear yard depth in this district shall be 30 feet.
  - f. *Maximum building height:* Maximum building height for permitted uses shall be 2½ stories or 35 feet.
  - g. *Minimum floor area:* Minimum floor area for a single dwelling shall be 864 square feet with minimum of 650 square feet on the ground floor.
  - h. *Minimum off-street parking spaces:* One space (ten feet by 20 feet) per residence: one-half dwelling unit.
- (c) *R-3 low/medium density residential (one-family and two-family) district.* Zoning district regulations for the R-3 low/medium density residential (one-family and two-family) district shall be as follows:
- (1) *Intent and purpose.* The R-3 zoning district is primarily intended as a transitional buffer between the R-1, low density residential districts and the higher intensity central business district. It buffers the central business district on the west, south and east wherein the most of the commercial activity is located. The residential character is predominantly order, single-family homes located on individual lots. The basis for transition is the fact that this district encompasses mostly older homes located close to the downtown area. Because many of these homes are larger and represent sizeable maintenance and energy costs for a single-family, it is feared that restriction to only single-family use may foster inadequate maintenance or even abandonment. The possible consequences may be a general appearance of blight; which (if allowed to proceed in a downward trend) can erode the social stability of any neighborhood, as well as adversely affect the shopping appeal of the central business district. Based upon the above, the R-3 district is regarded as conducive for some conversion of older, larger homes to two-family dwellings provided certain conditions to be developed for the health, safety and welfare of the neighborhood are met.
  - (2) *Uses permitted by right.* Uses permitted by right in the R-3 district shall be as follows:
    - a. Single-family dwellings.
    - b. Two-family dwellings.
    - c. Type 1 home occupations within a dwelling.
  - (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the R-3 district shall be as follows:
    - a. Two-family conversions subject to section 36-92.
    - b. Churches.
    - c. Adult foster care facilities of seven or more clients.
    - d. Nursing homes, convalescent homes, housing for the elderly.
    - e. Essential public services.
    - f. Type 2 home occupations within an accessory building.
  - (4) *Permitted accessory uses.* Permitted accessory uses in the R-3 district shall be as follows:
    - a. Private garages (noncommercial);
    - b. Lawn sheds;
    - c. Swimming pools;
    - d. Private accessory parking;
    - e. Porches, decks and similar structures;
    - f. Doghouse;
    - g. One for sale or rent sign per lot;
    - h. Tennis, basketball or volleyball court and similar uses for private use;
    - i. Identification name plate not more than two square feet in size.



(5) *Bulk regulations.* Bulk regulations in the R-3 district shall be as follows:

- a. *Minimum lot area:* Single-family dwelling: 8,700 square feet; for other permitted use such as churches, adult foster care facilities, nursing homes, and convalescent homes, two acres lot size shall be required.
- b. *Minimum lot width:* For single-family dwelling, the lot width shall be 66 feet and for other permitted uses such as churches, adult foster care facilities, nursing homes and convalescent homes, the lot width shall be 200 feet.
- c. *Required front yard:* For single-family and two-family dwelling, the front yard (setback) shall be 15 feet and for other non-residential permitted uses, 30 feet.
- d. *Required side yard depth:* For single-family and two-family dwelling the side yard depth shall be six feet and for other non-residential permitted uses the side yard depth shall be 30 feet. Total width of both side yards for a single-family and two-family dwelling shall be 12 feet and for other non-residential permitted uses, 60 feet.
- e. *Required rear yard depth:* 20 feet rear yard depth is required for single-family and two-family dwellings. 30 feet rear yard shall be required for other non-residential permitted uses.
- f. *Maximum building height:* Maximum building height for all uses shall be two and one-half stories or 35 feet.
- g. *Minimum floor area:*
  - 1. Each new single-family detached dwelling shall have a minimum finished living area of 864 square feet of floor area with a minimum of 650 square feet on the ground floor for units of more than one story.
  - 2. Attached single-family including two-family and townhouses, each new dwelling unit shall have a minimum finished living area of 800 square feet with a minimum of 600 square feet on the ground floor for units of more than one story.

(6) *Other permitted uses and permitted conversions.* Other permitted uses and the permitted conversion of older dwellings shall follow the following floor area requirements:

For	Floor Area/Unit
Efficiency	375 sq. ft.
1 bedroom	600 sq. ft.
2 bedroom	780 sq. ft.
3 bedroom	940 sq. ft.
In the excess of 3 bedroom	940 + 80 sq. ft. for each additional bedroom.

(7) *Minimum off-street parking:* One space (ten feet by 20 feet) per residence:one-half dwelling unit. For other permitted uses such as church public building, adult foster care facility, nursing and convalescent houses and essential public services: one space for every 200 square feet of floor area, but not less than one space for each three seats where provided. For school and nursery schools, one space for each 12 seats or students.

(d) *MF, Medium/high density: Multiple family residential district.* Zoning district regulations for the MF, medium/high

density: multiple family residential district shall be as follows:

- (1) *Intent and purpose.* The multiple family residential district is intended for new uses and structures such as apartment buildings of three or more dwelling units, specialized housing for seven or more unrelated individuals and senior citizen housing.
- (2) *Uses permitted by right.* Uses permitted by right in the MF district shall be as follows:
  - a. Single-family dwellings.
  - b. Two-family dwellings, duplexes.
  - c. Type 1 home occupations within a dwelling.
- (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the MF district shall be as follows:
  - a. Multiple family dwellings.
  - b. Essential public services.
  - c. Residential planned developments. See section 36-94.
  - d. Nursing homes, convalescent homes, housing for the elderly.
  - e. Type 2 home occupations within an accessory building.
- (4) *Permitted accessory uses.* Permitted accessory uses in the MF district shall be as follows:  
Private garages (noncommercial), lawn sheds, swimming pools, and accessory private parking.
- (5) *Permitted accessory signs.* One ground sign or one wall sign is permitted, with a maximum permitted sign area of 25 feet. The minimum sign setback for ground signs shall be one-half the required setback for the yard in which the sign is located. Only signs identifying the use and occupant are permitted. No sign shall be illuminated by flashing or moving lights and external illumination shall be downward facing.
- (6) *Bulk regulations.* Bulk regulations for the MF district shall be as follows:
  - a. *Minimum lot area:* The minimum lot area for multiple family development shall be 4,000 square feet per unit or eight units per acre. For single-family and two-family development lot size shall be 8,700 square feet. All other uses permitted by special use permit, the lot size shall be nine acres.
  - b. *Minimum lot width:* The minimum lot width for single-family and two-family dwellings shall be 66 feet and for other permitted uses, 200 feet.
  - c. *Required front yard:* The required front yard shall be 25-foot setback for single-family and two-family dwelling and 30 feet for all other permitted uses.
  - d. *Required side yard:* Six feet minimum side yard is required for both single-family and two-family dwellings and for other permitted uses it shall be 30 feet. Total width for both required side yards: The total minimum width of both required side yards for single-family and two-family dwellings shall be 12 feet. For all other permitted uses the total width shall be 60 feet.
  - e. *Required rear yard depth:* Minimum rear yards for single-family and two-family dwellings shall be not less than 20 feet, for all other permitted uses, 30 feet.
  - f. *Maximum building height:* The maximum building height for all uses shall be 2½ stories or 35 feet. Accessory buildings shall not exceed a height of 15 feet.
  - g. *Minimum dwelling floor area:*
    1. Each new single-family detached dwelling shall have a minimum finished living area of 864 square feet of floor area with a minimum of 650 square feet on the ground floor for units of more than one story.
    2. Attached single-family including two-family and townhouses, each new dwelling unit shall have a

minimum finished living area of 800 square feet with a minimum of 600 square feet on the ground floor for units of more than one story.

3. Other permitted uses shall follow the following floor area requirements:

For	Floor Area/Unit
Efficiency	375 sq. ft.
1 bedroom	600 sq. ft.
2 bedroom	780 sq. ft.
3 bedroom	940 sq. ft.
In the excess of three bedroom	940 + 80 sq. ft. for each additional bedroom.

h. *Minimum off-street parking:*

1. One space (ten feet by 20 feet) per residence: one-half dwelling unit. For other permitted uses such as a church, public building, adult foster care facility, nursing and convalescent homes and essential public services: one space for every 200 square feet of floor area, but not less than one space for each three seats where provided. For school and nursery schools, one space for each 12 seats or students.
2. Nonresidential parking requirements of this chapter may be satisfied by participation in a municipal or joint community parking program designed to serve a larger area, provided all plans for such community parking have been first approved by the planning commission.

(e) *MH, mobile home park (medium/high density residential district).* Zoning district regulations for the MH, mobile home park (medium/high density residential district) shall be as follows:

- (1) *Intent and purpose.* The mobile home park zoning district is designed for those who prefer mobile home living. Although a single-family unit, the mobile home park has essentially a higher density impact than the conventional single-family development. In order not to adversely affect other areas, of the village, certain land areas are hereby recognized as appropriate for continued mobile home use, provided that the proper site design standards and requirements are met.
- (2) *Uses permitted by right.* None.
- (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the mobile home park zoning district shall be as follows:  
Mobile home park developments.
- (4) *Permitted accessory uses.* Permitted accessory uses in the mobile home park zoning district shall be as follows:
  - a. Park store.
  - b. Community building.
  - c. Laundry facilities.
  - d. Playground area.

- (5) *Permitted accessory signs.* One ground sign or one wall sign is permitted, with a maximum permitted sign area of 2 minimum sign setback for ground signs shall be one-half the required setback for the yard in which the sign is located. Signs identifying the use and occupant are permitted. No sign shall be illuminated by flashing or moving lights and illumination shall be downward facing.
- (6) *Bulk regulations.* Bulk regulations for mobile home park developments are listed in section 36-93.
- (f) *CBD, central business district.* Zoning district regulations for the CBD district shall be as follows:
- (1) *Intent and purpose.* The central business district refers to the Fourth Avenue shopping district which is also identified as the center or "Hub" of Lake Odessa's daily activity. It is through this area that local traffic passes and villagers shop for everyday needs. The prevailing appearance of the village as a rural farm oriented country village is a major theme for this area, and it is the intent of the village to promote, preserve, and enhance that character in accordance with the development goals and policies previously discussed in article I of this chapter. The kinds of uses to be encouraged are generally retailing, personal services, offices and all such uses which are conducive to a "pedestrian scale and sidewalk shopping." The only exception to this would be the very northern part of the central business district, where additional commercial uses such as grain elevators, farm supplies and other uses requiring a railroad orientation would also be encouraged.
- (2) *Uses permitted by right.* Uses permitted by right in the central business district shall be as follows:
- a. Retail commercial excluding automobile commercial.
  - b. Personal services establishments.
  - c. Professional offices.
  - d. Restaurants and food service establishments.
  - e. Taverns.
  - f. Public parking lots.
  - g. Essential public services.
  - h. Churches.
  - i. Residence located at the second story level (or higher).
  - j. Hotels, motels, lodges and inns, subject to the requirements of subsection 36-95(3), section 36-132 and section 36-133.
  - k. Sidewalk cafés, subject to the requirements of subsection 36-35(f)(9).
- (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the central business district shall be as follows:
- a. Residence below street level, provided same shall be handicapped accessible.
  - b. Residence on the same street level as commercial business use, provided:
    1. Usable commercial space shall be not less than 750 square feet, and must have a depth of 30 feet or half the total depth of the building, whichever is greater.
    2. Usable commercial space must face a major commercial street, with residential space located behind on the alley side, and in no event shall street level residential space abut a major commercial street.
    3. Deliveries to commercial businesses with residences on the same floor shall not be permitted from either Fourth Avenue or Tupper Lake Street.
    4. There shall be no existing violations currently on file with respect to subject property which have not been removed or remedied to the satisfaction of the zoning administrator. However, an applicant may be

required by the planning commission to remove or remedy said violation as a condition of securing a special use permit.

5. For each block in the zoning district, the maximum percentage of commercial structures which may be converted to provide residence facilities on the same floor as a commercial business is 20 percent. For the purpose of this chapter, a percentage greater than the above shall be construed as detrimental and threatening to the existing character, health, safety, and welfare of the district.
  6. Each structure proposed for conversion must provide or be designed to provide a minimum number of square feet per dwelling unit, as set forth in subsection (f)(8)g., of this section.
  7. The planning commission is authorized to impose additional reasonable conditions in order to protect the intent and purpose of this option in the central business district.
  8. All requirements, changes and conditions imposed by the planning commission shall be met before occupancy of the newly created residential unit is allowed.
- c. Entertainment and commercial recreation.
  - d. Grain elevators, sales and service.
  - e. Meeting halls and community centers.
  - f. Mini-malls and supermarkets.
  - g. Signs wherein the gross area of all signs total more than 100 square feet.
- (4) *Permitted accessory uses.* Permitted accessory uses in the central business district shall be as follows:
- Parking lots.
- (5) *Permitted accessory signs.* Permitted accessory signs for each use in the central business district shall be as follows:
- a. Only signs identifying the use and occupant (and directional arrow if needed) are permitted.
  - b. No sign shall be illuminated by flashing or moving lights and external illumination shall be downward facing.
  - c. One window sign is permitted per window, with a maximum permitted four square feet of sign area per window sign.
  - d. No more than two signs of any kind shall face one street, notwithstanding the standards below:
    1. A maximum of two wall signs is permitted, but no more than one per wall. Each shall have a sign area up to 15 percent of the total area of the wall to which it is attached, not to exceed 40 square feet. Wall signs shall not project more than 15 inches from the wall to which they are attached. For multi-tenant buildings, either the above wall signage for consolidated identification or one wall sign each per tenant is permitted not to exceed 12 square feet.
    2. One awning sign per entrance is permitted. The maximum sign area permitted is four square feet.
    3. One projecting sign is permitted per entrance. The maximum sign area permitted is 12 square feet. A projecting sign shall not project more than four feet from the face of the building wall.
    4. One suspended sign is permitted per entrance. The maximum sign area permitted is four square feet.
  - e. Where a projecting sign, awning sign or suspended sign protrudes over any public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least nine feet from the sidewalk; except that on buildings with permanent roof/awning overhangs, where placing the sign above the overhang presents practical or visibility difficulties, then the bottommost point of the sign shall not be less than seven feet over the sidewalk or walking surface.

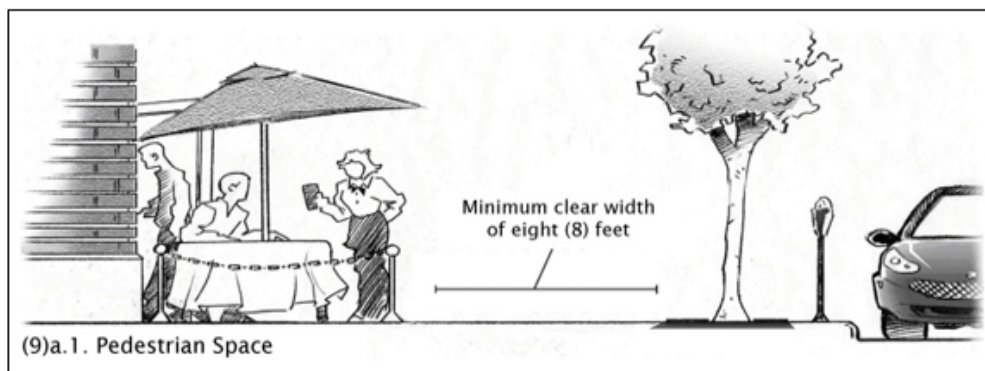
- f. Where a business building location is beyond the street right-of-way by ten feet or more, a freestanding ground permitted.
  - g. For a multi-tenant building, either one freestanding ground sign is permitted with each business identification consolidated on the sign not exceeding 30 square feet or other signage meeting the standards as described in subsections a.—f., above.
- (6) *Minimum off-street parking spaces.* Minimum off-street parking spaces in the central business district shall be as follows: One space (ten feet by 20 feet) shall be required per:
- a. Residences: one-half dwelling unit.
  - b. Public buildings, theaters, community and recreation buildings: 200 sq. feet of floor area, but not less than one space for each three seats where provided.
  - c. Churches: 200 square feet.
  - d. Retail and personal service uses not specifically listed in this district: 150 square feet of floor area in such uses.
  - e. Community parking option: Nonresidential parking requirements may be satisfied by participation in multiple or joint community parking program designed to serve a larger area, provided all plans for such community parking have been first approved by the planning commission. All new business buildings and additions to existing buildings in a commercial district within 300 feet of a community parking area shall be considered a participant in the program when such exists.
  - f. Restaurants: two seat capacity.
  - g. Outdoor automotive commercial: 600 square feet of display and sales area.
  - h. Hotels, motels, lodges and inns: each living unit, plus one space for each employee, owner, or manager. For accessory uses such as meeting rooms or public eating area, 50 percent of the closest related parking formula in the above uses.
- (7) *Minimum off-street loading berths.* Minimum off-street loading berths in the central business district shall be as follows: For all retail commercial and personal service establishments, one berth for the first 8,000 square feet of floor area, plus one additional berth for each additional berth for each additional 25,000 square feet or fraction thereof. One loading berth dimensions shall be 12 feet by 44 feet.
- (8) *Bulk regulations.* Bulk regulations in the central business district shall be as follows:
- a. *Minimum lot area:*
    - 1. For meeting halls, community centers, and mini-malls: 18,000 square feet.
    - 2. For supermarkets, mineral and grain elevators, sales and service: 25,000 square feet.
    - 3. For all other permitted uses: 2,700 square feet.
  - b. *Minimum lot width:*
    - 1. For meeting halls, community centers, supermarkets, mini-malls and grain elevators: 80 feet.
    - 2. For all other permitted uses: 20 feet.
  - c. *Required front yard:* None, except that where two adjacent lots are developed, the established setback shall apply.
  - d. *Required side yard:* When in or adjacent to a commercial or industrial zone or use, no side yard setback is required, but when provided, each side yard shall be five feet. When adjacent to a residential zone or use, the side yard shall be five feet. The street side setback of a corner lot shall be five feet.

- e. *Required rear yard depth:* None if abutting an alley. Where the rear lot line abuts a residential district without a setback shall be five feet or as established in the same block.
- f. *Maximum building height:* 40 feet with the exception of grain elevators, which can be allowed as high as 125 feet.
- g. *Minimum floor area for residential use:*

For	Floor Area/Unit
Efficiency	375 sq. ft.
1 bedroom	600 sq. ft.
2 bedroom	780 sq. ft.
3 bedroom	940 sq. ft.
In the excess of 3 bedroom	940 + 80 sq. ft. for each additional bedroom

(9) *Sidewalk cafés.*

- a. Sidewalk cafés with and without alcohol service are subject to the following regulations:
  - 1. *Pedestrian space.* Sidewalk cafés shall not unduly obstruct pedestrian movement along the sidewalk and building entrances, nor diminish the safety of the general public. Tables, chairs and other facilities shall be compatible with the architectural character of adjacent buildings and shall be located near the building wall. A clear path of not less than eight feet shall be maintained along the full length of the sidewalk for general pedestrian use.



- 2. An application for a zoning permit shall be submitted to the zoning administrator, with a site plan identifying the location and dimensions of the outdoor seating area; the type and height of proposed outdoor barriers, the proposed location of all sidewalk café furniture and equipment; site dimensions of the building; and existing public improvements, such as fire hydrants, light poles, trees and tree grates; and photographs of the area. A consultation with the street administrator may be sought before a permit is issued to determine if the proposed pedestrian area is sufficient for passage past the café area and any other potential issues. A sidewalk café area shall not be located in a clear vision intersection area.

