

Village of Vicksburg, MI
Tuesday, June 28, 2022

Chapter 475. Zoning

[HISTORY: Adopted by the Village Council of the Village of Vicksburg 3-26-1976 by Ord. No. 113 (Ch. 82 of the 1995 Village Code). Amendments noted where applicable.]

ATTACHMENTS

Attachment 1 - Table of Uses 

Attachment 2 - Schedule of Lot, Yard and Area Requirements 

Part 1. In General

§ 475-1. Title.

This chapter shall be known and may be cited as "The Zoning Ordinance of the Village of Vicksburg."

§ 475-2. Authority of chapter.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

This chapter is adopted pursuant to the Michigan Zoning Enabling Act (ZEA), Act No. 110 of the Public Acts of Michigan of 2006 (MCLA § 125.3101 et seq.), the Michigan Planning Enabling Act, Act No. 33 of the Public Acts of Michigan of 2008 (MCLA § 125.3801 et seq.), and Act No. 208 of the Public Acts of Michigan of 1949 (MCLA § 125.943 et seq.), as amended.

§ 475-3. Purpose of chapter.

- A. The intent of this chapter is to promote the public health, safety, morals, convenience, comfort, amenities, prosperity and general welfare of the community, in order to encourage and maintain a wholesome, serviceable and attractive Village, by having regulations and restrictions: that increase the safety and security of home life; that preserve and create a more favorable environment in which to rear children; that develop permanent good citizenship; that stabilize and enhance property and civic values; that provide for a more uniformly just land use pattern and tax assessment basis; that facilitate adequate provisions for increased safety in traffic, vehicular parking, light, air and other public requirements; that lessen congestion, disorder and danger which often inhere in unregulated Village development; that prevent overcrowding of land and undue concentration of population; and that provide more reasonable and serviceable means and methods of protecting and safeguarding the economic structure upon which the good of all depends.
- B. For these purposes, the Village is divided into districts of such number, shape and area, and of such common unity and purpose, adaptability or use, that are deemed most suitable to provide for the best general civic use, protect the common rights and interests within each district, preserve the general rights and interests of all, and promote improved, wholesome, sightly, harmonious and economic results in civic service, activities and operations; and, by further regulation, limit the location, uses and occupancy of the buildings, structures and land to be used for trade, industry, residence or other purposes; and also the location, height, bulk, occupancy and uses of buildings

or other structures, including the percentage of lot occupancy and coverage, street setback lines, sizes of yards and other open spaces.

§ 475-4. Definitions.

[Amended 12-14-1988 by Ord. No. 172; 5-17-1989 by Ord. No. 173; 1-2-1996 by Ord. No. 218; 6-17-1996 by Ord. No. 221]

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

ACCESSORY USES

A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

ALLEY

A passage or way open to public travel affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

ANIMAL HOSPITAL

An establishment for the care and treatment of small animals, including household pets.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

APARTMENT HOUSE

A building used and/or arranged for rental occupancy or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service or utilities in common.

APPLIANCE, HOUSEHOLD

Nonportable equipment used for domestic functions, including but not limited to washers, dryers, refrigerators, freezers, and stoves. Includes but is not limited to washers, dryers, refrigerators, ovens/ranges, dishwashers, and other appliances not easily carried without assistance.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

ASPHALT AND CONCRETE READY-MIX PLANTS

A plant for the manufacture or mixing of concrete, cement, and concrete and cement products, including any apparatus and uses incident to such manufacturing and mixing.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

AUTOMOBILE REPAIR GARAGE

An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, provided it is conducted within a completely enclosed building.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

AUTOMOBILE SALES ROOM AND ADJOINING OUTDOOR SALES AREA

The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental or lease of new motor vehicles or used motor vehicles as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

AUTOMOBILE TRAILER

A vehicle or structure adapted to or intended to be adapted to being attached to a motor vehicle for hauling on the highways, including self-propelled and non-self-propelled vehicles or structures, and whether it has or has not wheels attached, or is or is not resting on a foundation.

BAKERY, RETAIL SALES ONLY

An establishment primarily engaged in the retail sale of baked products for consumption off site.

The products may be prepared either on or off site. Such use may include incidental food service.

A bakery shall be considered a general retail use.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BANKS, SAVINGS AND LOAN INSTITUTIONS

A financial institution that is open to the public and engaged in deposit banking and that performs closely related functions, such as making loans, investments and fiduciary activities.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BAR AND TAVERN

A commercial enterprise whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars include taverns, nightclubs, private clubs, bottle clubs, and similar facilities serving alcoholic liquor.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BARBER AND BEAUTY SHOP

Any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers; or any establishment where cosmetology services are provided, including hair care, nail care, and skin care, on a regular basis for compensation.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BASEMENT

That portion of a building below the first-floor joists, at least half of whose clear ceiling height is above the level of the adjacent ground.

BILLBOARD

Any display sign which contains a message unrelated to or not advertising a business transacted or goods sold or produced on the premises on which the sign is located.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BOARDINGHOUSE

A dwelling in which lodging or meals, or both, are furnished to three or more guests for compensation.

BOAT AND EQUIPMENT SALES

A marine retail sales and service use in which goods are rented or sold primarily for use on boats and ships but excluding uses in which fuel for boats and ships is the primary item sold. Examples of goods sold include navigational instruments, marine hardware and paints, nautical publications, nautical clothing such as foul-weather gear, marine engines, and boats less than 16 feet in length.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BOATHOUSE

A house or shed for sheltering one or more boats.