3. The immediate area of the café shall be maintained free of litter and debris. Trash receptacles related to the shall be placed outside of the public right-of-way during non-business hours.
  4. Sidewalk cafés may only be located adjacent to the restaurant or food service business with which they are associated. This requirement may be waived, however, to extend the sidewalk café to an adjacent property, if deemed appropriate after review by the zoning administrator and agreeable to the adjacent property owner. Food preparation shall not be conducted on the sidewalk café area, but only inside of the adjacent restaurant or food service business. All food shall be brought outside to the patrons in the marked seating area, except drinks may be served from a rolling cart.
  5. Hours of operation of the sidewalk café shall not be later than 10:00 p.m. Sunday through Thursday, and 11:00 p.m. on Friday and Saturday.
  6. Days of operation of the sidewalk café shall not occur before April 1 or after October 31. Tables, chairs, portable signs, barriers and other equipment used in the operation of the café shall be removed from November 1 to March 31.
  7. A sidewalk café permit shall be in effect as long as the restaurant or food service business has an active customer business.
  8. A certificate of general liability insurance that names the village and its officers and agents as additional insureds, and provides for at least 15 days' notice of cancellation, must be submitted prior to issuance of the permit. The minimum amount of coverage required is \$1,000,000.00 per occurrence and \$2,000,000.00 in aggregate.
  9. The village shall have the right to suspend the operation of a sidewalk café because of anticipated or actual problems or conflicts in the use of the public sidewalk. Such problems may arise from, but are not limited to, festivals and similar events, parades, or repairs to the street, sidewalk or utilities within the public right-of-way. To the extent possible, the café owner will be given prior written notice of any time period during which the operation of the sidewalk café may be suspended.
  10. Violations of the permit requirements shall be given in writing to the owner and operator of the restaurant or food service business and sidewalk café with a reasonable time limit to correct the violation. All permits issued under this section are subject to immediate suspension or revocation by the village manager or his or her designee for failure to comply with any or all provisions of this section after the time limit to correct the violation. Revocation shall be reserved for third offense repeat violations and violations that present an egregious safety risk to the public.
  11. Persons who have had their permit revoked may request in writing a hearing on that revocation before the village council. Requests for a hearing or an appeal must be made within five business days of the revocation.
- b. Sidewalk cafés with alcohol service are subject to the following additional regulations:
1. The operator of the sidewalk café shall take whatever steps are necessary to procure the appropriate license from the Michigan Liquor Control Commission if he or she intends to serve alcoholic beverages in the sidewalk café area and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the State of Michigan.
  2. The sidewalk café area shall be separated from pedestrian traffic by an approved barrier, which can consist of planters, railings and other similar materials. All barriers used for sidewalk cafés serving alcoholic beverages shall also conform to Michigan Liquor Control Commission Regulations.
  3. A sign reading "No Food or Beverage Allowed Beyond Barrier," or words to that effect, shall be posted at



a conspicuous location within the sidewalk café.

4. All alcoholic beverages to be served at sidewalk cafés shall be prepared within the adjacent indoor restaurant or food service business, and alcoholic beverages shall only be served to patrons seated at tables. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk café within the confines of the sidewalk café area shall not be construed as a violation of any ordinance controlling open containers in a public area.
  5. Notice to the adjacent property owners or occupants on both sides of the applicant's property shall be required in the application package before a permit is issued by the village. Proof of this notice shall be provided to the village by the applicant.
  6. Sidewalk cafés serving alcohol shall be continuously supervised by employees of the establishment.
  7. To be eligible to apply for a sidewalk café, the adjoining restaurant or food service business from which the sidewalk café extends must provide a full-service menu for the on-site consumption of food.
- (g) *HC, highway commercial district.* Zoning district regulations for the HC, highway commercial district shall be as follows:
- (1) *Intent and purpose.* The highway commercial district is intended to provide highway orientated services to through traffic along M-50 southeast of the central business district. The character of this category is envisioned as a "limited commercial strip," which can supplement the needs of the village residents. The kind of uses found here are largely automobile oriented, having a high impact on "through" traffic in terms of turning movements and access/degrees into a high velocity roadway. Examples would be a gas station, car dealership, fast food restaurant, etc. Careful site planning and design to reduce impacts will be required. The mapped area of this category is purposely limited in order not to detract from the central business district and not to degrade or encroach upon the established residential character of the homes located to the east and especially to the west.
  - (2) *Uses permitted by right.* Uses permitted by right in the highway commercial district shall be as follows:
    - a. Animal clinic.
    - b. Professional office.
    - c. Funeral home.
    - d. Mortuary.
    - e. Florist shop.
    - f. Bed and breakfast.
    - g. Church.
    - h. Essential public services.
    - i. Personal service business.
    - j. Residence located at the second story level (or higher).
  - (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the highway commercial district shall be as follows:
    - a. Laundromat, when fronting on M-50 or Jordan Lake Avenue.
    - b. Motel, when fronting on M-50 or Jordan Lake avenue.
    - c. Hotel, when fronting on M-50 or Jordan Lake Avenue.
    - d. Automobile wash, when fronting on M-50 or Jordan Lake Avenue.
    - e. Restaurant, when fronting on M-50 or Jordan Lake Avenue.

- f. Convenience/grocery store, when fronting on M-50 or Jordan Lake Avenue.
  - g. Automobile service station, when fronting on M-50 or Jordan Lake Avenue.
  - h. Automobile dealership, when fronting on M-50 or Jordan Lake Avenue.
  - i. Vehicle repair shop, when fronting on M-50 or Jordan Lake Avenue.
  - j. Sports and recreational facility, when fronting on M-50 or Jordan Lake Avenue.
  - k. Retail commercial, when fronting on M-50 or Jordan Lake Avenue.
  - l. Commercial greenhouse.
  - m. Public parking lot.
  - n. Residence below street level, provided same shall be handicapped accessible.
  - o. Residence on the same street level as commercial business use, provided:
    - 1. Usable commercial space shall be not less than 750 square feet, and must have depth of 30 feet or half the total depth of the building, whichever is greater.
    - 2. Usable commercial space must face M-50 or Jordan Lake Avenue.
    - 3. There shall be no existing violations currently on file with respect to subject property which have not been removed or remedied to the satisfaction of the zoning administrator. However, an applicant may be required by the planning commission to remove or remedy said violation as a condition of securing a special use permit.
    - 4. For each block in the zoning district, the maximum percentage of commercial structures which may be converted to provide residences on the same floor as a commercial business is 20 percent. For the purpose of this chapter, a percentage greater than the above shall be construed as detrimental and threatening to the existing character, health, safety, and welfare of the district.
    - 5. Each structure proposed for conversion must provide or be designed to provide a minimum number of square feet per dwelling unit, as set forth in subsection (g)(8)h., of this article.
    - 6. The planning commission is authorized to impose additional reasonable conditions in order to protect the intent and purpose of this option in the highway commercial district.
    - 7. All requirements, changes and conditions imposed by the planning commission shall be met before occupancy of the newly created residential unit is allowed.
- (4) *Permitted accessory uses.* Permitted accessory uses in the highway commercial district shall be as follows:
- a. Parking lots.
  - b. On-site storage.
- (5) *Permitted accessory signs.* Permitted accessory signs for each use in the highway commercial district shall be as follows:
- a. Only signs identifying the use and occupant are permitted.
  - b. No sign shall be illuminated by flashing or moving lights and external illumination shall be downward facing.
  - c. One window sign is permitted per window, with a maximum permitted four square feet of sign area per window sign.
  - d. No more than two signs of any kind shall face one street, notwithstanding the standards below:
    - 1. One ground sign or one pole sign is permitted per frontage. A ground sign shall not exceed six feet in height; a pole sign shall not exceed 20 feet in height. The maximum permitted sign area shall be one square foot for each foot of setback, plus one square foot for each foot of lot frontage, not to exceed 100

square feet. The minimum setback shall be two feet from any property line, including any overhanging component of a sign or sign structure; except that the zoning administrator or planning commission may require additional setback or other placement to protect motorist vision and to avoid protrusion over any public walkway.

2. One electronic message board per ground or pole sign may be permitted, but not independently. An electronic message board shall have a sign area of up to 16 square feet, and said sign area shall count toward the total sign area of the ground or pole sign to which it is attached.
  3. A maximum of two wall signs is permitted, but not more than one per wall; provided that for multi-use buildings or developments, one wall sign is permitted per tenant. Each sign shall have a sign area up to 15 percent of the total area of the wall to which it is attached, not to exceed 40 square feet. Wall signs shall not project more than 15 inches from the wall to which they are attached.
- (6) *Minimum of off-street parking spaces.* Minimum of off-street parking spaces in the highway commercial district shall be as follows:
- Same as the central business district.
- (7) *Minimum off-street loading spaces.* Minimum off-street loading spaces in the highway commercial district shall be as follows:
- Same as central business district.
- (8) *Bulk regulations.* Bulk regulations in the highway commercial district shall be as follows:
- a. *Minimum lot area:*
    1. For automotive commercial sales and service, bowling alleys and gasoline service stations: 25,000 square feet.
    2. All other permitted uses: 20,000 square feet.
  - b. *Minimum lot width:*
    1. Automotive commercial sales and service and gasoline service stations: 120 feet.
    2. Bowling alleys: 100 feet.
    3. All other permitted uses: 66 feet.
  - c. *Required front yard:*
    1. Automotive and bowling alleys: 40 feet.
    2. Gasoline service stations: 40 feet.
    3. All other permitted uses: 10 feet.
  - d. *Required side yard:*
    1. Automotive commercial sales and service and bowling alleys: 20 feet which shall be doubled when adjacent to residential district or use.
    2. Gasoline service stations: 25 feet which shall be doubled when adjacent to a residential district or use.
    3. All other permitted uses: 10 feet which shall be doubled when adjacent to a residential district or use.
  - e. *Total width of both required side yards:*
    1. Automotive commercial sales and service and bowling alleys: 40 feet which shall be doubled when adjacent to a residential district or use.
    2. Gasoline service station: 50 feet which shall be doubled when adjacent to a residential district or use.

3. All other permitted uses: 20 feet which shall be doubled when adjacent to a residential district or use.

f. *Required rear yard depth:*

1. Automotive commercial sales and service, bowling alleys and gasoline service stations: 25 feet.

2. All other permitted uses: 20 feet.

g. *Maximum building height:* Two and one-half stories or 35 feet.

h. *Minimum floor area for residential use:*

1. Efficiency: 375 square feet per unit.

2. One bedroom: 600 square feet per unit.

3. Two bedroom: 780 square feet per unit.

4. Three bedroom: 940 square feet per unit.

5. In excess of three bedrooms: 940 square feet, plus 80 square feet for each additional bedroom.

(h) *LC, lakeside commercial district.* Zoning district regulations for the LC, lakeside commercial district shall be as follows:

(1) *Intent and purpose.* Lakeside commercial refers to an already established area along the shoreline of Jordan Lake. This is a restrictive district in the sense that no additional land will be devoted to commercial uses because of environmental constraints. Lands now included within this designation are to be devoted only to specialized low-intensity types of commercial uses related to lake development. Examples would be general store, marina, bait shop, marina, gas station, etc., and similar lake/neighborhood related businesses.

(2) *Uses permitted by right.* Uses permitted by right in the lakeside commercial district shall be as follows:

a. Bait shop.

b. Ice cream or sandwich/coffee shop.

c. Fishing equipment sales or rental, excluding watercraft.

(3) *Uses permitted by special use permit.* Uses permitted by special use permit in the lakeside commercial district shall be as follows:

a. Boat marina, sales and service.

b. Restaurants.

c. Boat rental.

d. Mini general store.

e. Realty or other small office.

(4) *Permitted accessory uses.* Permitted accessory uses in the lakeside commercial district shall be as follows:

a. Parking lots.

b. On-site storage.

c. Docks, boardwalks, patios and decks.

(5) *Permitted accessory signs.* Permitted accessory signs in the lakeside commercial district shall be as follows:

a. One ground sign or one wall sign is permitted per street side and lakeside, with a maximum permitted sign area of 25 feet. The minimum sign setback for ground signs shall be one-half the required setback for the yard in which the sign is located.

b. Only signs identifying the use and occupation are permitted.

c. No sign shall be illuminated by flashing or moving lights, and external illumination shall be downward facing.

- d. One window sign is permitted per window, with a maximum permitted 4 square feet of sign area per window.
- (6) *Minimum off-street parking spaces.* Minimum off-street parking spaces in the lakeside commercial district shall be as follows:
- Same as the central business district.
- (7) *Minimum off-street loading berths.* Minimum off-street loading berths in the lakeside commercial district shall be as follows:
- Same as the central business district.
- (8) *Bulk regulations.* Bulk regulations in the lakeside commercial district shall be as follows:
- a. *Minimum lot area:* Minimum lot area in this district shall be 8,700 square feet.
  - b. *Minimum lot width:* Minimum lot width shall be 33 feet.
  - c. *Required front yard:* Front yard set back shall be ten feet.
  - d. *Required side yard depth:*
    1. Three feet side yard depth shall be required.
    2. The total width for both side yards shall be six feet.
  - e. *Required rear yard depth:* Rear yard depth shall be 20 feet from the rear lot line or the normal waterline of the lakeshore, except commercial unenclosed decks may project into the rear setback up to ten feet and may connect to a boardwalk not wider than five feet that extends to the shoreline or dock.
  - f. *Maximum building height:* Maximum building height shall be 35 feet.
- (i) *LI, light industrial district.* Zoning district regulations for the LI, light industrial district shall be as follows:
- (1) *Intent and purpose.*
    - a. The light industrial district is intended to include light manufacturing, assembling, and finishing activities which have minimal or no nuisance potential to the surrounding non-industrial areas.
    - b. The preferred form of future industrial development is the industrial park concept.
    - c. Within such a development the overall character may be a combination of light industrial uses supplemented by research and office facilities. In all cases, however, local, state, and federal environmental regulations and constraints would have to be observed.
  - (2) *Uses permitted by right.* Uses permitted by right in the light industrial district shall be as follows:
    - a. The manufacture, compounding, processing, packaging, treating, and assembling from previously prepared materials in the production of:
      1. Food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionery, beverage, and similar foods.
      2. Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yarn and thread, and other similar textile goods.
      3. Apparel and other finished products made from fabrics leather goods, fur, felt, canvas, and similar materials.
      4. Lumber and wood products, including millwork, cabinets, structural wood products and containers, not including saw mills.
      5. Furniture and fixtures.
      6. Paperboard containers, building paper, building board, and bookbinding produced from previously

- prepared materials.
7. Printing and publishing.
  8. Manufacturing of engineering, measuring, optic, medical, magnification, photographic, and similar instruments.
  9. Jewelry, silverware, toys, athletic, office, tobacco goods, musical instruments, signs and displays, and similar manufacturing establishments.
- b. Research and development, testing and experimental laboratories and manufacturing.
  - c. Essential municipal public services.
  - d. Trade and industrial schools.
  - e. Tool and die manufacturing establishments.
  - f. Private communication antennas and towers which are 35 feet or less in height.
  - g. Miniwarehouses and self-storage facilities.
  - h. Wholesale establishments, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.
  - i. Lumberyards and other building equipment supply establishments.
  - j. Vehicle repair or body shops provided all work is performed within an enclosed building and storage of vehicles is within an area which is well screened from the view of nearby properties and roadways.
  - k. Any similar general manufacturing, fabrication, and assembly operations which meet the intent of this district when authorized by the planning commission.
  - l. Accessory uses customarily incidental to the permitted principal use.
- (3) *Use permitted by special use permit.* Uses permitted by special use permit in the light industrial district shall be as follows:
- a. Essential public service buildings.
  - b. Warehousing, storage, or transfer buildings.
  - c. Truck terminals, including maintenance and service facilities.
  - d. Antennas and towers exceeding 35 feet.
  - e. Contractor equipment yards and operations.
  - f. Any similar general manufacturing, fabrication, and assembly operations which meet the intent of this district when authorized by the planning commission. Products made from previously prepared ferrous metals.
  - g. Sexually-oriented businesses, subject to section 36-99.
- (4) *Permitted accessory uses.* Permitted accessory uses in the light industrial district shall be as follows:
- a. Accessory uses to the uses permitted on the site may be any of the following: garages for storage and maintenance of company vehicles; storage of accessory gasoline and lubricating oils; parking facilities; maintenance and utility shops for the up keep and repair of buildings and structures on the site; central heating and air-conditioning; physical plants and power supply and sewage disposal; employees training facilities; accessory storage facilities; clinics and employees dining and recreation facilities.
  - b. The above uses shall be planned only as accessory uses to the principal use permitted on the site and which is located on the same site.
- (5) *Permitted accessory signs.* Permitted accessory signs for each use in the light industrial district shall be as

follows:

- a. Billboard signs are permitted pursuant to the following standards:
  1. The maximum permitted billboard sign area shall be one square foot for each foot of setback, plus one square foot for each foot of lot frontage, not to exceed 100 square feet measured at the highest and widest points of the sign. The minimum setback shall be two feet from any property line and right of way, including any overhanging component of a sign or sign structure; except that the zoning administrator may require additional setback or other placement to protect motorist vision and to avoid protrusion over any public walkway.
  2. The maximum billboard sign height shall not exceed 20 feet measured from the normal topographic ground level to the highest part of the sign and a 6 foot minimum clear area from the ground to the lowest part of the sign.
  3. A billboard sign shall not be located within 75 feet of a residential zoning district or a residential use.
  4. A billboard sign shall have a minimum spacing of 1,000 feet from any other billboard sign.
  5. A billboard sign shall not block visibility of other nearby signs.
  6. A billboard that has back to back faces or V shape shall not exceed 2 feet apart at any point, be the same size and the maximum square footage shall be measured from one side.
  7. Billboards shall not have flashing, intermittent, rotating, electronic digital or oscillating lights. Exterior lighting shall be provided from an external light source attached to the sign and directed on to the face of the sign. The light source shall be shielded in order to prevent visible glare to passing motorists, not encroach on neighboring properties and not shine skyward.
  8. The applicant shall provide written proof from the property owner to place the billboard sign on the site.
- b. One ground sign, pole sign or wall sign identifying the use and occupant per lot is permitted with the following standards:
  1. For pole signs, the maximum permitted sign area shall be one square foot for each foot of setback, plus one square foot for each foot of lot frontage, not to exceed 100 square feet measured at the highest and widest points of the sign. The minimum setback shall be two feet from any property line and right of way, including any overhanging component of a sign or sign structure; except that the zoning administrator may require additional setback or other placement to protect motorist vision and to avoid protrusion over any public walkway. The maximum pole sign height shall not exceed 20 feet measured from the normal topographic ground level.
  2. For ground signs, the height shall not exceed six feet. The minimum setback from a street right of way shall be 3 feet and a minimum of 5 feet from a side lot line. The maximum permitted sign area shall be 32 square feet.
  3. For a wall sign, a maximum of two wall signs are permitted, but no more than one per wall. Each shall have a sign area up to 15 percent of the total area of the wall to which it is attached, not to exceed 40 square feet. Wall signs shall not project more than 15 inches from the wall to which they are attached. For multi-tenant buildings, either the above wall signage for consolidated identification or one wall sign each per tenant is permitted, not to exceed 12 square feet.
- c. One window sign is permitted per window, with a maximum permitted four square feet of sign area per window sign.
- d. No sign shall be illuminated by flashing or moving lights, and external illumination shall be downward facing.

- e. One ground, pole or wall sign is permitted per street frontage when fronting on more than one street.
  - f. An electronic message board may be permitted within one ground or wall sign, but not independently. An electronic message board shall have a sign area of up to 16 square feet, and said sign area shall count toward the total sign area of the ground or wall sign to which it is attached.
- (6) *Minimum off-street parking spaces.* Minimum off-street parking spaces in the light industrial district shall be as follows: One space per 500 square feet of floor area, plus one space per 1,000 square feet of floor area in accessory use. Parking space shall be ten feet by 20 feet.
- (7) *Minimum off-street loading berths.* Minimum off-street loading berths in the light industrial district shall be as follows: For all individual uses, one berth for the first 5,000 square feet of floor area, and one additional berth for each additional 20,000 square feet of floor area. Berth dimension shall be 12 feet by 44 feet.
- (8) *Bulk regulations.* Bulk regulations in the light industrial district shall be as follows:
- a. *Minimum lot area:*
    - 1. Industrial park development shall have five acres.
    - 2. All other permitted uses shall have two acres.
  - b. *Minimum lot width:*
    - 1. Industrial park development shall have 400 feet.
    - 2. All other permitted uses shall have 200 feet.
  - c. *Required front yard:* 30 feet front yard setback is required for all permitted uses.
  - d. *Required side yard depth:* 20 feet side yard is required for all permitted uses which shall be doubled when adjacent to a residential district or residential use.
  - e. *Total width of both required:* Side yard shall be 40 feet which shall be doubled when adjacent to a residential district or residential use.
  - f. *Required rear yard depth:* For all permitted uses 30 feet of rear yard depth shall be required.
- (9) *Industrial performance standards.* All uses herein listed are subjected to industrial performance standards as provided in section 36-97.
- (j) *PR, public recreational district.* Zoning district regulations for the PR, public recreational district, shall be as follows:
- (1) *Intent and purpose.* The purpose of the PR district is to provide for the public health, safety and welfare, by insuring the compatibility of recreation uses with adjacent lands; by protecting natural amenities; and by preserving recreation areas from the encroachment of certain other uses.
  - (2) *Uses permitted by right.* Uses permitted by right in the PR district shall be as follows:
    - a. Outdoor recreational activities which do not cause excessive noise or impact on neighboring properties or the environment, as determined by the planning commission. Outdoor recreational activities include but are not limited to parkland, playground equipment and pavilions; tennis, basketball, baseball, pickle ball or volleyball courts; and facilities that are similar, as determined by the planning commission.
    - b. Preservation of open space and natural features.
    - c. Temporary or seasonal uses fitting the intent and purpose of the district, including circuses, carnivals or fairs; and associated activities, buildings and structures, for a period not to exceed seven days.
  - (3) *Uses permitted by special use permit.* Uses permitted by special use permit in the PR district shall be as follows:
    - a. Permanent buildings and structures accessory and incidental to permitted uses.
    - b. Temporary or seasonal uses fitting the intent and purpose of the district, including circuses, carnivals or fairs;



and associated activities, buildings and structures, for a period exceeding seven days.

- c. Museums.
  - d. Memorials and monuments.
  - e. Public beaches and associated bathhouses, locker rooms or similar facilities.
  - f. Bleachers or grandstands.
  - g. Banquet halls accessory and incidental to permitted uses.
  - h. Outside storage, when accessory and incidental to a permitted use, screened from the roadway and neighboring properties, and accessible to emergency vehicles.
  - i. Campgrounds subject to section 36-95(11).
  - j. The planning commission may approve similar uses, if such uses are determined to be compatible with, and would not adversely impact, the surrounding neighborhood.
- (4) *Bulk regulations and general requirements.* Bulk regulations and general requirements in the PR district shall be as follows:
- a. *Minimum lot area.* Unless otherwise regulated by state or federal statutes, the site shall not be less than required to provide adequate space for the proposed use(s), required parking, and required setback yard areas to accommodate the facilities and maintain the character of the neighborhood, in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the planning commission. The applicant may be required to provide documentation demonstrating the site size is adequate using national facility standards.
  - b. *Setbacks.*
    1. The minimum side and rear yard setbacks for all development on the site shall be 25 feet.
    2. The minimum front yard setback for all development on the site shall equal that of the minimum front yard setback for the most restrictive proximate zoning district.
    3. Development features shall be so located and arranged as to encourage pedestrian, vehicular, user and neighborhood safety, as determined by the planning commission.
  - c. *Maximum building height and floor area.*
    1. Buildings and structures shall not exceed a height of 35 feet or two and one-half stories; provided, a greater height may be permitted for temporary buildings or structures of a definite and limited time period.
    2. Building or structure floor area shall not exceed 20 percent of the lot area.
  - d. *Off-street parking spaces.* The location, arrangement and number of parking spaces shall be approved by the planning commission. The applicant may be required to demonstrate that proposed parking is sufficient to serve the intended use(s).
  - e. *Landscaping.* During site plan review, the planning commission may require a combination of trees, shrubs, fences and/or berms to buffer recreational facilities from adjacent properties.
  - f. *Signage.*
    1. One ground-mounted sign is permitted, up to 50 square feet in gross area.
    2. Flashing or moving lights are not permitted; provided, flashing or moving lights may be permitted if part of temporary signage for a period not to exceed seven days.
    3. Temporary banners may be permitted for a period of up to 30 days located on the property where the

event will be held. A permit may be approved by the Village Manager after a site plan and banner drawing are submitted for review.

- g. The planning commission may establish requirements for and/or limits on lighting, limits on hours of operation, time limits on validity of a special use permit, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations.

(Ord. No. 119, § 3.4, 8-1993; Ord. No. 2003-4, § 1, 10-20-2003; Ord. No. 2006-1, §§ 2—4, 3-20-2006; Ord. No. 2006-3, § 1, 10-16-2006; Ord. No. 2006-5, §§ 2, 3, 11-20-2006; Ord. No. 2006-7, § 3, 12-18-2006; Ord. No. 2007-4, §§ 2—7, 7-16-2007; Ord. No. 2007-5, § 1, 12-17-2007; Ord. No. 2007-6, §§ 2, 3, 12-17-2007; Ord. No. 2008-4, §§ 2—4, 5-19-2008; Ord. No. 2008-5, § 1, 12-15-2008; Ord. No. 2009-4, §§ 1—4, 5-18-2009; Ord. No. 2010-2, §§ 2—9, 12-13-2010; Ord. No. 2012-1, § 3, 5-21-2012; Ord. No. 2014-3, §§ 1, 2, 5-19-2014; Ord. No. 2015-3, §§ 1—4, 3-16-2015; Ord. No. 2015-9, §§ 1, 3, 3-16-2015; Ord. No. 2017-1, §§ 2, 3, 5-15-2017; Ord. No. 2017-3, § 3, 12-18-2017; Ord. No. 2019-3, § 1, 5-20-2019)

Secs. 36-36—36-60. - Reserved.

### ARTICLE III. - REGULATIONS

Sec. 36-61. - Effect of zoning.

Zoning affects every structure and use. Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the zoning district in which it is located.

(Ord. No. 119, § 4.0, 8-1993)

Sec. 36-62. - Application of regulations.

The regulations set by this chapter throughout the village and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.

- (1) All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located.
- (2) No building or other structure shall hereafter be altered;
  - a. To accommodate or house a greater number of persons or families than permitted by the zoning district;
  - b. To have narrower or smaller rear yards, front yards, or other side yards, or other than permitted.
- (3) No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. No. 119, § 4.1, 8-1993)

Sec. 36-63. - General regulations.

- (a) *Zoning permit required; conformance to zoning.* In accordance with other village codes, ordinances, and regulations duly adopted by the village council, and in accordance with this chapter, no building or sign shall hereafter be erected, relocated, or altered in its exterior dimension or use, and no excavation for any building shall be begun until

a zoning permit has been issued. With respect to this zoning ordinance, eligibility for a zoning permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures and signs. (See article V of this chapter for application procedures.)

- (1) In the case of detached accessory buildings and structures, a zoning permit is required for accessories only where the total floor area to be constructed is greater than 120 square feet and has a permanent foundation.
  - (2) Zoning permits will not be necessary for normal repairs to existing structures or signs, nor for minor improvements such as unenclosed patios, painting, plumbing, new roofs, etc.
- (b) *Certificate of occupancy required.* No principal building or dwelling subject to the provisions of this chapter shall be occupied, inhabited or used until a certificate of occupancy is issued. (See article V of this chapter for application procedures.)
- (c) *Structures.*
- (1) *Restoring unsafe buildings.* Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the village building inspector or the county health department.
  - (2) *Sewage disposal facilities and utilities.* Each dwelling unit and principal structure shall be equipped with adequate water-carried sewage disposal facilities to comply with the county sanitary code in effect at the time of the erection of said dwelling or principal structure. Where public utilities exist within 500 feet. The owner or developer shall be required to hook up with such system.
  - (3) *Structure to have access.* Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access or an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
  - (4) *Erection of more than one principal structure on a lot.* In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, providing that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot; and providing that the percentage of lot covered by buildings may not exceed 40 percent.
  - (5) *Accessory buildings.* No accessory building shall be erected in any required front yard, and no separate accessory building shall be erected within five feet of any other building or any property line.
  - (6) *Exceptions to height regulations.* The heights limitations contained in regulations of this chapter do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
  - (7) *Mobile homes.* No person shall use or permit the use of any mobile home or trailer coach as a permanent residence on any site, lot, field, or tract of land not specifically zoned as a mobile home park, except as follows:
    - a. Mobile homes may be placed in a licensed mobile dealership in commercial zoning districts.
    - b. Mobile home structures may be used temporarily while constructing a permanent nonresidential structure for a period of one year. Two extension periods of six months each are permitted upon application to the zoning administrator.
    - c. Mobile homes outside of mobile home parks may be used as single-family dwellings in accordance with section 36-63(c)(8), "Dwelling standards".Mobile home parks are provided for in section 36-93.
  - (8) *Dwelling standards.*
    - a. All structures used or proposed to be used as a dwelling as defined herein, shall comply with this section,

minimum floor area requirements prescribed in zoning district regulations, and other applicable standards of the State of Michigan and United States Department of Housing and Urban Development.

- b. A dwelling shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code enforced by the village.
- c. A new dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. A new dwelling shall have a roof overhang of not less than 12 inches on all sides, or alternatively, window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling. A new dwelling shall have not less than two exterior doors with the second door being in either the rear or side of the dwelling; and shall contain steps connected to said exterior door areas or to porches connected to said door area where a difference in elevation requires the same.
- d. If the dwelling is a mobile home, it shall be installed with the wheels, axles and towing mechanism removed.
- e. A new dwelling shall have a minimum horizontal dimension across any front, side or rear elevation of 24 feet at time of manufacture, placement, or construction.
- f. Floor to ceiling height shall be a minimum of seven and one-half feet.
- g. A new dwelling shall have a minimum roof pitch of 6:12, meaning that the amount of slope of the roofline in terms of angle or other numerical measure shall be six units of vertical rise for 12 units of horizontal shelter.
- h. The aforementioned standards shall not apply to a mobile homes located in a mobile home park licensed by the Michigan Manufactured Home Commission.

(9) *Projections into yards.*

- a. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than three feet into a required front, rear, or side yard.
- b. Any porch, terrace, deck, or balcony that is enclosed shall meet the minimum setback requirement of the main building or accessory building to which it is attached.
- c. On pre-existing building and structures, the zoning administrator shall be authorized to approve encroachments into a required yard for purposes of accommodating the barrier-free access needs of the residents, tenants, and/or client and patrons of said buildings and structures. Authorization of any encroachment shall be subject to the following:
  - 1. The encroachment shall not be located in a public right-of-way.
  - 2. The encroachment shall not create a clear vision hazard.
  - 3. The clear vision requirements of Section 3.11 shall be met.
  - 4. The encroachment shall be limited to that necessary to accommodate the access requirements of the intended user(s), provided, however an encroachment shall maintain a setback of not less than two feet from a side lot line and the edge of a sidewalk and five feet from a front lot line.

(d) *Lots.*

- (1) *New lots to be buildable.* All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.
- (2) *Compliance with minimum lot size regulations.* No new lots shall be created which do not meet the minimum lot size regulations of this chapter.
- (3) *Corner lots.* On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the

required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.

(e) *Utilities.*

- (1) The installation of all electrical work, including equipment shall in every case be done in a safe and workmanlike manner. The regulations of the current National Electric Code, which is in effect at the time of the beginning of construction of any building, shall be considered as good standard policy by the zoning administrator. Installation shall comply with the requirements of the electrical utility company servicing the area.
- (2) The installation of all interior plumbing work shall comply with the single state construction code.

(f) *Parking.*

- (1) *Off-street parking and loading.* All buildings located in the village shall provide off-street parking adequate for the use intended, as specified in this chapter. A parking space shall be ten feet by 20 feet or 200 square feet. Parking lot shall include aisle space of 25 feet in width. Certain uses shall also require off-street loading as specified in this chapter.
  - (2) *Parking, storage, or use of major recreational equipment.* For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, recreational trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), self-propelled dwellings, tent trailers, and the like, and cases of boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored in any required front yard of any lot in a residential district, except in the driveway. However, such equipment may be parked in a front yard of residential premises for not more than 24 hours during loading or unloading. No such equipment shall be used for permanent living or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
  - (3) *Parking and storage of unlicensed vehicles.* Automotive vehicles of any kind or type without current license plates shall not be stored within the required yards on any residentially zoned property.
- (g) *Farm animals prohibited.* Because no land in the village is zoned for agricultural use, the keeping of farm animals is generally prohibited in all zoning districts.
- (h) *Demolition of buildings.* No building shall be razed or demolished until a permit has been obtained from the zoning administrator who shall be authorized to require a performance bond. (See article V of this chapter for permits and bonding.)
- (i) *Signs.* No sign shall be erected, relocated, or altered in its exterior dimensions or use until a zoning permit has been issued in accordance with subsection 36-63(a).
- (1) *Prohibited signs.* The following signs shall be prohibited:
    - a. Signs which are obsolete, abandoned or that do not relate to existing business or products.
    - b. Signs that are not maintained in accordance with the general standards required by this section.
    - c. Signs that are out of compliance with applicable building and electrical codes.
    - d. Signs not securely affixed to a supporting structure.
    - e. Signs that are not official traffic signs that attempt to or appear to warn, direct or regulate the movement of traffic.
    - f. Signs that are flashing, rotating, electronic digital type or intermittently illuminated, except for electronic message boards as permitted within the permitted accessory signs of each district.
    - g. Portable signs on wheels, mounted on a vehicle or trailer or a unit on wheels or multiple legs designed

primarily for advertising.

- h. Signs mounted on a roof.
- i. Any sign not specifically described and permitted.

(2) *Exempt signs.* The following signs shall be exempt from this article:

- a. Property address and owner identification up to one square foot in sign area.
- b. Any public notice, traffic control or warning sign required by valid governmental entity or law and village identification signs.
- c. Holiday lights and decorations with no commercial message.
- d. Traffic control and directional signs on private property with no commercial message.
- e. Customary insignia or lettering on a gasoline pump up to three square feet in sign area per pump.
- f. "For sale" or "for rent" signs up to six square feet in sign area in residential districts or 16 square feet in non-residential districts, provided that one sign is permitted per street frontage.
- g. Political election signs up to 12 square feet in sign area.
- h. Temporary signs in residential districts advertising garage sales or similar temporary activities, provided such signs are not illuminated, are installed on private property, do not exceed eight square feet in sign area, and are displayed no more than two hours prior to, or following the conclusion of, the temporary activity.
- i. Construction signage identifying a project erected during the period of construction, such period not to exceed one year in duration, up to 32 square feet in sign area per street frontage and up to six feet in height.
- j. Traffic signs erected and maintained by an authorized public road agency.
- k. Public signs identifying a neighborhood, district or community up to four square feet in area and up to six feet in height.
- l. Historic plaques erected or maintained by non-profit organizations, memorials, building cornerstones or building names (i.e. Page Building, etc.) and erection date stones.

(3) *Nonconforming signs.*

- a. Signs existing prior to adoption of this zoning ordinance or any affecting amendment thereto shall be permitted to remain until legal non-conforming status is lost as follows:
  - 1. The sign is relocated or replaced.
  - 2. The structure or size of the sign is altered except toward compliance with this chapter. This does not refer to change of copy or normal maintenance.
  - 3. The sign suffers more than fifty [(50)] percent damage or deterioration, in which case it must be removed or brought into compliance with this ordinance.

(4) *General standards.*

- a. All signs, supports, anchors or braces shall be properly maintained and shall not be allowed to rust or deteriorate through disrepair or as a result of the weather.
- b. Signs, poles, base or other support shall be constructed to withstand normal meteorological, geologic and vibration forces expected to occur in the vicinity.
- c. Signs may be internally or externally illuminated. The source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic, residential property or skyward.
- d. Signs shall not be located within the street right of way except for official traffic control and village identification types (sign front setback is measured from the street right of way line).

(5) *Other signs.*

- a. Home occupation signs pursuant to section 36-95 (14).

(Ord. No. 119, § 4.2, 8-1993; Ord. No. 2006-6, §§ 2, 3, 12-18-2006; Ord. No. 2007-4, §§ 8, 9, 7-16-2007; Ord. No. 2012-1, § 4, 5-21-2012; Ord. No. 2014-5, § 2, 11-10-2014; Ord. No. 2015-7, § 1, 3-16-2015; Ord. No. 2016-4, § 2, 4-18-2016)

## Sec. 36-64. - Additional general regulations.

- (a) *Transitional use zoning.* A residentially zoned lot having its side lot line abutting an industrial zoning district that is located within the village may be occupied by a use which is permitted in the least restrictive residential district. Such transitional use shall not extend for more than 150 feet from such industrial zoning district boundary and shall require a special use permit and site plan approval by the planning commission. Special attention will be given to:
- (1) Yard and area requirements of the zoning district;
  - (2) Adequate parking areas and access drives;
  - (3) Landscaping and screening to safeguard adjacent residential uses; and
  - (4) Residential character consistent with the adjacent neighborhood.
- (b) *General lighting, screening, and visibility regulations.*
- (1) *Lighting not to produce nuisance or annoyance.* All lighting upon any premises, regardless of zone, shall be arranged so that it does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or the traveling public on public highways.
  - (2) *Non-residential uses abutting transitional and residential zoned lot.* Where a proposed non-residential use or an existing non-residential use that is proposed to be expanded will abut a residential use or a residentially zoned lot or parcel, the following is required:
    - a. A buffer area, a minimum of ten feet in width, shall be provided along the entire common property line which, or a portion of which, abuts a residential use or residentially zoned lot or parcel.
      1. The buffer area shall be covered with living vegetative materials, such as grasses, vines, spreading shrubs, or flowering plants; or with properly maintained ground cover material such as shredded bark, bark chips or landscape stone.
      2. Within the buffer area, at least one evergreen tree tolerant of the climatic conditions found in Lake Odessa shall be planted every eight feet. Where an applicant's property dimension is a fraction of eight feet, then the property's measurement shall be rounded up. Said trees shall be a minimum of six feet in height at time of planting. Alternatively, a continuous screen of arborvitae a minimum of six feet in height at time of planting may be provided.
      3. The buffer area shall be dedicated solely to landscaping; no buildings, pavement, parking, or outside storage is permitted.
    - b. An obscuring wall not less than four feet or more than six feet in height shall be provided.
      1. The wall shall be continuous, unless an opening is required by the building inspector, police department or fire department; or where the planning commission determines an opening would facilitate safe and appropriate pedestrian access.
      2. The wall shall be constructed of face-brick, brick or stone on the side that faces the adjacent property.
      3. The wall shall include a proper cap to assure effective drainage.
      4. The plantings required in subsection a., above shall be placed along the outside of the wall to face adjacent property.

- c. For side yard screening, no wall shall terminate closer than 20 feet from any adjoining street right-of-way (or rear alley into which a lot has vehicular access/egress), in order to provide safe visual sight distances.
  - d. The zoning administrator or planning commission may lessen the requirements of this section if site conditions are unreasonable to the regulations, or may impose additional requirements on landscaping, if such modification would further the intent of this article, which is to provide for sufficient buffering between dissimilar uses, to provide for the beautification and environmental preservation and enhancement of the community, and to provide for the general welfare of Lake Odessa residents by separating obtrusive activity from residential neighborhoods.
- (3) *Front yard fences and walls.* Fences and walls are permitted within the required front yard setback of all zones and generally subject to the height restrictions below, except as otherwise provided in this section for clear vision corners, corner lot fencing, and through lot fencing.
1. Three feet when more than 40 percent opaque or solid.
  2. Four feet when more than 40 percent of the fence is open and un-obstructed with openings spaced uniformly and spread over the entire area of the fence.
  3. For lots abutting Jordan Lake, the above front yard fence limitations shall apply within the minimum setback area from the water's edge.
  4. Where there is an existing or planned future sidewalk, the fence shall be placed a minimum of two feet from the sidewalk edge and outside of the road right-of-way.
- (4) *Side and rear fences.* Fences of not more than six feet in height are permitted in side or rear yards in any zone.
- (5) *Fence materials.* All fences shall be constructed of conventional fence materials such as rot resistant wood, ornamental metal, masonry, brick, stone, vinyl, chain link or other quality durable materials. Chain link fences with slats are not permitted unless approved by the zoning administrator where the fence location will not be generally visible from the public right-of-way.
- (6) *Non-residential fences.* A well maintained protective fence with a height as approved for special conditions may be required for non-residential uses where nuisance impacts are anticipated to occur in the absence of such fence.
- (7) *Construction of private fence or barrier prohibited.* It is unlawful to construct any private fence or barrier within a public or private road or ally right-of-way.
- (8) *Corner lot fencing.* In all districts, corner lots are considered to have two front yards. All yards that abut a street right-of-way are considered front yards, regardless of which direction the house faces. On corner lots, up to a six-foot tall privacy fence may be erected within the front setback area parallel to the side of the house which faces the secondary front lot line but not beyond the front corner of the house. Where there is an existing or planned future sidewalk, the fence shall be placed a minimum of two feet from the sidewalk edge and outside of the road right-of-way. Front yard fencing from the front corner of the house toward the principal front lot line is permitted pursuant to subsection (3) above subject to the restrictions in this section for clear vision corners.
- (9) *Barbed wire fences.* Barbed wire fences are prohibited in all zoning districts. However, barbed wire strands may be used to enclose storage areas or other similar industrial and commercial uses. The strands shall be restricted to the upper most portion of the fence and shall not extend lower than a height of six feet from the nearest ground level.
- (10) *Electric fences.* It shall be unlawful to install, construct, or maintain an electric fence upon any lot less than two acres in area, or located within a platted subdivision. A warning sign two square feet in size shall be posted for electrified fences.



- (11) *Through lot fences.* At the secondary front lot line of a through lot, up to a six-foot high privacy fence may be erected if it is located a minimum of two feet from the street right-of-way and a minimum of two feet from a sidewalk edge. For fences in the principal front yard refer to subsection (3) front yard fences and walls above.
- (12) *Traffic visibility and corner clear vision clearance requirements.* In order to prevent traffic safety hazards arising from inadequate visibility at street intersections on any corner, no plantings or structures shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and eight feet above the established abutting road grade within a triangle formed by the two intersecting street right-of-way lines and a line connecting them to points 20 feet from the intersection of the right-of-way lines.
- (13) *Front yard setback exceptions.* The zoning administrator shall be authorized to approve alterations, replacements or additions to buildings or structures but not extending further out than the average setback line of pre-existing building with five buildings in each direction on the same side of the street. Unenclosed porches, steps, or similar facilities may project into a required front yard for a distance not to exceed six feet. Barrier-free access needs are permitted as necessary to accommodate the access requirements of the intended users(s) provided a minimum setback of three feet from a side lot line and ten feet from a front lot line are maintained. All encroachments shall not be located in a right-of-way or create a clear vision hazard.
- (14) *Interpretation of provisions.* In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the zoning administrator shall have the right and is hereby given the authority to interpret and determine the screening and lighting provisions and the purpose herein sought to be accomplished.

(c) *Reserved.*

(Ord. No. 119, § 4.3, 8-1993; Ord. No. 2006-5, § 4, 11-20-2006; Ord. No. 2015-6, § 1, 3-16-2015; Ord. No. 2015-9, § 2, 3-16-2015)

Sec. 36-65. - Nonconformities.

(a) *Nonconformities generally.*

- (1) *Continuance of nonconformities.* Lawful nonconforming uses, structures, lots, and signs in existence as of the effective date of any provision of this chapter that creates a nonconformity may be continued only to the extent allowed by this section. Nonconformities may not be extended, added to or altered unless each such extension, alteration or addition is in conformity with the provisions of this chapter. Land now occupied by a nonconforming use or structure shall not be eligible for any variance, zoning permit, or special use permit until the illegal nonconformity is removed.
- (2) *Determination of discontinuance.* If a nonconforming use or the use of a nonconforming structure or lot terminates or is abandoned for more than one year, such use shall not be re-established and any future use shall be in conformity with this chapter. The following conditions create a rebuttable presumption that the use of a structure or lot has terminated or been abandoned:
- a. Utilities, such as water, gas and electricity to the property, have been disconnected.
  - b. The property, structures, and grounds have fallen into disrepair.
  - c. Signs or other indications of the existence of the nonconforming use have been removed.
  - d. Equipment or fixtures necessary for the operation of the nonconforming use have been removed.

(b) *Nonconforming use regulations.* The following regulations apply to nonconforming uses:

- (1) *Enlargement of nonconforming uses within buildings.* A nonconforming use located within a building may be

enlarged if the enlargement is in accordance with the following regulations:

- a. The gross square footage of the enlargement of the building or of any new buildings must not exceed 25 percent of the gross square footage of the building which existed prior to the effective date of the provision of this chapter that rendered the use nonconforming.
  - b. The enlargement of the existing building or the construction of a new building or addition to which the nonconforming use will be extended must comply with all setback, parking, landscaping, lighting, height and other applicable regulations of the zoning district in which it is located (including all site plan review requirements).
  - c. The entirety of the enlargement must be located on the parcel occupied by the nonconforming use, as that parcel existed on the effective date of the provision of this chapter that rendered the use nonconforming.
  - d. A use within a building that is nonconforming because the use now requires a special land use permit may expand in accordance with the provisions of this section without obtaining a special land use permit. Any expansion of such use beyond what is permitted by this section would require a special land use permit.
- (2) *Enlargement of nonconforming uses not within buildings.* A nonconforming use that is not located within a building (including but not limited to open air businesses, campgrounds, contractor equipment yards and salvage yards, etc.) may not be increased in size (*i.e.* land area) unless such expansion is authorized by a special land use permit.
- (3) *Changes in tenancy or ownership.* A change in tenancy, ownership, or management of a nonconforming use does not eliminate the ability to continue the nonconformity unless there is a change in the nature or character of the nonconformity.
- (4) *ZBA approval of changes in nonconforming uses.* Upon application to the Zoning Board of Appeals, a nonconforming use may be changed to another nonconforming use if the Zoning Board of Appeals finds that the proposed use is equally appropriate or more appropriate to the zoning district than the existing nonconforming use.
- (c) *Nonconforming structure regulations.* The following regulations apply to nonconforming structures:
- (1) *Use of nonconforming structures.* The use of a nonconforming structure may be changed or altered to any use permitted in the district in which it is located.
  - (2) *Repair and Restoration.*
    - a. A nonconforming structure may be repaired and maintained as required to keep a nonconforming structure in a sound condition may be made.
    - b. In the event any nonconforming structure is damaged by fire, wind, an Act of God, or the unlawful act of another, it may be rebuilt or restored provided the cost of restoration thereof does not exceed 60 percent of the full value of the structure after such rebuilding or restoration. This determination shall be made by the zoning administrator.
    - c. In the event any nonconforming structure is damaged by fire, wind, an Act of God, or the unlawful act of another and the cost of rebuilding or restoration exceeds 60 percent of the value of such structure, the structure may only be rebuilt in conformance with the regulations of the district in which it is located.
  - (3) *Relocation of Nonconforming Structures.* A nonconforming structure that is moved for any reason must conform to the regulations of the district in which it is located after being moved.
  - (4) *Extensions along building lines within setback areas.* Notwithstanding the general rule that a structure cannot be altered in any manner that increases its nonconformity, a structure with a nonconforming setback can be extended along the same building line as the existing nonconforming setback, provided that: (1) the setback itself

is not further reduced; and (2) the extension does not result in other nonconformities.

- (5) *Accessory structures on lots fronting Lakeview Drive.* Nonconforming accessory structures on lots fronting on Lakeview Drive with a corresponding dwelling nearby or across the street may be altered, enlarged or replaced provided that: (1) the alteration or enlargement or replacement complies with all setback, height, parking and other applicable regulations of the zoning district in which it is located, or (2) a dimensional variance is approved by the zoning board of appeals.
- (d) *Nonconforming lot (substandard lot) regulations.* The following regulations apply to nonconforming lots:
- (1) *Development of nonconforming lots.* In any district, a structure and accessory building may be erected on a lot that fails to meet the district requirements for bulk regulations, provided that said lot existed on the effective date of the provision of this chapter that rendered the lot nonconforming. Such lots must be undeveloped at the time of the application and certified by the applicant as not being contiguous with other lots under the same ownership, and if residential, shall meet all current space requirements for a legal sewage disposal system. A nonconforming lot cannot be developed in its own right if there is a contiguous lot under the same ownership.
- (2) *Alteration of nonconforming lots.* Nonconforming lots of record shall not be permitted to be extended, added to or enlarged, unless each such action results increases the overall level of conformity in the affected area, as determined by the zoning administrator.
- (e) *Nonconforming sign and billboard regulations.* Nonconforming signs and billboards may be maintained until such time as the sign structure, frame or supports must be replaced, renovated, altered or moved. At such time the sign shall comply with all provisions of this chapter. This shall not be construed to prohibit the lettering or repainting of a sign or billboards.

(Ord. No. 119, § 4.4, 8-1993; Ord. No. 2015-8, § 1, 3-16-2015; Ord. No. 2016-1, § 1, 4-18-2016)

**State Law reference—** Nonconforming uses and structures, MCL 125.583a.

Sec. 36-66. - Site plan review and approval.

- (a) *Site plan review by zoning administrator.* All applications for zoning permits, special use permits, rezonings and variances, as governed in this chapter, shall first require site plan review by the zoning administrator (or any other body or official designated by the village control to review site plans). Refer to subsection (f) of this section regarding revisions to an approved site plan.
- (b) *Site plan approval.* Unless otherwise noted, all requests for zoning permits must have a site plan approval by the zoning administrator. All requests for special use permits must have a site plan reviewed by the zoning administrator, and approved by the village planning commission.
- (c) *Standards for the review of site plans.* The site plan is to be reviewed in order to determine that:
- (1) The proposed use conforms to the uses permitted in the respective zoning districts;
  - (2) The dimensional arrangement of buildings and structures conforms to the required yards, setbacks and height restrictions of the ordinance, unless waived by variance granted by the zoning board of appeals;
  - (3) The proposed use conforms to all use and design provisions and requirements (if any) as found in this chapter for certain specific uses, unless waived by variance granted by the zoning board of appeals;
  - (4) There is a proper relationship between the existing and proposed streets and highways within the vicinity in order to assure the safety and convenience of pedestrian and vehicular traffic;
  - (5) The proposed on-site buildings, structures, and entryways are situated and designed to minimize adverse effects (upon owners and occupants of adjacent and surrounding properties) by providing for adequate design of

access/egress, interior/exterior circulation, storm drainage, erosion, grading, lighting and parking, as specified by this chapter or any county or state law;

- (6) As many natural features of the landscape shall be retained as possible where they can be useful to the development of the site, or where they furnish a barrier or buffer between the project and adjoining properties (used for dissimilar proposes) or where they assist in preserving the general safety, health, and appearance of the neighborhood, i.e., controlling erosion or the discharge of storm waters, etc;
  - (7) Any adverse effects of the proposed developments and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping (as provided or required in this chapter);
  - (8) All buildings and structures are accessible to emergency vehicles; and
  - (9) The site plan as approved is consistent with the intent and purpose of zoning which is to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards of life and property; and to facilitate the village land use plan.
- (d) *Conditional approval.* As a condition of granting site plan approval, the designated site plan approval body or official for zoning permits and special use permits may require that certain site development measures be taken by the applicant in order to satisfy the review standards set forth in subsections (c)(1) through (c)(9) of this section; and which essentially are designed to protect the general health, safety and welfare, as well as to promote environmental preservation and nuisance abatement. Site development guidelines are provided in this chapter. Site development guidelines include but are not limited to drainage, soil erosion, planning and design to site, fencing, screening strips, landscaping, on-site lighting, signing and off-street parking. Said measures must be incorporated by the applicant onto the site plan and maintained at all times.
- (e) *Compliance with performance standards.* Compliance with performance standards for certain uses enumerated in this chapter is required.
- (f) *Final approved site plan on file.* A copy of the final approved site plan (and all revised, final approved site plans) shall be so marked and placed on file as the officially approved document of the applicant along with copies of any and all permits requested for the property in question. Approval of revised, final site plans can be made only by the designated body or official who first gave initial approval.
- (g) *Conformity to approved site plan.* Property which is the subject of the site plan approval must be developed in strict compliance with the approved site plan, and with any revisions, amendments or modifications made thereto. If construction and development does not conform with such approved plan, the approval there of shall be revoked by the zoning administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.
- (h) *Performance bond required.* Wherever any physical improvements to the property in question are to be provided by the applicant as a requirement or condition of site plan approval, the applicant or his agent shall post a performance bond. See article V of this chapter for posting of bonds.
- (i) *Site plan specifications.* The information to be submitted as part of the site plan document must include the following:
- (1) A vicinity area map at a convenient scale, showing proximity to any railroads, streams, streets, and street intersections; the location of the nearest public roads on all sides; and all such schools, firehouses, houses of worship, recreational areas, etc.

- (2) A map of applicant's entire subject property and all surrounding properties at a designated scale; and which shall di
  - a. The name of all owners of record of adjacent property;
  - b. Existing fire, school and other special district boundaries within 500 feet of the tract, if any;
  - c. Boundaries of property and existing lot lines as shown on the existing plat or tax map;
  - d. Existing public streets, easements, or other reservations of lands;
  - e. Location of all existing structures on the site, as well as those of adjacent properties within 100 feet of subject lot line;
  - f. The proposed location and use of any building or structure;
  - g. The proposed location of any use not requiring a structure, including walkways, benches, fences, and recreational facilities;
  - h. Location and design of all driveways, parking and loading areas, if any;
  - i. Location of all existing and proposed water lines, valves, and hydrants, and all sewer lines, if any;
  - j. Proposed fencing, screening and landscaping; and
  - k. Location of existing watercourses, wooded areas, and rock outcrops, if any.
- (3) A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.
- (4) Where the applicant wishes to develop the project in stages, a site plan indicating total development shall be presented for approval of the entire parcel.
- (5) The zoning administrator (for zoning permits) and the planning commission (for special use permits) may require additional data where it is warranted due to special conditions of the site or complexity of the proposed development.

(Ord. No. 119, § 4.5, 8-1993)

**State Law reference**— Site plan, MCL 125.584d.

Sec. 36-67. - Special use permits.

In order that this chapter be flexible and reasonable, special uses are provided for in this chapter and require special use permits by the planning commission. Conformance to special use standards is required, in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and distinct form that each specific use shall be considered on an individual case. The granting of a special use permit does not negate the requirement for any other required permit.

- (1) *Standards for the consideration of special uses.* The review for a special use shall consider the following:
  - a. The general safety, health, and welfare of the community-at-large. This shall include:
    1. Accessibility of the property in question to fire and police protection;
    2. Traffic conditions, creating or adding to a hazardous situation;
    3. Transportation design requirements, if any, which will be needed to accommodate any traffic impact for the use intended; and
    4. Appropriateness of the location, nature and height of the proposed use to the size, type, and kind of buildings, uses and structures in the vicinity and adjacent properties, including the safety and convenience of people therefrom.
  - b. Any potential decrease in the market value of adjacent buildings, uses and structures which are permitted by

- right under current zoning, if the proposed use is granted;
- c. Harmony with the village land use plan. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets (giving access to it), parks and drainage systems will be in harmony with the village land use plan and the character of land use which is intended by said village plan for the area or district in question;
  - d. Impact from the applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures upon the appropriate character of development intended for the area as deemed desirable by the village land use plan;
  - e. Any hazards arising from storage and use of dangerous toxic substances, combustible, inflammable, or caustic fluids or chemicals.
  - f. That the operations in connection with any special use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, or lights to an extent which is more than would be the operations of any use permitted by right for that district wherein the special use is proposed.
- (2) *Conditional approval.* As a condition of granting a special use permit, the planning commission may require that certain development precautions and remedies be taken by the applicant in order to satisfy the special use review standards and the site plan review standards set forth in this chapter; and which essentially are designed to protect the general health, safety and welfare, as well as to promote environmental preservation and nuisance abatement. Site development guidelines are provided in this chapter. Site development guidelines include but are not limited to drainage, soil erosion, planning and design of site, fencing, screening, buffer strips, landscaping, on-site lighting, signing and off-street parking. Said measures must be incorporated by the applicant onto the site plan and maintained at all times.
  - (3) *Compliance with performance standards.* Compliance with performance standards for certain uses enumerated in this chapter is required.
  - (4) *Site plan approval required.* Site plan approval by the planning commission is required for all special use permits. Site plans are initially reviewed by the zoning administrator.
  - (5) *Time constraints.* A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than 12 months for any reasons. Initial development must begin within one year from the date of issuance.
  - (6) *Existing violations.* No permit shall be issued for a special use for a property where there is an existing violation of this chapter, with respect to a new use or structure.
  - (7) *Decisions in writing.* It is further provided that in granting or denying a special use permit, the planning commission shall specify in the written decision the particular reason relied upon and its relation to the proposed use.
  - (8) *Appeals.* Any and all appeals regarding a decision or condition imposed upon a special use application shall be made to the zoning board of appeals within 15 days from the date of decision or imposed condition.

(Ord. No. 119, § 4.6, 8-1993)

**State Law reference**— Special land uses, MCL 125.584a.

Secs. 36-68—36-90. - Reserved.

ARTICLE IV. - SUPPLEMENTAL USE REGULATIONS

Sec. 36-91. - Standards as minimum requirements.

In addition to the regulations set forth in article III of this chapter, the following are specific regulations and design standards for uses listed in said article, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community.

(Ord. No. 119, § 5.0, 8-1993)

Sec. 36-92. - Conversion of R-3 district homes to two-family dwellings by special use permit only.

- (a) *Intent and purpose.* The R-3 zoning district encompasses a distinctive neighborhood character of mostly older, single-family homes located on individual lots and close to the downtown central business area. Because many of these homes are larger and represent sizeable maintenance and energy costs for a single-family, it is feared that restriction to only single-family use may foster inadequate maintenance or even abandonment. The possible consequences may be a general appearance of blight; which (if allowed to proceed in downward trend) can erode the social stability of any neighborhood, as well as adversely affect the shopping appeal of the Fourth Avenue area. Based upon the above, this zone district is regarded as conducive for some limited conversion older, larger homes to two-family dwellings; but only when certain conditions as may be required by the planning commission in order to preserve the character, as well as the health, safety and welfare of the neighborhood are met.
- (b) *Special use permit required.* Conversion to two-family usage is hereby deemed to require a special use permit with site plan review by the zoning administrator and site plan approved by the planning commission. See sections 36-66 and 36-67.
- (c) *Site eligibility and conditions.* In order for an existing, renovated or replaced structure to be eligible the following minimum requirements must be met:
  - (1) There must be no existing violations currently on file with respect to subject property; and which has not been removed or remedied to the satisfaction of the zoning administrator. However, an applicant can be required by the planning commission to remove or remedy said violation as a condition of securing a special use permit.
  - (2) For each block in the zoning district, the maximum percentage of residential structures which may be converted to two-family housing is 30 percent. For the purpose of this chapter, a percentage greater than the above shall be construed as detrimental and threatening to the existing character, health, safety and welfare of the neighborhood.
  - (3) There must be ample open space other than required yard to accommodate off-street parking for no less than four vehicles per lot. If four off-street parking spaces cannot be provided because of insufficient open space, the planning commission may allow parking in only the required side and rear yards, in order to obtain a total of four off-street parking spaces per lot. In such case, fencing or screening shall be required along the property line of the yard affected.
  - (4) Each structure proposed for conversion must provide or be designed to provide a minimum square feet per dwelling unit, according to the total number of bedrooms as per the appropriate section of this chapter.
  - (5) A residential structure may not be converted into more than two dwelling units per structure.
  - (6) As a special use and in accordance with all the provisions of sections 36-66 and 36-67, the planning commission is authorized to impose additional reasonable conditions in order to protect the intent and purpose of this development option in the R-3 zoning district.

(Ord. No. 119, § 5.1, 8-1993)

Sec. 36-93. - Mobile home parks.

In recognition of the growing trend toward mobile home parks and the need for well-located and properly developed areas to accommodate them, mobile home park regulations are hereby prescribed for such use with appropriate construction and site development standards to promote the health, safety, and general welfare of the residents of such areas as well as the residents of adjoining and neighboring premises.

- (1) *Special use permit required.* Before any other type of permit for a mobile home park can be secured, a special use permit by the planning commission must first be obtained. All standards for a special use permit, and all requirements, including site plan approval by the planning commission must be met. See article V of this chapter for special use permit application procedures.
- (2) *Eligibility.* The site of a mobile home park must be in accordance with the following site standards in order to be eligible for a special use permit:
  - a. The site must be within an MH, mobile home development zoning district;
  - b. The site must be a minimum of ten acres in land area and contiguous;
- (3) *Special conditions and limitations for mobile home parks.* In addition to satisfying the general standards for a special use permit; the following shall also govern the development of a mobile home park:
  - a. All mobile home parks shall comply with the requirements imposed by Public Act No. 96 of 1987 (MCL 125.2301 et seq.), except as such provisions are modified herein, together promulgated by the state mobile home commission.
  - b. A ten-foot wide buffer zone shall be provided along all exterior boundaries of the mobile home park. Said buffer shall be measured from the park property line inward. The buffer shall be planted with evergreens and shrubs not less than four feet in height at the time of planting and which contain foliage throughout the calendar year, sufficiently compact in nature to form a natural buffer or screening between the mobile homes and adjoining premises. In lieu of the foregoing, an artificial fence which cannot be seen through may be constructed not less than five feet in height along the perimeter of the buffer zone. Said fencing shall be commensurate with the character of the adjoining development, and shall be maintained at all times in a neat and attractive manner.
  - c. Drainage for the mobile home park shall be reviewed and approved by a registered professional engineer retained by the village. The applicant shall reimburse the village for the cost of drainage review and approval.
  - d. No mobile home shall be located nearer than 60 feet to any abutting residential zoning district, nor greater than 85 feet to the centerline of any dedicated public road or highway right-of-way.
  - e. The boundaries of every mobile home space shall be clearly defined and not more than one mobile home shall be located on any individual mobile home space. Each mobile home space shall contain a concrete pad not less than four inches thick and not less than the width and length of any mobile home located thereon, upon which the mobile home shall be parked. The balance of the mobile home space shall be landscaped with either natural or artificial improvements of a dust-free and attractive nature. No mobile home and accessory buildings shall occupy more than 35 percent of the area of the mobile home site on which it is located.
  - f. No mobile home nor any appurtenances connected thereto shall be located on a mobile home space closer than 20 feet to any adjoining mobile home or building, nor closer than three feet to one boundary line of the



- individual trailer space, nor closer than ten feet to the remaining three boundary lines of such trailer space.
- g. All mobile home spaces shall abut a driveway of not less than 36 feet in width as measured from back to back of curb, which shall contain a curb, drainage structures, a two-inch bituminous plant mix surface constructed upon not less than a six-inch compacted gravel base, and shall have unobstructed and safe access to a public street or highway. Where sidewalks are provided paralleling said driveway, the same shall be in addition to the foregoing driveway width.
  - h. Not less than two paved parking spaces for automobiles (ten feet by 20 feet each in size) shall be provided within the mobile home park for every mobile home site located therein.
  - i. All driveways and sidewalks within the park shall be illuminated with not less than 2,500 lumen lights spaced not more than 300 feet apart or equivalent lighting approved by the planning commission.
  - j. Each mobile home space shall be provided with electric service of not less than 100-amp capacity, located underground. All electrical wiring and installation shall comply with the county building code. All electrical connections to mobile homes shall be so located as to avoid the extension of electric lines across sidewalks or driveways or in any manner which would be a hazard to persons or property.
  - k. No garbage or other wastes shall be burned within a mobile home park but shall be disposed of either through appropriate disposal services furnished by the proprietor of the park or through mechanical garbage disposal equipment connected to the sewer facilities located within the park. Any containers for garbage or waste materials shall be recessed below grade level and shall be maintained in sanitary condition to avoid any nuisance or annoyance therefrom to residents within the park.
  - l. The location of all gas, water, and sanitary sewage mains within the park shall be shown upon the plat of the same submitted to the planning commission for its approval. Any propane gas tanks shall be Underwriters Laboratory approved and shall be so located as to where it is not a fire hazard. All gas tanks above the grade level shall be screened from adjoining premises.
  - m. Water supply and sanitary sewage systems.
    - 1. All water supply and sanitary sewage systems shall be located underground and in such a manner as to prevent freezing during the winter months. Connections to the same shall be located underground and in such a manner as to prevent freezing during the winter months. Connections to the same shall be provided at each trailer space by a frostproof dual water tap at least four inches above grade level as to water and by an approved sanitary connection to a trapped sewer, at least four inches in diameter as to sanitary sewers. All such connections shall be adequate to furnish all normal required water within the mobile home and to receive all normal waste from all plumbing facilities therein.
    - 2. The trapped sewer in each space shall be connected to discharge the mobile home waste into a public sewer system, if available, or into a private sewer and disposal plant of a septic-tank quality or better and in such a manner as will present no health hazard.
    - 3. An approved type of sewer connection shall be used for each mobile home which shall be odor-tight and free from leakage. The proprietor of the mobile home park shall be responsible for the connection of all trailers to such water and sewer systems and for the maintenance of such connections in accordance with the terms in this chapter.
    - 4. Sewer connections on unoccupied sites shall be closed in proper manner as will prevent the emanation of odor or any unsanitary condition therefrom.
    - 5. All sanitary sewage facilities within the mobile home park, including those of a semi-public nature and those pertaining to individual self-contained trailers shall be constructed and maintained in compliance

with the requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and accordance with the single state construction code.

- n. No mobile home shall be allowed to be located within a mobile home park unless the same is a self-contained living unit and is connected to the water and sanitary sewer facilities required at each mobile home space.
  - o. No animal or car washings or other activities involving quantities of water shall be carried on in any mobile home park unless within an area specifically set aside for such activities containing adequate drainage facilities.
  - p. No domestic house pets shall be allowed to run at large or commit any nuisance within the limits of a mobile home park.
  - q. All grass and shrubbery within a mobile home park shall be kept mowed and landscaped in a neat and attractive manner.
  - r. Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number so located within the park as to satisfy applicable regulations of the fire department. No open fires shall be permitted. Fire extinguishers shall bear the Underwriter's label and be of such a type approved for such service by the commissioners of the state police. Each fire extinguisher shall be periodically examined and kept at all times in usable condition, in compliance with regulations of the fire department.
  - s. The village reserves the right to inspect any mobile home park at reasonable periodic intervals to ascertain compliance with the terms and conditions of this chapter. The management of every such park shall be held responsible for compliance and shall hereby be required to cooperate with the zoning administrator in making any such inspections.
  - t. Each mobile home park shall be provided with a manager's office where each mobile home entering the park shall be assigned to a lot location, and each owner shall be given a copy of the mobile home park regulations and registered according to the prescribed form.
  - u. No mobile home park shall be developed or operated with less than 25 mobile home sites.
  - v. All mobile homes shall be securely fastened to the pad upon which it is located by not less than eight turn buckle cables attached to the frame of the mobile home or by not less than two straps extending over the superstructure of the mobile home and fastened to the pad at opposite sides of the mobile home.
  - w. All mobile homes shall be skirted within 60 days following their placement within the mobile home park with standard skirting materials or material of equal quality for both aesthetic purposes and to lessen heat loss.
  - x. No retail sales of mobile homes shall be permitted from a mobile home park except for mobile homes that are located within the park on a developed mobile home site meeting all of the requirements set forth herein.
- (4) *State rules and regulations.* Mobile home parks and mobile homes shall abide by rules and regulations as so stated in State of Michigan, Mobile Home Commission Rules and any or all amendments of said commission rules, past, present or future.

(Ord. No. 119, § 5.2, 8-1993)

Sec. 36-94. - Planned developments.

- (a) *Intent and purpose.* Planned developments are provided herein by special use permit in order to allow for flexibility

in design of residential areas, economy in the usage of land, and conservation of sensitive physical and environmental features. Based upon the standards and criteria contained in sections 36-67 and 36-94, the village may review, and permit with conditions, a modification in bulk requirements in order to allow residential development containing both privately owned sites and common property, and which are planned collectively as a single unit. The planned development section of this chapter is provided in order that the growing demands for housing for young married couples, senior citizens and existing residents (who no longer wish to maintain a large one-family house) may be met by a greater variety of innovative housing types, and by planning and design of structures with the benefit of cost effective land utilization in such developments.

- (b) *Cluster development.* In any district in which single-family detached dwellings are a use permitted by right, the minimum required lot areas for such use, as set forth in the bulk regulations of this chapter, may be reduced by an amount not to exceed 50 percent; provided that a quantity of land at least equivalent to the total amount deducted from all lots shall be dedicated for open space so that the overall gross density for the entire area shall not exceed that permitted in the applicable zoning district.
- (1) Compliance with subdivision regulations. Any such plan for cluster development shall be subject to the provisions for special use permit approval by the planning commission and must be in accordance with all of the procedures and provisions set forth in the subdivision regulations of the village.
  - (2) *Site eligibility.* The minimum area necessary to qualify as a cluster development shall not be less than five contiguous acres of land.
- (c) *Residential planned unit development.* A residential planned unit development (residential PUD) may be applied for through the special use permit procedure. The granting of a special use permit for a residential PUD is permitted only for R-1 and MF zoning districts.
- (1) *Site eligibility.* The minimum area necessary to qualify as a residential PUD shall not be less than five contiguous acres of land. However, an owner of land less than the minimum required area may apply if his land is adjacent to a proposed or constructed residential PUD.
  - (2) A minimum of 20 percent of the property shall be dedicated as open space. Open space includes natural areas and parks. Public and private streets, any rights-of-way, the area of any lot or unit, and 25 percent of streams, lakes, ponds, and wetlands shall not be included in the open space calculation and shall not be counted as open space.
  - (3) Density on the remainder of the property may be increased up to 1.75 times the maximum number of dwelling units per acre permitted under R-1 zoning. The density increase shall be applied to the remnant acreage of the property after the proposed open space acreage, which shall be a minimum of 20 percent, has been deducted.
  - (4) A further density increase may be granted by the planning commission at the specific request of the applicant if the planning commission finds that the density increase would:
    - a. Result in a recognizable benefit to the village and residents of the PUD;
    - b. Provide additional amenities; and
    - c. Preserve additional open space or natural features.
  - (5) The dwelling units in the residential PUD may be constructed in any combination of housing types, except for mobile homes.
- (d) *Preapplication conference with planning commission for concept review.* Prior to formal application submission for a proposed planned development, the developer/applicant shall be required to make a presentation to the planning commission in order to discuss initial design concepts and the application of said concepts to the land in question.

The purpose of the pre-application conference is to inform the planning commission of the proposal and to receive preliminary review comments in connection with the standards of this section.

- (e) *Standards and considerations.* In addition to complying with the standards for special use permits, the following special standards for a cluster development or a PUD must be met:
- (1) *Ownership.* The tract of land may be owned, leased or controlled by a single person, partnership, corporation, cooperative association, or association of individual owners (condominium). An application may be filed by the owner, jointly by the owner of all property to be included, or by a person, persons, corporation, or corporations, with an option to buy said property. A plan, once approved, shall be binding.
  - (2) *Utilities.* A cluster development and a PUD shall connect to public water and sewer provided by the developer, and must be approved by all legal state, county and local agencies (health, conservation, etc.) which are in authority and have jurisdiction.
  - (3) *Permitted residential housing types and uses.* The following are considered eligible for inclusion in an application:
    - a. *Primary uses:*
      1. Single-family detached homes.
      2. Two-family houses.
      3. Single-family attached homes (such as row houses and town houses) of eight dwelling units or less per building.
      4. Multiple-family structure (apartments) of ten dwelling units or less per building.
    - b. *Accessory uses and amenities:*
      1. Open space - passive and active.
      2. Indoor and outdoor recreational facilities, decks, gazebos, children's playhouses or similar typical uses.
      3. Carports, garages, and personal storage facilities for use by residents of the development.
      4. Community building and meeting halls.
      5. On-premise laundry facilities for use by residents of the development.
  - (4) *Site design standards.* Unless modified by the council in writing at the time of application approval, compliance with the following design standards is required:
    - a. Minimum yard requirements and building setbacks from the exterior perimeter of the development property lines shall be 30 feet.
    - b. Maximum building height, 2½ stories or 35 feet (excludes antennas, steeples, spires, etc.) measured from the average existing topography (no grade mounding).
    - c. Minimum spacing between single-family attached homes and multiple family structures shall not be less than the building height of the tallest building. Bulk regulations shall be determined by the planning commission after reviewing the proposed site plan. Criteria to use for making the determinations shall include the following:
      1. Granting of the PUD will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
      2. In comparison to the bulk regulations ordinarily applied, the proposed type and density of uses shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural

- environment. Fire safety shall not be compromised and fire hydrants shall be located to adequately serve the site.
3. The proposed development shall be compatible with the master plan of the village and shall be consistent with the intent and purpose of a PUD as expressed in section 36-94(a).
  4. The PUD shall not change the essential character of the surrounding area.
  5. High quality building materials shall be provided.
- d. All sensitive natural features such as drainage ways and streams, wetlands, lands within the 100-year floodplain, and stream or river banks (which by virtue of soil and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by residential buildings and structures except for approved docks, boardwalks, benches and access stairs.
  - e. All access and egress easements and street openings from the development onto public or private roads shall be in accordance with the regulations and standards of the appropriate agency having jurisdiction over the proposed entrance areas (Ionia County Road Commission, Michigan Department of Transportation and/or Village of Lake Odessa).
  - f. Within the required 30-foot perimeter setback, a planted or landscaped buffer area is required along all exterior perimeter boundaries of the proposed property area to be developed. The following requirements for plantings in the buffer areas shall be met:
    1. Two evergreen trees and two deciduous trees shall be required for every 50 linear feet of buffer area, or fraction thereof.
    2. Evergreen trees shall be a minimum of six feet in height at time of planting; and deciduous trees shall be a minimum of eight feet in height at time of planting.
    3. Existing trees within the 30-foot perimeter setback may count toward the planting requirements, as long as the existing trees meet the minimum height requirements in subsection 2.
  - g. Drainage requirements shall be reviewed and approved by the village engineer.
  - h. Permanent conservation easements or other forms of equivalent irrevocable conveyance shall be created and recorded to protect required open space areas from future development.
  - i. Off-street parking is required at the rate of two parking spaces per dwelling unit.
- (5) *Applicable standards.* All applicable standards of the zoning ordinance outside of this section must be met, unless waived by the planning commission in consideration of the standards set forth in subsection (4)c.1. through 5.
- (6) *Public easements on common property which is privately owned.* When common property exists in private ownership, the owners shall grant easements, over, under and through such property, to the village as are required for public purposes.
- (7) *Common property in the planned unit development.* Common property in the PUD is a parcel or parcels of land, a privately owned road or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreational areas. A proposed maintenance agreement to permanently protect and provide for future maintenance of the common areas shall be reviewed and approved by the village attorney prior to issuance of any village permits. The approved agreement shall be recorded at the Ionia County Register of Deeds.

(8) *Dimensional variances prohibited.* After approval of planned development under section 36-94, no dimensional variances may be granted to the approved application.

(f) *Appeals.* Any and all administrative interpretations, decisions, and requirements of the planned development provisions shall be appealed within 15 days to the zoning board of appeals. Except for the prohibited granting of dimensional variances after planned development approval, the zoning board of appeals shall exercise all its power and duties as provided for in sections 36-137 and 36-138.

(g) *Public hearing.* A public hearing is required for all planned developments in accordance with Section 103 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

(Ord. No. 119, § 5.3, 8-1993; Ord. No. 2008-6, § 1, 12-15-2008)

**State Law reference—** Planned unit development, MCL 125.584b.

Sec. 36-95. - Design standards for certain uses.

The following site facility and design standards with respect to certain uses shall control:

(1) *Signs.* See permitted accessory signs in the district regulations and section 36-63 General Regulations, subsection (i) Signs.

(2) *Drive-in theater.*

- a. The lot location shall be such that at least one property line abuts a major thoroughfare and shall be at least 1,000 feet from any residentially zoned district.
- b. The premises shall be enclosed with a solid screen fence seven feet in height (minimum).
- c. All points of entrance or exit shall be located no closer than 250 feet to any intersection (as measured to the nearest intersection right-of-way line).
- d. The interior of the premises shall be designed with respect to lighting, drainage and the like, to the satisfaction of the approval body or official, as designated by this chapter.
- e. Space shall be provided, on-premises, for a reasonable amount of waiting vehicles to stand at the entrance to the facility.
- f. The theater screen shall not face directly, or obliquely by less than 75 degrees, a major thoroughfare.
- g. Acceleration and deceleration lanes shall be provided at points of public ingress and egress to the site.

(3) *Hotel, motel, motor court, inn, lodge.*

- a. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. No more than two driveway openings from a major thoroughfare shall be permitted.
- b. Where the front yard is used to provide access, if sufficient acreage, a 25-foot wide greenbelt shall be provided within the front yard, except for driveway openings. To repurpose an existing building with no green space area available, or has an existing green space, a greenbelt is not required.
- c. Each unit of commercial occupancy shall contain a minimum of 250 square feet of gross floor area.
- d. Where adjacent to a residential district, refer to section 36-64(b) for lighting, screening and fencing.
- e. Smoke detectors shall be installed and maintained in operable condition in locations that the local, county, state or federal regulations or departments require to reasonably protect the lodgers.

(4) *Drive-in restaurant.*

- a. The main and accessory buildings shall be set back a minimum of 60 feet from any adjacent right-of-way line or property line.
  - b. Driveway openings to the site shall be located at least 75 feet from any intersection as measured from the intersecting street right-of-way lines to the edge of said driveway.
  - c. Screening as required in section 36-64(b)(2) shall control where lot lines abut any residential district.
  - d. Parking may be located in the front, but not within the required front yard in the case of fast-food or carry-out restaurants.
- (5) *Child care centers, nursery school, day nurseries.*
- a. No dormitory facilities permitted on premises.
  - b. For each child cared for, there shall be provided, equipped and maintained, on the premises, a minimum of 150 square feet of usable outdoor play area (minimum total area of 5,000 square feet per facility).
  - c. The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses.
- (6) *Bowling alley, indoor skating and similar uses.*
- a. Driveway openings to the site shall be located at least 75 feet from any intersection as measured from the intersection street right-of-way lines to the edge of said driveway.
  - b. The main and accessory buildings shall be located a minimum of 100 feet from any residential use.
- (7) *Open air businesses (permanent and temporary).*
- a. Minimum lot area shall be one acre.
  - b. Minimum lot width shall be 200 feet.
  - c. A five-foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises, except as provided otherwise in this chapter.
  - d. All open air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.
  - e. Unless specifically waived by the approval body or as designated by this chapter, a building of not less than 500 square feet of gross floor area shall be constructed on the premises for office use in connection with the subject open air business.
  - f. The village council may, to ensure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit for an open air business use, require the permittee to furnish a surety bond executed by a reputable surety company authorized as to do business in the state, in the amount determined by the council to be reasonable and necessary to ensure compliance hereunder. In fixing the amount of such surety bond, the council shall take into account the size and scope of the proposed open air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions, as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
  - g. In the case of indoor-outdoor garden nurseries:
    1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
    2. All loading activity and parking areas shall be provided on the same premises (off-street).
    3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to

prevent any adverse affect upon adjacent properties.

4. Automobile service stations, public garages, filling stations.
  - h. No subject facility existing on the effective date of the ordinance from which this chapter is derived shall be structurally altered so as to provide a lesser degree of conformity with the provisions herein.
  - i. Minimum lot area shall be 15,000 square feet for an automobile service station or commercial garage and 12,000 square feet for a filling station (gasoline and oil only).
  - j. Minimum lot width shall be 120 feet for a public garage or automobile service station and 100 feet for a filling station.
  - k. An automobile service station shall be setback not less than 40 feet from any right-of-way line and not less than 25 feet from any side or rear lot line abutting residentially used property.
  - l. Ingress and egress curb cuts shall not be more than 30 feet wide.
  - m. No more than one curb opening shall be permitted for every 50 feet of frontage (or major fraction thereof) along any street, with a maximum of two per frontage.
  - n. No curb cut or driveway opening shall be located nearer than 30 feet to any corner or intersecting street right-of-way lines, or to any residentially zoned property. No driveway opening shall be located nearer than 30 feet, to any other driveway opening or curb cut. A curb cut shall not be permitted where in the opinion of the code enforcement it may produce a safety hazard to adjacent pedestrian vehicular traffic.
  - o. A raised curb of six inches in height shall be constructed along all street frontages at the right-of-way line, except for driveway openings.
  - p. The entire lot, excluding the area occupied by a building, shall be hard surfaced with a concrete or a plant-mixed bituminous material, except for desirable landscaped areas, which shall be separated from all paved areas by a low barrier or curb. Storm drainage is required.
  - q. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps may be located in any yard; but not less than 20 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way. In ground tanks shall not be less than six feet from any lot line.
  - r. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a five-foot masonry wall. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding ten days.
  - s. The rental of licensed operable cars and trucks, on the premises is permitted where adequately screened storage space is provided.
  - t. The lot shall be located such that it is at least 500 feet from an entrance or exit to any property on which is situated a public library, public school, private school, playground, playfield, park, church or hospital.
  - u. Only one freestanding sign per street frontage shall be permitted, not exceeding 150 square feet in area, which shall display only the name of the user or occupant of the premises. Required setback is 15 feet from any lot line.
  - v. On a corner lot, both street frontage sides shall be subject to all the applicable front yard provisions of this chapter.
- (8) *Car wash establishment.*
- a. Minimum lot size shall be 20,000 square feet.



- b. All washing activities must be carried on within a building.
  - c. Vacuuming activities may be carried out only in the rear yard and at least 50 feet distant from any adjoining residential use.
  - d. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.
- (9) *Swimming pool, spa or hot tub.* This section applies to any pool, spa or hot tub permitted as an accessory use in all zoning districts, provided they meet the following requirements:
- a. No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use, or street and alley easements and right-of-ways. Overhead electrical or other type of wires are not permitted to be located over the water surface.
  - b. Minimum side and rear yard setbacks shall comply with the requirements specified for the zoning district wherein the pool is located. Except for motels and hotels, no pool, spa, or hot tub may be located in the required front yard setback. Except for patio terraces and decks, there shall be not less than five feet of distance between the pool wall and any other structure (above ground or in ground).
  - c. For the protection of the general public, all swimming pools, spas or hot tubs shall meet the State Building Code in regard to fencing, gates, pool decks, safety covers and door alarm systems. If the entire yard is enclosed by a fence or wall, then the fence requirement may be waived by the zoning administrator, after due inspection and approval and meeting the State Building Code.
  - d. If a public water supply system is available, only public water shall be used to supply water for the pool, spa or hot tub. In all cases where the water to fill a swimming pool is obtained from a village fire hydrant, the owner or his agent shall do so in accordance with section 34-67(c). The water shall be chemically treated in a manner sufficient to maintain bacterial standards established by the provisions of the department of health relating to swimming pools, spas and hot tubs.
  - e. All pools, spas and hot tubs deeper than 18 inches require a zoning permit from the village and a county building permit, if required. Units shallower than 18 inches do not require permits, but must meet all setbacks as described above.
- (10) *Housing for the elderly.*
- a. Minimum lot size shall be 8,700 square feet.
  - b. Accessory services in common use may include, but not be limited to, the provision of central dining facilities, lounge areas and workshops.
  - c. Each dwelling unit shall contain at least 210 square feet of area, not including kitchen and sanitary facilities.
  - d. Development of site and structures shall be in accordance with U.S. Department of Housing and Development Minimum Property Standards, Multi-Family Housing, as it applies to housing for the elderly.
- (11) *Campgrounds, recreational vehicle parks.*
- a. Minimum lot size shall be three acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean a campground or recreation vehicle park.
  - b. Each site on a lot designated for camping use may be designed for a recreation vehicle or tent, and can be provided with individual electrical outlets, sewer hookup and with individual barbeque and other amenities.
  - c. Service buildings, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities shall be provided to meet or exceed the ratio described in Part 125 of 1978 PA 368 and

- the associated administrative rules for campgrounds, or other applicable state regulations.
- d. Each lot may provide a building containing machine laundry (wash and dry) facilities.
  - e. No commercial enterprises shall be permitted to operate, except that one retail convenience goods shop may be provided.
  - f. A campground shall provide a vehicle parking area for site occupant and guest parking. Such parking area shall be located on the lot within 400 feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping). Each parking space shall be a minimum of 200 square feet in area; and two parking spaces shall be provided for each site.
  - g. Each site shall abut a roadway and be marked with numbers or letters for identification. Site width and size shall meet or exceed the width and size minimums described in Part 125 of 1978 PA 368 and the associated administrative rules for campgrounds, or other applicable state regulations.
  - h. A common use area may be provided in each campground. This common area may be developed by seeding, landscaping, picnic tables, barbeque stands and passive recreation equipment (e.g., swings, playground, horseshoe pits, shuffleboard courts, and the like) for the general use of all occupants of and visitors to the campground.
  - i. Each recreation vehicle site shall have direct access to an internal roadway within a minimum 20 foot wide easement that connects the site directly to a public street or road. The traveled portion of the roadway shall be unobstructed and passable with a relatively dust-free condition when the campground is in operation. The traveled portion of the roadway width shall be as approved by the Village Engineer. Parking shall not be allowed on any roadway internal to the campground. Sites specifically designated and used for tent camping, need not have direct vehicular access to any internal or public street or road, but shall be provided with an adequately cleared and marked pedestrian pathway access which originates at a point on an internal street or roadway within a reasonable distance of the parking area mentioned in subsection f., of this section.
  - j. Any open drainage ways must have seeded banks sloped at least three feet horizontal for one foot of vertical and designed to properly drain any surface waters toward or into the county drain system or Village drain system, subject to approval by the Ionia County Drain Commissioner or the Village person or department designated to enforce storm water requirements.
  - k. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County Health Department regulations and applicable state regulations. Dumpsters shall be screened by solid fencing.
  - l. The development of the entire lot is subject to all applicable requirements and licensing of the State of Michigan.
  - m. All water systems, sewer systems, stormwater plan and electrical and plumbing plans must be approved by the County Health Department and the applicable state agency.
  - n. A campground shall meet all other applicable requirements in Part 125 of 1978 PA 368, or other applicable state regulations.
- (12) *Automobile disposal and junkyards.* For this use, the following more restrictive provisions, subsections (13)a.—f., shall take precedence above all other provisions which may relate to setbacks, screening, etc. All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
- a. The site shall be a minimum of five acres in size.
  - b. There shall be a required yard setback of at least 100 feet from any public street and any lot line. The front yard setback shall be planted with trees, grass, and shrubs to minimize the appearance of the installation.

Nothing shall be piled, stored or accumulated in any required yard area.

- c. A solid fence or wall at least eight feet in height shall be provided along the setback lines of the entire site in order to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
- d. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that moveable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
- e. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- f. Wherever the side or rear lot line of such use abuts a residential zoning district, the required yard shall contain plant materials, grass, and structural screens to effectively minimize the appearance of the installation and to help contain odors therein.

(13) *Private roads and streets.*

- a. All plats and lots not fronting on a public street must be accessible by a private drive. A private drive or street is required to have a minimum driveway right-of-way of 66 feet, unless approved by the village engineer, and must be either owned or established by drive easement granted by the adjacent property owners.
- b. The layout of private streets in respect to their location, intersections, cul-de-sacs, etc., shall be approved by the village engineer.
- c. The design and construction of the roadway shall be approved by the village engineer.
- d. Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes and grades shall be approved by the village engineer. Materials for culverts shall also be approved by the village engineer.
- e. Vertical street alignments, street grades, horizontal curves, curb openings at intersection streets, etc., shall be approved by the village engineer.
- f. Maintenance and repair of private streets shall be the responsibility of the owner or people to whom the easement is intended and not the responsibility of the village.
- g. The owner/developer shall enter into an agreement with the village, perpetual, running with the land, and recorded at the county register of deeds office, acknowledging that the roads shall remain private.

(14) *Home occupations.* The regulations of this section are intended to ensure that home occupations remain subordinate to the residential use and shall not be a detriment to the character and livability of the surrounding neighborhood, and the residential viability of the dwelling is maintained. A home occupation may be permitted in the R-1, R-2, R-3, and MF Districts in association with any dwelling in accordance with this section. For purposes of this ordinance, a home occupation is a gainful profession or occupation, carried out in the home or on the residential premises by one or more persons residing on the premises, as a use that is clearly incidental to the use of the home and premises as a place of residence. A home occupation may be conducted entirely within a residential dwelling and/or an attached garage accessory to the dwelling. A home occupation may only be permitted within a detached garage or other detached accessory building as a special use reviewed pursuant to section 36-67 and the standards of section 36-95(14)d.

- a. *Type 1 permitted home occupations.* The following home occupations shall be permitted by right subject to the minimum conditions of subsection b. below and subject further to issuance of a zoning compliance home occupation permit by the zoning administrator:
  1. Architecture, engineering, interior design, and similar professions.

2. Bookkeeping, law practice, accounting, and financial planning.
3. Cabinet making and carpentry work.
4. Computer programming and other computer-related work.
5. Consulting and counseling services.
6. Drafting and illustration services.
7. Dressmaking, sewing and tailoring.
8. Furniture upholstery.
9. Gun dealer and gun repair service.
10. Instruction in or creating arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work and jewelry making.
11. Musical instrument instruction, except that no instrument may be electronically amplified so as to be audible beyond the parcel of land where the use occurs.
12. Office of minister, priest or other member of the clergy.
13. Office of building contractor or building trades persons (excluding equipment parking).
14. Office of a salesperson, sales representative or manufacturer's representative.
15. Office of realty salesperson.
16. Painting, sculpture and writing.
17. Private tutoring.
18. Secretarial services.
19. Storage and distribution of direct sale products, such as home cleaning products, cosmetics, food containers and the like.
20. Taxidermy.
21. Television and other small appliance repair.
22. Telephone answering service and telephone solicitation work.
23. Travel booking service.
24. Watch repair.
25. Dog grooming.
26. Food catering and cottage food operation.
27. A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the "General Rules"), the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "Act"), and the requirements of this section, shall be allowed as a Type 1 permitted home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use

of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. In addition to requirements imposed by this section and this chapter, the following requirements for a registered primary caregiver shall apply:

- (a) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  - (b) A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.
  - (c) Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.
  - (d) Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.
  - (e) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the village building official and the village police department.
  - (f) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
  - (g) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 pm to 7:00 am, local time, shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
  - (h) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the village fire department to ensure compliance with applicable provisions of the fire code.
- b. *Minimum conditions for permitted home occupations.* The following minimum conditions shall apply to all permitted home occupations:
1. Home occupations involving the use of a detached accessory building or outdoor storage may only be permitted as a special use under the provisions of subsections d., e. and f. contained herein.
  2. The use shall be carried out only by the residents of the premises and not more than one other person.
  3. The use shall be clearly incidental, subordinate and secondary to the use of the dwelling and premises for residential purposes, and the appearance of the structure shall not be altered in any manner other than with a residential character. The occupation must not be conducted in a manner that will cause the premise to take on a non-residential character either by the use of colors, materials, construction, lighting or by the emission of sounds, vibrations or electromagnetic radiation.
  4. On each premises, one sign may be used to identify a home occupation not exceeding three square feet in area, non-illuminated, and mounted flat against the wall of the building.
  5. The maximum floor area devoted to the home occupation shall be limited to 30 percent of the gross floor area of the dwelling unit and attached garage above grade combined and up to 50 percent of a basement area.

6. There shall be no sale of products or services except as are produced on the premises or those products which are related to and incidental to the home occupation. There shall be no outdoor, on-site storage of materials, equipment, accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation. Products generated from such sales in greater volumes than would normally be expected in a residential neighborhood may be sold by mail or telephone or at a sales event off the premises may be filled on the premises. Delivery of purchase to the buyer is preferred.
  7. No storage or display shall be visible from outside the dwelling or an attached building.
  8. No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
  9. There shall be no activity associated with the occupation that will interfere with local radio or television transmission or reception, nor shall there be any noise, vibrations, smoke, dust, odors, heat or glare noticeable at offensive levels at or beyond the property line.
  10. The occupation will cause no appreciably greater motor vehicle or pedestrian traffic than is considered normal for a residential use in the zoning district.
  11. There shall be adequate off-street parking spaces of ten feet by 20 feet on site for anticipated and actual business clients or customers. On-street parking, or parking within the street right-of-way in support of the home occupation is prohibited.
  12. Deliveries and shipments by commercial vehicles shall be on an occasional or incidental basis.
  13. Hours of operation shall be reasonable and customary for the type of home occupation approved and for the zoning district within which the home occupation will exist.
- c. *Unlisted, but similar home occupations.* In addition to the above listed Type I permitted home occupations, other home occupations which are similar in nature and effect to those specifically listed in this section may also be classified as permitted Type 1 uses. The determination whether an unlisted home occupation is sufficiently similar in nature and effect to be classified a Type 1 home occupation may be made by the zoning administrator, or, at the discretion and request of the zoning administrator, by the planning commission. In determining whether an unlisted home occupation is to be classified a Type 1 home occupation, the zoning administrator or the planning commission, as the case may be, shall consider and make findings based upon the following standards:
1. Whether the home occupation is incidental and secondary to the use of the premises as a dwelling.
  2. Whether the nature of the home occupation is substantially in keeping with the residential use of the property.
  3. Whether the likely effects of the home occupation upon adjacent and nearby lands would be within the scope of the effects likely to result from other, similar Type I home occupations that are specifically permitted in this section.
  4. Whether the home occupation could have appreciable adverse effects upon adjacent and nearby lands and the uses thereof.
  5. Whether the home occupation is contrary to local, state and/or federal law.
- d. *Type 2 home occupations approved as special uses.* Unless otherwise governed by this ordinance, the following home occupations may be permitted in the R-1, R-2, R-3, and MF Districts if approved by the planning commission as a special use pursuant to the procedures contained in section 36-67:

1. Any home occupation which involves the use of a detached accessory building, or that exceeds the percenta limitations for Type 1 home occupations, or which is carried out by two or more non-resident employees.
  2. Gymnastics, dance instruction, martial arts instruction, and similar activities.
  3. Bed and breakfast establishments.
  4. Veterinary office or clinic.
  5. Beauty salons and barber shops.
- e. *Type 2 home occupations - Standards.* When considering any Type 2 home occupation for approval as a special use, the planning commission shall consider and make findings upon the following standards:
1. Whether the home occupation is incidental and secondary to the use of the premises as a dwelling and the likelihood or practicality that it will remain as such over time.
  2. Whether the likely effects of the home occupation upon adjacent and nearby lands are within the category and magnitude of the effects resulting from other uses permitted and occurring in the district and other home occupations that are specifically permitted without a special use permit.
  3. Whether the home occupation will have appreciable adverse effects upon adjacent and nearby lands and the uses thereof.
  4. All of the standards of section 36-95(14)b., notwithstanding those limits on the use of detached accessory buildings, floor area, and number of non-resident employees.
  5. Whether the home occupation is contrary to local, state and/or federal law.
- f. *Type 2 home occupations - Conditions of approval.* In approving any Type 2 home occupation special land use, the planning commission may impose restrictions and limitations upon the use, relating, but not limited to, consideration of the following:
1. The use as located within a dwelling and/or accessory building.
  2. The floor area of the use.
  3. The area, height, bulk, sound prevention and location of any accessory building used for the occupation.
  4. The storage or display of goods, inventory or equipment that may be visible from outside the dwelling or accessory building and the screening thereof.
  5. The storage or use of combustible toxic or hazardous materials on the premises.
  6. Machinery or electrical activity that will interfere with nearby radio or television reception or create noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
  7. Motor vehicle and/or pedestrian traffic and its circulation on and off site.
  8. Off-street parking provided, and the location and surfacing and drainage thereof.

(Ord. No. 119, § 5.4, 8-1993; Ord. No. 2007-6, § 1, 12-17-2007; Ord. No. 2009-3, 8-17-2009; Ord. No. 2010-2, § 10, 12-13-2010; Ord. No. 2012-1, § 5, 5-21-2012; Ord. No. 2013-3, § 2, 11-18-2013; Ord. No. 2017-1, § 4, 5-15-2017; Ord. No. 2019-2, § 2, 1-28-2019; Ord. No. 2019-3, § 2, 5-20-2019)

Sec. 36-96. - State-licensed residential facilities.

Notwithstanding any other section in this chapter, a state-licensed residential facility shall be considered a residential use of property and a permitted use in all residential zones, including those zoned for single-family dwellings, when required by section 3b of Public Act No. 207 of 1921 (MCL 125.583b).

## Sec. 36-97. - Industrial performance standards; restrictions on the creation of dangerous and objectionable elements.

It shall be unlawful to carry on or permit any activity or operation or use of land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activities.

- (1) *Sound.* The emission of measurable noises from the premises shall not exceed 65 decibels as measured at the boundary property lines, except that where normal street traffic noises exceed such level, the measurable noise emanation from the premises may equal but not exceed such traffic noise. Within industrial districts, sound levels not exceeding 70 decibels may be permitted. In addition, objectionable sounds of any intermittent nature, or characterized by high frequencies even if falling below the aforementioned decibel reading shall be controlled so as not to create a nuisance or hazard to adjacent properties.
- (2) *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of three thousandths of one inch measured at any lot line of its source.
- (3) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, when diluted in the ratio of one volume of odorous air of four or more volumes of clear air, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- (4) *Toxic gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- (5) *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.
- (6) *Light.* All lighting shall be arranged to reflect light away from adjoining residential zones or uses.
- (7) *Radioactive materials.* Radioactive materials shall not be handled so as to be unsafe to human health or life.
- (8) *Electromagnetic radiation.* The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and dissemination of electromagnetic radiation must be followed and are hereby made a part of this chapter.
- (9) *Drifted and blown material.* The drifting or airborne transmission beyond the lot line of soot, particles, or debris from any stockpile or operation shall be unlawful and may be summarily caused to be abated.
- (10) *Smoke, dust, dirt, and fly ash.* It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregation more than three minutes in any 60 minutes which is:
  - a. As dark or darker in shade as that designated at No. 2 on the Ringlemann Chart as published by the United States Bureau of Mines and which is hereby made a part of this chapter. The Umbrascopes readings of smoke densities, however, may be used when correlated with the Ringlemann Chart; and
  - b. More than 40 percent opacity which obscures an observer's view to a degree equal to or greater than the smoke described in subsection (10)a of this section, except when the emission consists of only water vapor.The emission of particulates shall not exceed two-tenths grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
- (11) *Liquid wastes.* No discharge shall be permitted at any point into any private sewage disposal system, or street, or into the ground of any materials in such a way or of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in accord with water



quality standards of the state department of environmental quality; and with the standards of such other state commissions having jurisdiction thereof.

- (12) *Solid wastes.* No on-site burial of solid wastes shall be permitted. Accumulation of recyclable material is possible, provided that the material is stored and screened in a non-nuisance manner, not detrimental to the public health, and is in accordance with the provisions of subsections (1) through (11) of this section. Recycling must take place within 60 days after storage or stock piling. Off-site disposal shall be made at a sanitary landfill or solid waste disposal site licensed by the state.

(Ord. No. 119, § 5.5, 8-1993)

Sec. 36-98. - Freestanding outdoor furnaces.

After the effective date of this section, no person shall install, use or maintain a freestanding outdoor furnace in the village until federal or state regulations pertaining to the manufacture of freestanding outdoor furnaces are adopted by the village.

(Ord. No. 2006-4, § 2, 11-20-2006)

Sec. 36-99. - Sexually-oriented business.

- (a) *Intent and purpose.* The purpose and intent of this section is to regulate the location and operation of, but not to exclude, sexually-oriented businesses within the village and to minimize their negative secondary effects. It is recognized that sexually-oriented businesses, because of their very nature, have serious objectionable operational characteristics, which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually-oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of village residents or visitors. Further, it is necessary to ensure proper placement of such uses to protect those in the village under the age of 18; and therefore, these regulations are intended to restrict sexually-oriented businesses to locations where youth are least likely to encounter them accidentally, particularly when walking. The provisions of this section are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually-oriented businesses and their products, or to deny sexually-oriented businesses access to their intended market. Neither is it the intent of this section to legitimize activities that are prohibited by the ordinances of the village, or state or federal law. If any portion of section 36-99, including the related definitions found in section 36-5, is found to be invalid or unconstitutional by a court of competent jurisdiction, the village intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law.

- (b) *Definitions.* Definitions associated with sexually-oriented businesses are found in section 36-5.

- (c) *Regulations and conditions.* Sexually-oriented businesses shall be subject to the following standards:

- (1) A sexually-oriented business shall only be permitted within the LI, light industrial district.
- (2) The proposed sexually-oriented business shall not be located within 200 feet of any residential zoning district, including R-1, R-2, R-3, MF, and MH.
- (3) The proposed sexually-oriented business shall not be located within 500 feet of a park; public or private school or educational facility; child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center; place of worship or church; or other sexually-oriented business.
- (4) The distance between a proposed sexually-oriented business and the places listed above in subsections (2) and (3), shall be measured in a straight line from the nearest property line upon which the proposed sexually-

oriented business is intended to be located to the nearest property line of the places listed in subsections (2) and (3) above.

- (5) Entrances to the proposed sexually-oriented business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering between two and six inches in height that states:
  - a. "Persons under the age of 18 are not permitted to enter the premises," and
  - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- (6) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, or any product or service which may be associated with a sexually-oriented business shall be displayed so as to be visible from any road right-of-way or a neighboring property.
- (7) Hours of operation shall be limited to 8:00 a.m. to 11:00 p.m., Mondays through Saturdays.
- (8) Any dumpsters on site shall be enclosed on four sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
- (9) All signs shall be in accordance with section 36-35(i)(5) of this article; provided, that no sign visible from the parking area, any road right-of-way or a neighboring property shall display or depict any specified anatomical areas or specified sexual activities; and provided further, that no sign or building or any other part or appurtenance of the exterior of the sexually-oriented business shall include blinking, flashing or intermittent illumination or moving parts.
- (10) All parking shall be in accordance with section 36-35(i)(6); provided, that all off-street parking areas shall be illuminated during all hours of operation of the sexually-oriented business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
- (11) As a condition of approval and continued operation of a sexually-oriented business, such business shall acquire and comply with all pertinent federal, state and local requirements governing its operation and licensing.
- (12) Any booth, room, general public area or cubicle available in any sexually-oriented business used by patrons for the viewing of any entertainment characterized as showing specified anatomical areas or specified sexual activities shall:
  - a. Be constructed in accord with the Michigan Building Code, as amended.
  - b. Be unobstructed by any door, lock or other entrance and exit control device.
  - c. Have at least one side totally open to an indoor public lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
  - d. Be illuminated by a light bulb of wattage not less than 60 watts.
  - e. Have no holes, windows or openings, other than doorways without windows, in any exterior walls.

(Ord. No. 2006-7, § 2, 12-18-2006)

#### Sec. 36-100. - Garage sales.

- (a) *Definitions.* Definitions associated with garage sales are found in section 36-5.
- (b) *Regulations and conditions.* Garage sales shall be permitted in districts zoned R-1, R-2, R-3, MF and MH subject to the following requirements:
  - (1) Sale items may be displayed in the home, yard, garage and driveway, but shall not occupy any village street, sidewalk or street right-of-way. Items may be displayed outside of a building no more than 24 hours prior to, or

following the conclusion of, any such garage sale.

- (2) Not more than two garage sales shall be held at any lot or premises between January 1 and December 31 of any calendar year.
  - (3) No garage sale shall exceed three days in duration. Sale hours shall not commence earlier than 8:00 a.m. or extend beyond 7:00 p.m. each day.
  - (4) No garage sale shall be held less than 30 consecutive days subsequent to a previous garage sale at the same lot or premises.
  - (5) The occasional parking of a single car, in the parking area with a "for sale" sign in the window, does not constitute a garage sale.
  - (6) Sale items shall be limited to used tangible personal property belonging to the residents of the lot or premises where the sale occurs. Re-sale of newly purchased items is prohibited. Sales which occur more frequently than permitted by this section, or do not involve the sale of secondhand household effects, shall be considered a commercial retail sales business and are prohibited in a residential zoned district.
- (c) *Signs.* Signs for garage sales are regulated by sections 10-40 and 36-63(i)(2)h.

(Ord. No. 2014-5, § 3, 11-10-2014)

#### Sec. 36-101. - Prohibition of marihuana establishments.

- (a) Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the "Act"), are prohibited in all zoning districts, and shall not be permitted as home occupations under section 36-95 of this article.
- (b) No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of this section, shall be deemed to have been a legally established use under the provisions of the Village Code of Ordinances; that use shall not be entitled to claim legal nonconforming status.
- (c) Violations of this section are subject to the violations and penalties pursuant to section 36-140 of this article, and may be abated as nuisances pursuant to section 10-33.
- (d) This section does not supersede rights and obligations with respect to the transportation of marihuana by marihuana secure transporters through the village to the extent provided by the Act, and does not supersede rights and the regulations under section 36-95 of this article with respect to medical marihuana facilities established pursuant to the Michigan Medical Marihuana Act.

(Ord. No. 2019-1, § 1, 1-28-2019)

#### Secs. 36-102—36-130. - Reserved.

### ARTICLE V. - ADMINISTRATION AND ENFORCEMENT

#### *Footnotes:*

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

## Sec. 36-131. - Enforcement by zoning administrator.

- (a) *Administration generally.* Except where herein otherwise stated, this chapter shall be administered by the zoning administrator or such other official or officials as may be designated by the village council. The zoning administrator, or such other official(s) designated by the village council, shall have the power to:
- (1) Issue zoning permits and grant certificates of occupancy;
  - (2) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this ordinance;
  - (3) Issue and serve appearance tickets on any person with respect to any violation of this ordinance where there is reasonable cause to believe that the person has committed such an offense;
  - (4) Revoke or cancel any permit in case of failure or neglect to comply with any of the provisions of this chapter, or in case of any false statement or misrepresentation made in the application, in which case the provisions of section 36-140 regarding violations shall be invoked. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation; and
  - (5) Perform such other functions necessary and proper to enforce and administer the provisions of this ordinance.
- (b) *Duties of the zoning administrator.* It shall be the responsibility of the zoning administrator to enforce the provisions of this chapter and in so doing shall perform the following duties:
- (1) *Issue permits.* All applications for zoning permits and special use permits shall be submitted to the zoning administrator (or his assistant in his absence), who may issue such permits and certificates of occupancy when all applicable provisions of this chapter have been met and approval has been granted by the property body or official.
  - (2) *Record applications.* The zoning administrator (or his assistant in his absence) shall maintain and keep in an orderly, accessible manner, files of all applications for all of the above permits, and for variances issued. These shall be filed in the village administration office and shall be open to public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved.
  - (3) *Inspections.* The zoning administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.
  - (4) *Record nonconforming uses.* The zoning administrator shall document and record all nonconforming uses of land existing at the effective date of the ordinance from which this chapter is derived or affecting amendment for the purpose of carrying out the provisions of section 36-65. The zoning administrator shall further notify in writing all affected property owners of their nonconforming status within one year from the effective date of this chapter. Such notification shall be mailed to the last known address of the owner of the land (which is occupied by the nonconformity) as taken from the assessment roll.
  - (5) *Record of complaints.* The zoning administrator (or his assistant in his absence) shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter, and of the action taken consequent to each such complaint, which records shall be public records. The zoning administrator shall carry out the provisions of section 36-140 regarding violations.
  - (6) *Reports.*
    - a. *Report to village council.* The zoning administrator shall report to the village council periodically, at intervals of not greater than six months, summarizing for the period since the last previous report all permits, special use permits and variances issued; and all complaints of violation and the action taken.
    - b. *Semi-annual report to planning commission.* The zoning administrator shall make a report to the village

planning commission on a semi-annual interval, summarizing for the period since the last previous report all permits and variances, all complaints of violations and subsequent actions taken, and other actions taken under the authority of this chapter.

- (7) *Cancellation of zoning permits, special use permits, and variances.* The zoning administrator shall have the power to revoke or cancel any permit in case of failure or neglect to comply with any of the provisions of this chapter, or in case of any false statement or misrepresentation made in the application. The provisions of section 36-140 regarding violations shall be invoked. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.
- (8) *Fees.* The fees required by the chapter shall be paid to the zoning inspector prior to any meeting of the planning commission or board of appeals in connection with an appeal, application for special use or rezoning. The payment of such fees is a condition precedent to the validity of the permit to be issued by the zoning inspector.
- (9) *Collect, retain and return performance bonds.* The zoning administrator shall collect and retain all performance bonds, as may be required by the requirements of this chapter. See section 36-135 regarding performance bonding.
- (10) *Changing or varying chapter prohibited.* Under no circumstances is the zoning administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein. It shall be the responsibility of the village council to ensure that the zoning administrator enforces the provisions of this chapter.

(Ord. No. 119, § 6.0, 8-1993; Ord. No. 2012-2, § 1, 10-15-2012)

#### Sec. 36-132. - Application procedures for zoning permits.

Prior to construction or physical development of a proposed new use or structure, or the restoration and structural improvement (other than normal repairs and minor improvements of any existing use or structure, a zoning permit must be obtained. An application for a required zoning permit must be made to the zoning administrator. For uses permitted only by special use permit, see section 36-134.

- (1) *Contents of application.* Among the data to be supplied by the applicant and which shall constitute the application package, the following shall be included:
  - a. Name and address of applicant or applicants;
  - b. Location, shape, area, and dimension of the lot, and of the proposed structure or improvement (shown on a site plan);
  - c. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvement;
  - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users;
  - e. The yard, open space and parking space dimensions (as shown on a site plan); and
  - f. A site plan, where required.
- (2) *Fee.* A fee as may be set by the village council and listed in the village's schedule of fees shall accompany any plans or applications in order to defray the cost of administration and inspection.
- (3) *General procedural steps.* Upon submission of an application, the zoning administrator:
  - a. Reviews the application package within 15 days from the date of application to:
    1. Make sure that it is the proper application for the zoning action requested.
    2. See that all required information is submitted.

3. Determine conformance with zoning regulations.
- b. Takes one or more of the following preliminary actions:
  1. Requests from the applicant that any omitted or pertinent and necessary information now be submitted.
  2. If necessary, requests the board of appeals to interpret an unclear chapter provision.
  3. Where required, reviews site plan according to site plan review standards for approval as set forth in section 36-66.
  4. If necessary, discusses the application and site plan with the planning commission for advisory comments.
  5. Makes a site inspection to verify accuracy of the application and to gather additional information.
- (4) *Approval of site plan; issuance of zoning permit.* Upon satisfaction of the standards for site plan review/approval, and of any additional requirements or conditions that may be needed to meet those standards, the zoning administrator shall approve site plan and issue a zoning permit. One copy of the zoning permit shall be returned to the owner or applicant. A performance bond may be required.
- (5) *Denial of zoning permit.* If the application for zoning permit is denied by the zoning administrator, the reason or cause for denial shall be stated in writing.
- (6) *Term of validity.* A zoning permit shall be valid for one year. A valid zoning permit is eligible for one additional one-year extension granted by the zoning administrator as a reasonable length of time within which to begin construction.
- (7) *Inspection.* At least one site inspection by the zoning administrator must be held before development.
- (8) *Cancellation of Permit.* See section 36-140 for violations.

(Ord. No. 119, § 6.1, 8-1993)

Sec. 36-133. - Application procedures for certificates of occupancy.

- (a) *Certificate of occupancy required; purpose.* Prior to occupying a new structure; using land in a manner or intensity different from the previous use, or occupying an existing structure with a new type of use other than what previously existed, a certificate of occupancy must be obtained from the village. The certificate of occupancy is usually granted after an inspection. The major purpose for a certificate of occupancy is to ensure zoning compliance. The certificate of occupancy is intended to make sure that:
  - (1) After construction, a new structure is the same as the one originally approved.
  - (2) Before occupancy, a new use is the same as the use which was approved.
  - (3) Both structure and use comply with all zoning requirements and any conditions previously imposed.
- (b) *General procedural steps.*
  - (1) Upon notification by the applicant to the zoning administrator that the structure and/or use is ready for inspection, the zoning administrator:
    - a. Shall contact the applicant to establish a mutually agreed upon date and time for inspection.
    - b. Researches and reviews any known records relating to the site in question.
    - c. Inspects for compliance with zoning requirements and with any previously imposed conditions.
  - (2) Upon inspection, the zoning administrator takes one of the following actions:
    - a. Issues the certificate of occupancy; or
    - b. Delays issuance subject to completion or alterations necessary to achieve full compliance and follow-up

inspection; or

- c. Denies the certificate of occupancy in writing based on inspection findings of noncompliance with this chapter, and initiates enforcement action pursuant to the requirements of this chapter.

(Ord. No. 119, § 6.2, 8-1993)

Sec. 36-134. - Application procedures for special use permits by planning commission.

Prior to construction or physical development of a proposed special use, as specified by this chapter, an application for a required special use permit must be obtained. An application for a special use permit must be made to the zoning administrator.

- (1) *Contents of application.* Among the date to be supplied by the applicant and which shall constitute the application package, the following shall be included:
  - a. Name and address of applicant or applicants;
  - b. Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on the site plan);
  - c. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvement;
  - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users;
  - e. The yard, open space and location of parking spaces (as shown on a site plan); and
  - f. Required site plan which must be approved before any granting of a special use permit.
- (2) *Fee.* A fee as set by the village council and listed in the village's schedule of fees shall accompany any plans or applications in order to defray the cost of administration and inspection.
- (3) *General procedural steps.* Upon submission of an application for a special use permit;
  - a. The zoning administrator:
    1. Reviews application package within 15 working days from the date of application to:
      - i. Make sure that it is the right application for zoning action requested;
      - ii. See that all required information is submitted; and
      - iii. Make sure that the proposed use is permitted in a particular district by special use permit.
    2. Takes one or more of the following actions:
      - i. Requests from the applicant that any omitted or necessary information now be submitted;
      - ii. If necessary, seeks an interpretation of this chapter from the planning commission;
      - iii. Makes advisory comments about the site plan based on site plan review standards; and/or
      - iv. Forwards the complete application with comments to the planning commission for review and approval.
  - b. The planning commission:
    1. Reviews the site plan according to site plan review standards, as set forth in this chapter. See section 36-66(c).
    2. Reviews the proposed special use according to standards for special use permits, as set forth in the ordinance. See section 36-67(1).
    3. Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this chapter.

4. Gives a public notice in a newspaper of general circulation of official receipt of an application for a special use
  - i. Describes the nature of the special use request;
  - ii. Indicates the property in question;
  - iii. States the time and place where the special use request will be considered;
  - iv. Indicates when and where written comments will be received concerning the request; and
  - v. Indicates that a public hearing by the planning commission on the proposed special use is optional, but may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for a special use permit.

This notice is also mailed or delivered to property owners and occupants within 300 feet of the property in question. These notices must be made between five and 15 days before the date on which the application is to be considered. An affidavit of mailing or delivery of notice must be maintained.

All public input is considered and evaluated. A summary of the public comments should be retained for the record.

- (4) *Approval of application; issuance of special use permit.* Upon satisfaction of the above, and of any additional requirements or conditions that may be needed to meet the above standards, the planning commission after public hearing shall approve the application and site plan. The planning commission shall direct the zoning administrator to issue a special use permit. One copy of the permit shall be returned to the owner or applicant. A cash bond may be required.
- (5) *Final approval, denial, or approval with conditions to be in writing.* When an application for a special use permit is finally approved, denied or approved subject to conditions, the decision must be incorporated into an official written statement which contains the conclusion relative to the special use permit request. The decision shall specify the basis for the decision, and any conditions which may be imposed in the case of approvals.
- (6) *Term of validity.* An approved special use permit must be utilized within one year during which time construction of the approved special use must begin. A valid special use permit is eligible for one additional one-year extension granted by the planning commission as a reasonable length of time within which to secure a county building permit and begin construction. See section 36-67(5).
- (7) *Inspection.* At least two site inspections by the zoning administrator must be held: One during development, and one before the use or structure is occupied. If development is phased or in stages, then one inspection per phase or stage shall be made.
- (8) *Cancellation of special use permit.* See section 36-132(8).
- (9) *Appeals.* See section 36-67(8) and section 36-137(7).

(Ord. No. 119, § 6.3, 8-1993)

#### Sec. 36-135. - Cash bonding for compliance.

In authorizing any zoning permit, special use permit or variance, the body or official which administers the respective request, as designated by this chapter, may require that a cash bond be furnished to: (i) ensure compliance with the requirements, specifications and conditions imposed with the grant or such permit or variance; and (ii) ensure the discontinuance of a temporary use by a stipulated time.

- (1) *Amount of bonding.* Unless otherwise specified in this chapter, guidelines for establishing the amount of bonding shall be prescribed by the village's schedule of fees. If none are specified or applicable to the particular use of



development, the village council shall by resolution establish a guideline which it deems adequate for the protection of the village and its inhabitants.

- (2) *Return of cash bond.* Upon the satisfactory completion of specific improvements as attested to by the zoning administrator, the village council shall direct the zoning administrator to return any improvement or cash bond which may pertain to said specific improvement.
- (3) *Withholding and partial withholding of cash bond.*
  - a. The village council may direct the zoning administrator not to return all or part of any bond, and to instead apply said bond or part thereof to the project in question when the improvements are not satisfactorily completed.
  - b. Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed, the village council shall determine what amount of the bond or bonds are to be returned to the applicant and the amount to be applied to the improvements.
- (4) *Cash bond for razing of building.* The zoning administrator shall require a zoning permit application and bond prior to the razing or demolition of principal structures and accessory structures having more than 144 square feet of floor area. The bond shall be determined according to a guideline of \$1.00 per square foot (rounding up on a fraction) of floor area. Cash, check, bond or bank letter of credit are each acceptable financial guarantee types. Alternatively, a written estimate of the proposed cost of demolition plus ten percent from a demolition company or excavation company is permitted for the bond instead of the amount calculated by the above formula. The permit is conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the zoning administrator, fire inspector or the village council may from time to time prescribe, including filling of excavation, soil erosion prevention, adding topsoil and seeding of grass on the property that is to be left vacant and property termination of utility connections.

(Ord. No. 119, § 6.4, 8-1993; Ord. No. 2015-4, § 1, 3-16-2015)

#### Sec. 36-136. - Schedule of fees.

Upon the filing of an application for a zoning permit, special use permit, board of appeals, review, variance or rezoning, an administrative fee shall accompany said application. The village council shall determine and set a schedule of fees to be charged. Fees shall be collected prior to processing of any requested permit, variance, appeals, rezoning, etc.

(Ord. No. 119, § 6.5, 8-1993)

#### Sec. 36-137. - Similar use determinations.

- (a) *Purpose.* Recognizing that every type of potential use cannot be anticipated in this chapter, this section provides a process for addressing uses not specifically listed or those that cannot be readily determined as substantially the same as those listed. Similarly, there are various uses that include the phrase "and similar uses." These procedures are also intended to interpret the phrase "and similar uses" found in this chapter.
- (b) *Review standards.* Upon receiving an application for a zoning permit for a use that is not specifically listed in the applicable zone district, the zoning administrator shall determine that the use is permitted if it:
  - (1) Is not specifically listed as permitted use in any zone district;
  - (2) Will not impair the present or potential use of other properties within the same zone district or the neighboring

area;

- (3) Has no greater potential impact on surrounding properties than those listed in the zone district in terms of aesthetics, traffic generated, noise, potential nuisances, and other impacts related to health, safety and general welfare
- (4) Will not adversely affect stated goals in the master plan.
- (c) *Use as-of-right versus special use.* If a use is determined to be permitted pursuant to the standards in subsection (b), the zoning administrator shall determine whether it is permitted as-of-right or, instead, as a special use by comparing it to the list of permitted uses for the zone district and determining which of the listed uses it most resembles.
- (d) *Issuance and effect of decision.* The zoning administrator's decisions under this section shall be made in writing and sent to the applicant. Permitted uses shall comply with all zone district conditions as well as the review and approval requirements that apply to similar uses that are specifically listed for the zone district.
- (e) *Appeals and referrals to the ZBA.* A person aggrieved by a decision made by the zoning administrator pursuant to this Section may appeal to the zoning board of appeals, which shall review the decision by determining whether the zoning administrator properly applied the standards described above. Further, instead of making the initial decision pursuant to this section, the zoning administrator may in his or her sole discretion refer the issue to the zoning board of appeals for initial consideration. In this circumstance, no application fee shall be charged.
- (f) *Text amendments.* Determinations made pursuant to this section shall be recorded by the zoning administrator and periodically presented to the planning commission for potential incorporation into the text of this chapter.

(Ord. No. 2016-2, § 1, 4-18-2016; Ord. No. 2016-3, § 1, 4-18-2016)

Sec. 36-138. - Administrative departures.

- (a) *Purpose.* Administrative departures are provided to permit minor deviations from zoning requirements where practical difficulties warranting a variance do not exist. However, due to site characteristics or other related conditions, a limited degree of flexibility to meet the spirit and purpose of this chapter is appropriate. It is not a general waiver or weakening of regulations. Rather, the procedure permits a site-specific plan that is equal to or better than the strict application of a design standard. It is not intended as a substitute for a variance granted by the zoning board of appeals or as a means for relief from standards in this chapter.
- (b) *Applicability.* Only those administrative departures that are specifically noted in this chapter may be requested and approved.
- (c) *Application procedure.* Requests for administrative departures shall be submitted with the applicable application and shall include the following:
  - (1) Information and materials, as listed in the application form, in sufficient detail to indicate the nature and necessity of the request, and may include a scaled drawing. Requested administrative departures shall be separately listed and clearly noted on the proposed plan.
  - (2) The applicable fee established by resolution of the Village Council.
- (d) *Review Standards.* The zoning administrator shall consider whether the proposed alternative meets the following standards.
  - (1) *Zoning ordinance.* The proposed alternative is consistent with the purpose and intent of the zone district, and the specific requirements and conditions of the administrative departure approval criteria.
  - (2) *Neighborhood.* The proposed alternative will be compatible with adjacent properties and the neighborhood.

- (3) *Environment.* The proposed alternative will retain as many natural features of the landscape as possible.
- (4) *Public facilities.* The proposed alternative will not place a burden on existing infrastructure and services.
- (5) *Percentage of departure.* The proposed alternative does not modify any numerical zoning standard related to building dimensions, lot dimensions or coverage, open space, landscaping, parking, fencing, walls, screening, or exterior lighting by more than 10 percent of the requirement.
- (6) *Quality of development.* The proposed alternative, if approved, will result in development is of equal or greater development quality with respect to design, material, and other development features than without the administrative departure.
- (7) *Other.* The request is necessitated by a condition of the site or structure, and not as a means to reduce costs or inconvenience, and is limited to that necessary to account for special site conditions or development requirements specific to an individual user.
- (e) *Decision.* The zoning administrator may approve, approve with conditions, deny or refer an application to the ZBA.
- (f) *Prior to other approval.* Administrative departures shall be reviewed, and approved or denied in writing by the zoning administrator along with the reasons for the decision prior to approval of a site plan review, special land use, or other approval required by this chapter.
- (g) *Appeal.* A decision of the zoning administrator regarding an administrative departure may be appealed to the ZBA. Conditions imposed as part of an administrative departure approval cannot be appealed unless submitted as a full request for a variance.

(Ord. No. 2016-2, § 1, 4-18-2016; Ord. No. 2016-3, § 1, 4-18-2016)

Sec. 36-139. - Reserved.

**Editor's note**— Ord. No. 2016-3, § 1, adopted April 18, 2016, repealed § 36-139, which pertained to application procedures for appeal and derived from Ord. No. 119, § 6.8, 8-1993.

Sec. 36-140. - Violations.

- (a) *Municipal civil infractions; nuisance per se.*
  - (1) Any person, corporation, firm, or other entity who violates, disobeys, omits, neglects or refuses to comply with any provision of this ordinance or any condition or requirement of any permit, certificate, plan, agreement, variance or other approval or authorization granted under this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00, plus costs and other sanctions, for each violation. Each day that a violation continues shall constitute a separate offense. Repeat offenses shall be subject to increased fines as provided by section 2-288(c)(2) of this Code, except that the increased fine for a repeat offense shall be as follows:
    - a. The fine for any offense which is a first repeat offense shall be no less than \$500.00, plus costs and other sanctions.
    - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$1,000.00, plus costs and other sanctions.
  - (2) In addition to the zoning administrator, any authorized village official, as provided by section 2-282 of this Code, is authorized to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing the alleged violators to appear at the city municipal ordinance violations bureau) for violations under this ordinance.

(3) Any building erected, moved, altered, razed, or converted, or any use of land which is begun or changed subsequent to the effective date of this ordinance, or its amendment, that is in violation of any provision of this ordinance or any condition or requirement of any permit, certificate, plan, agreement, variance or other approval or authorization granted under this ordinance, is hereby declared to be a nuisance per se, and shall be abated by any court of competent jurisdiction.

(b) *Compliance with chapter required.* The imposition of any sentence shall not exempt an offender from compliance with the provisions of this chapter.

(Ord. No. 119, § 6.9, 8-1993; Ord. No. 2012-2, § 2, 10-15-2012)

## ARTICLE VI - ZONING BOARD OF APPEALS

### Sec. 36-141. - General provisions.

(a) *Powers.* The village shall have a zoning board of appeals (ZBA) with the authority to exercise all powers granted by state law and this article. The ZBA is specifically authorized to hear and decide the following types of applications:

(1) Variances, both dimensional and use.

(2) Interpretations of the text and maps of this chapter.

(3) Appeals of zoning administrator decisions regarding review, administrative departures, use determinations or code interpretation.

(4) Appeals of planning commission decisions regarding special land uses, site plan review and planned unit development.

(5) Any other application that the ZBA is required to hear and decide pursuant to state law or the provisions of this chapter.

(b) *Composition.* The ZBA shall be composed as follows:

(1) *Regular members.* The ZBA shall consist of five regular members appointed by the village council. The ZBA may have one member who is also a member of the village council, and one member who is also a member of the planning commission. Any ZBA member who is also a member of the village council may not chair the ZBA.

(2) *Alternate members.*

a. The village council may appoint up to two alternate members of the ZBA to serve for the same terms as regular members. Alternate members shall not be members of the village council or planning commission.

b. An alternate member may be called to sit as a regular member of the ZBA in the absence of a regular member or to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.

c. The alternate member shall serve on the ZBA until a final decision is made on the application for which the member was called.

d. When serving, an alternate member shall have the same voting rights as a regular member of the ZBA.

(3) *Qualifications.* All ZBA members shall be qualified electors of the village and shall, to the extent possible, be representative of the entire village.

(4) *Terms.* The terms of office for members appointed to the ZBA shall be for three years, except for a member serving because of his or her membership on the village council or planning commission, whose term shall be limited to the time he or she is a member of that body. Persons appointed to fill vacancies for unexpired terms shall serve for the remainder of the term.

- (5) *Removal.* Members of the ZBA may be removed by the village council for misfeasance, malfeasance or nonfeasance written charges and after a public hearing.
- (c) *Conflict of interest.*
- (1) *Disclosure.* A member shall disclose any conflict of interest with respect to any matter before the ZBA and shall refrain from participating in any hearing, any discussion or any decision on that matter. Failure of any member to do so constitutes misconduct in office.
- (2) *Uncertainty.* If a member is uncertain regarding a potential conflict of interest, the village manager or zoning administrator shall be consulted and shall make a determination.
- (d) *Meetings.*
- (1) *Scheduling of meetings.* Meetings shall be held at the call of the chairperson after receipt of an application and as necessary at a fixed location and shall be open to the public, in accordance with the Open Meetings Act.
- (2) *Quorum.* The ZBA shall not conduct business unless a majority of the regular members are present. When considering a use variance, a total of four members (which may include an alternate member) must be present.
- (3) *Applications reviewed.* The ZBA shall set the number of applications that may be reviewed at each meeting. Upon receipt of the established number of applications, additional applications shall be placed on the next available meeting date.
- (4) *Official records.* The ZBA shall maintain an official record of its proceedings.
- (e) *Voting requirements.* The concurring vote of at least three ZBA members is necessary to decide any matter upon which the ZBA is authorized to render a decision, except that the concurring vote of at least four members is necessary to grant a use variance.
- (f) *Conditions of approval.*
- (1) *Authority to impose conditions.* In making any decision provided for in this chapter, the ZBA may attach any conditions regarding the location, character and other features of the application as it may deem reasonable in furtherance of the intent and spirit of this chapter and the protection of the public interest, or as otherwise permitted by law. Notwithstanding the foregoing, the ZBA has limited authority to impose or modify conditions of approval in appeals from decisions of the planning commission, as provided in section 36-143 of this article.
- (2) *Purpose of conditions.* Any conditions attached to an approval shall be intended to ensure that affected public services and facilities are capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, or to promote the use of land in a socially and economically desirable manner. Conditions imposed shall relate to one or more of the following requirements:
- a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who shall use the land or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
  - b. Be related to the valid exercise of the village's police power which is affected by the proposed use or activity;
  - c. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards;
  - d. Be related to support facilities such as parking areas and driveways; pedestrian and vehicular circulation systems; screening and buffer areas; and civic or urban design features of the site.
- (3) *Bond or surety.* The ZBA may require a performance bond or surety acceptable to the village in an amount

equivalent to the project improvements, or infrastructure and service improvements as needed for approval pursuant to section 36-135.

(g) *Decisions.*

- (1) *Rendering of decisions.* The ZBA shall render its decisions in a timely fashion and in a manner that is consistent with the requirements of the applicable zone district or other applicable provisions of this chapter. The ZBA shall specifically state the grounds of any determination, which shall be included in the minutes.
- (2) *Duration of approval.* Any approval given by the ZBA for a specific property shall be valid for a period of one year, provided the property is used as approved or work has substantially commenced in that period. Upon written request prior to the expiration of the approval, one extension of up to six months may be granted if the ZBA finds that the extension is warranted due to circumstances beyond the control of the applicant.
- (3) *Finality of decision; Appeals.* The decision of the ZBA shall be final. Appeals may be taken to the Ionia County Circuit Court as provided by state law.

(Ord. No. 2016-3, § 3, 4-18-2016)

Sec. 36-142. - Application and hearing procedures.

(a) *Applications.*

- (1) *Filing.* Applications to the ZBA shall be filed with the village office within any applicable time period established by this article or state law.
- (2) *Contents.* At a minimum, applications shall include the following:
  - a. An application form provided by the village and completed in full and signed by the applicant/appellant, including a detailed description of the nature of the request and why it should be granted.
  - b. Information and materials, as listed in the application form, in sufficient detail to evaluate the request and make a determination. This may include a scaled drawing.
  - c. The applicable fee established by resolution of the village council.
- (3) *Waiting period for reconsideration.* No application that is the same or substantially similar to a previous application that was denied in whole or in part by the ZBA shall be submitted for reconsideration for a period of one year from the date of the last denial. An exception may be permitted by the ZBA if the applicant/appellant can demonstrate a change of circumstances from the previously denied application.

(b) *Public hearings.* The following review procedures shall apply to all applications to the ZBA:

- (1) *Setting of hearing date.* The zoning administrator shall review the application for form and completeness and, if the application is accepted, shall inform the ZBA chairperson to set a public hearing date and time.
- (2) *Public notice.* The ZBA shall provide public notice and conduct a public hearing in accordance with the requirements of state law.
- (3) *Testimony.* A person may appear and testify at the public hearing, either in person or by a duly authorized agent or attorney. Written comment may also be submitted prior to the public hearing.
- (4) *Other Information Required.* The ZBA may request other materials deemed necessary. To this end, the chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

(Ord. No. 2016-3, § 3, 4-18-2016)

Sec. 36-143. - Variances.

(a) *Purpose.*

- (1) The variance process is intended to provide limited relief from the requirements of this chapter in those cases where strict application of a particular requirement would create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this chapter.
- (2) Variances will not be granted merely to remove inconveniences or financial burdens. The possibility that compliance with the chapter may prove to be more costly or time consuming shall not be part of the consideration of the ZBA.
- (3) Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by an act or omission of the applicant or the applicant's predecessors in title.

(b) *Dimensional standards.* A dimensional variance may be allowed by the ZBA only in cases where the applicant establishes a practical difficulty by demonstrating that all of the following conditions exist:

- (1) *Exceptional or extraordinary circumstances or conditions.* There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zone district or in the general vicinity. Exceptional or extraordinary circumstances or conditions may include:
  - a. Exceptional narrowness, shallowness or shape of a specific property in existence on the effective date of this chapter or amendment;
  - b. Exceptional topographic or environmental conditions or other extraordinary situations on the land, building or structure; or
  - c. The use or development of the property immediately adjacent to the subject property would prohibit the literal enforcement of the requirements of this chapter or would involve significant practical difficulties.
- (2) *Substantial Property Right.* The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zone district and in the neighboring area.
- (3) *Not self-created.* The immediate practical difficulty causing the need for the variance was not created by the applicant or the applicant's predecessors in title.
- (4) *Likelihood of recurrence.* The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.
- (5) *No substantial detriment.* The variance shall not cause substantial detriment to adjacent property and the surrounding neighborhood.
- (6) *Hazards.* The variance shall not increase the hazard from fire, flood or similar dangers.
- (7) *Traffic.* The variance shall not increase traffic congestion.
- (8) *Nuisances.* The variance shall not produce nuisance conditions to occupants or nearby premises, whether by reason of dust, noise, fumes, odor, vibrations, smoke or lights.
- (9) *Property values.* The variance shall not cause a substantially adverse effect upon adjacent property values.
- (10) *Master plan/Zoning ordinance.* The variance shall be consistent with, and not materially impair, the purpose and intent of the master plan and zoning ordinance, including the zone district.

(c) *Use variances.* A use variance may be allowed by the ZBA only in cases where all of the following conditions are met:

- (1) *Unnecessary hardship.* The condition, location, or situation of the specific property or intended use of the property creates an unnecessary hardship that is unique to that property and the zone district.

- (2) *Not self-created.* The need for the variance was not created by the applicant or the applicant's predecessors in title.
  - (3) *No substantial detriment.* The use variance shall not alter the essential character of the neighborhood, nor be a detriment to adjacent properties.
  - (4) *Cannot be reasonably used.* The land, building or structure cannot be reasonably used for the permitted uses in the zone district.
  - (5) *Master plan/Zoning ordinance.* The variance shall be consistent with, and not materially impair, the purpose and intent of the master plan and zoning ordinance, including the zone district.
- (d) *Consulting with planning commission.* Prior to reaching a decision on a use variance, the ZBA may request that the planning commission, following presentation of the request by the applicant, forward an opinion to the ZBA. The planning commission opinion shall be advisory and shall be limited to the effect of the proposed Use variance on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the zone district.
- (e) *Invalidation and abandonment of variances.*
- (1) Any variance may be revoked and declared invalid should any of the requirements of this chapter and conditions imposed by the ZBA cannot be met or have failed to be maintained. Such noncompliance shall also be a violation of this chapter.
  - (2) That portion of any variance that is granted by the ZBA, but thereafter is physically moved, dimensionally reduced or generally altered by the owner in a way that brings the property closer in conformance with the zone district shall be considered to be abandoned if the use ceases for a period of 12 calendar months or more. The property cannot rely on the original variance to support the claim of hardship if it is demonstrated that the property can, in fact, comply or more closely comply with the requirements of this chapter.

(Ord. No. 2016-3, § 3, 4-18-2016)

#### Sec. 36-144. - Appeals.

- (a) *Purpose.* The purpose for allowing appeals from decisions of the planning commission, zoning administrator and code enforcement staff is to ensure a review process that is fair and equitable to all affected persons.
- (b) *Standing to Appeal.* The ZBA may decide appeals made by an applicant or any aggrieved party from any decision of the planning commission, zoning administrator, or any other village official administering this chapter. A party requesting an appeal may appear personally or by agent or attorney.
- (c) *Time limits.* An appeal shall be filed with the ZBA within 30 days after the date of the decision being appealed. The filing shall specify the grounds of the appeal. The appeal shall be transmitted to the ZBA together with all necessary written documentation regarding the action being appealed. An appeal hearing shall be noticed as required by state law.
- (d) *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed, unless the zoning administrator certifies to the ZBA that a stay would cause imminent peril to life or property. In this case, the proceedings may only be stayed by a restraining order granted by the Ionia County Circuit Court.
- (e) *Review standards.* In deciding the appeal, the ZBA shall be limited to determining whether or not the decision that was made was done so using the proper requirements and standards in this chapter. Where the decision being appealed was made after a public hearing with opportunity for public comment, the decision of the ZBA is limited to the information that was available to the initial decision maker. In situations where no public hearing was held prior



to the initial decision, and where the appellant did not have an opportunity to present arguments or information, the ZBA may consider additional information such as verbal statements, written information, plans, pictures, sound recordings, or otherwise, as it considers proper.

- (f) *ZBA Decision; Conditions.* The ZBA may reverse, affirm, or modify, in whole or in part, the order, requirement, decision or determination being appealed. However, the ZBA may not modify or vacate conditions of approval imposed by the planning commission as part of an approval. Further, the ZBA may not impose new conditions when reviewing an approval of the planning commission unless the ZBA determines that the approval was issued in error, and that approval may only be legally given if conditions are imposed.

(Ord. No. 2016-3, § 3, 4-18-2016)

#### Sec. 36-145. - Interpretation requests.

- (a) *Purpose.* The purpose for seeking interpretations of the zoning ordinance is to ensure a review process that is fair and equitable to all affected persons. The zoning administrator shall first review and recommend ordinance interpretations to the ZBA.
- (b) *Text.* The ZBA may hear requests for the interpretation of the text of the zoning ordinance. Text interpretations shall be narrow and address only the situation being interpreted, shall be based on a thorough reading of this chapter and shall not have the effect of amending this zoning ordinance. Interpretations shall give weight to practical interpretations by the zoning administrator when applied consistently over a period of time.
- (c) *Zoning map.* The ZBA may hear requests for the interpretation of the zoning map in the zoning ordinance to determine the precise location of boundary lines between zone districts. Where reasonably possible, zone district boundary lines shall follow lot lines and the center lines of alleys, streets, rights-of-way or watercourses.
- (d) *Benefit to property owner.* Where the intent of this chapter is unclear and the text or maps can be read to support equally more than one interpretation, the benefit shall go to the property owner.
- (e) *Records.* Records shall be kept of all interpretations.
- (f) *Noticing Requirements.* An interpretation hearing shall be noticed as required by state law.
- (g) *Attendance.* A party requesting an interpretation may appear personally or by agent or attorney.

(Ord. No. 2016-3, § 3, 4-18-2016)

#### Secs. 36-146—36-170. - Reserved.

#### ARTICLE VII. - AMENDMENTS

##### Footnotes:

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**State Law reference—** *Zoning ordinance adoption, MCL 125.584.*

#### Sec. 36-171. - Village council may amend.

The regulations and provisions stated in the tables and text of this chapter and the boundaries of zoning districts shown on the Zoning Map of Lake Odessa may be amended, supplemented, or changed by the village council in accordance with Public Act No. 207 of 1921 (MCL 125.581 et seq.).

(Ord. No. 119, § 7.0, 8-1993)

## Sec. 36-172. - Initiation of amendments.

Proposals for amendments, supplements or changes may be initiated by the village council on its own motion, by the planning commission, or by written request of (or petition of) one or more owners of property to be affected by the proposed amendment.

(Ord. No. 119, § 7.1, 8-1993)

## Sec. 36-173. - Amendment procedure.

- (a) *Written request or petition to village council.* Except for those initiated by planning commission or village council, all written requests by one or more owners for an amendment shall be submitted to the village council.
- (b) *Referral to planning commission/public hearing.* The village council shall refer every proposed amendment, supplement or change to the planning commission for the holding of a required public hearing thereon and for review and recommended action.
- (c) *Planning commission recommendation.* The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of such proposal upon the village land use plan. The planning commission may recommend any additions or modifications to the original amendment proposal. The planning commission shall transmit a written report with recommendation within 60 working days to the village council setting forth the reasons for the acceptance, denial or modification of the amendment proposal.
- (d) *Action by village council.* If the village council deems any amendment, changes, additions or departures are advisable to the proposed text or district boundaries recommended by the planning commission, it shall refer the same back to the planning commission for a further report thereon within a time specified by the village council. Before any amendments shall become effective, the village council may on its own, conduct a public hearing on the proposed amendment. Thereafter, the village council may adopt the amendment with or without any changes or may refer the same again to the planning commission for further report.
- (e) *Public hearing procedure and notification.* For any required public hearing conducted by the planning commission or any additional public hearings by the village council on a proposed amendment to this chapter, the following procedure and notice requirements shall apply:
  - (1) Notice of the public hearing shall be given by publishing said notice at least once in a newspaper of general circulation in the village, stating the time and place of such hearing and the substance of the proposed amendment, and in the event of a proposed change in the amendment, and in the event of a proposed change in the zoning map, the district boundary lines affected shall also be stated. This shall appear in said newspaper at least 15 days prior to the date set for the public hearing. Furthermore, not less than 15 days notice of the time and place of such public hearing shall first be given by United States mail to each public utility or railroad within the districts or zones affected, and a hearing be granted any person interested at the time and place specified. An affidavit of mailing shall be maintained.
  - (2) Notice of the proposed zoning change shall also be made by the village clerk, with notification by first-class mail to the person or firm to whom the property is assessed, and to all persons or firms to whom property within 300 feet are assessed. An affidavit of mailing shall be maintained.
- (f) *Effect of protest to proposed amendment.* Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a three-fourths vote of the village council. The protest petition shall be presented to the village council before final legislative

action on the amendment and shall be signed by one of the following:

- (1) The owners of at least 20 percent of the area of land included in the proposed change.
  - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (g) *Exclusion of publicly owned land from calculation of land area requirement.* For purposes of subsection (f) of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.
- (h) *Publication of notice of adoption.* Following adoption of a zoning ordinance and subsequent amendments by the village council, one notice of adoption shall be published in a newspaper of general circulation in the village within 15 days after adoption.
- (i) *Contents of notice of adoption.* The notice of adoption under subsection (h) of this section shall include the following information:
- (1) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the village council of the village of Lake Odessa."
  - (2) In the case of an amendment to an existing ordinance, either a summary or the regulatory effect or the amendment, including the geographic area affected, or the text of the amendment.
  - (3) The effective date of the ordinance.
  - (4) The place and time where a copy of the ordinance may be purchased or inspected.
- (j) *Resubmittal of application for rezoning.* No application for a rezoning which has been denied by the village 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 the village council to be valid.
- (k) *Comprehensive review of zoning ordinance.* The planning commission shall, from time to time at intervals of not more than five years, examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to the village council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety, and general welfare.

(Ord. No. 119, § 7.2, 8-1993)