BOOKS, STATIONARY AND NEWSPAPER

A retail establishment that, as its primary business, engages in the sale, rental or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any adult bookstore, adult theater, theater, or "studio theater.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BOWLING ALLEYS

An establishment that devotes more than 50% of its gross floor area to bowling lanes, equipment, and playing area.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

BUILDING

A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT

The vertical distance measured from the average grade at the building to the average elevation of the roof of the highest story.

BUILDING LINE

A line beyond which the foundation wall or any enclosed porch, vestibule or other portion of a building shall not project.

BUILDING, ACCESSORY

A building subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

BUS OR TRUCK TERMINAL

Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)^[1]]

CELLAR

That portion of a building below the first-floor joists at least half of whose clear ceiling height is below the level of the adjacent ground. Such a portion of a building shall not be used for habitation.

CEMETERY

Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

CHILD-CARE CENTER or DAY-CARE CENTER

A state-licensed facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child-care center or day-care center includes a facility which provides care for not less than two consecutive days, regardless of the number of hours of care per day. The facility is generally described as a child-care center, day-care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

CLEAR VISION

A triangular area at the intersection of property or right-of-way lines, of any street, alley or drive with a street, alley or drive, running 20 feet along such property or right-of-way line from the point of intersection, where no visual obstruction of sight may exist.

CLOTHING AND DRY GOODS, RETAIL

Stores where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery and millinery shops.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

CLUB, PRIVATE NONCOMMERCIAL

Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

CONSTRUCTION AND FARM SALES

Retail establishments selling or renting heavy construction equipment, including cranes, earthmoving equipment, heavy trucks, etc., or establishments selling, renting or repairing agricultural machinery, equipment and supplies for use in soil preparation and maintenance, the

planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

CONTRACTORS' EQUIPMENT YARD

Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

CONTRACTORS' WORKSHOP

An enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products and interior storage, but which does not use any exterior storage area.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

DAIRY PRODUCTS, RETAIL SALES ONLY

A retail establishment in which its primary sales is related to dairy products.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

DISTRICT

An area within which certain uses of land and buildings are permitted and all others are prohibited; yards and other open spaces are required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the district in which they apply.

DRIVE-IN THEATER

An open lot devoted primarily to showing motion pictures to patrons seated in vehicles.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

DRUGS AND PHARMACEUTICALS

A business substantially devoted only to the sale of pharmaceutical items, supplies and equipment, such as prescription drugs.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

DRY CLEANERS' PICKUP STATION

An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

DUMP

Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose of trash, refuse or waste material of any kind.

DWELLING

A building which is occupied wholly as the home, residence or sleeping place by one or more persons, either permanently or transiently, excluding any garage space, complying with the following standards:

- A. It shall comply with the minimum square footage requirements for the zone in which it is located.
- B. It must have a core area of living space of 20 feet times 20 feet in size. The term "living space" is defined as that portion of the interior of the dwelling used for human habitation, excluding areas used for garages, breezeways, storage, utility rooms, enclosed or unenclosed porches or decks and patios.

- C. It shall be firmly attached to a permanent foundation, constructed in accordance with the requirements of the Village Building Code and must comply with all pertinent building and fire codes.
- D. In the case of a mobile home, any wheels, axles, towing hitches or other appurtenances used for towing shall be promptly removed upon placing the dwelling upon its foundation, and all construction and plumbing, electrical apparatus and insulation within and connected to the mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards," as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as from time to time such standards may be amended. These standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required by the Village.

DWELLING UNIT

A building or portion thereof arranged or designed for permanent occupancy by not more than one family for living purposes and having cooking facilities.

DWELLING, MULTIPLE-FAMILY

A building containing three or more dwelling units, an apartment house.

DWELLING, SEMIDETACHED

One of two buildings, arranged or designed as dwellings, located on abutting lots; separated from each other by a party wall, without openings, extending from the cellar floor to the highest point of the roof, along the dividing lot line; and separated from any other building or structure by space on all other sides.

DWELLING, SINGLE-FAMILY

A building containing not more than one dwelling unit.

DWELLING, TWO-FAMILY

A building containing not more than two separate dwelling units.

EARTH REMOVAL OR EXCAVATION, COMMERCIAL

Any excavation or removal of natural materials for profit which is not related to or not occasioned by an impending development of the site of such excavation.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

EXCAVATIONS, COMMERCIAL

The digging of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface for any of the following purposes: When primarily for carrying on a business or manufacturing operation for the purpose of sale, exchange, processing or manufacture but does not mean grading or filling incidental to improvement of the land.

FACILITIES AND SERVICES

Those facilities and services that are normally accepted as necessary for urban living, such as paved streets, public and/or private water supply and sanitary sewer disposal, storm drainage system, schools, parks and playgrounds.

FAMILY

One or more persons living as a single, nonprofit housekeeping unit as distinguished from individuals or groups occupying a hotel, club, fraternity or sorority house. The family shall be deemed to include necessary servants when servants share the common housekeeping facilities and services.

FARMING

Agricultural activity or the raising of livestock or small animals as a source of income.

FARM SALES

Establishments selling, renting or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

FENCE

A permanent or temporary partition or structure erected as a divider, barrier, or enclosure between two or more properties.

FLOOR AREA

The total enclosed floor area of a structure used for residential purposes, excluding the floor area of uninhabitable basements, cellars, garages, accessory buildings, attics, breezeways, and porches. For manufacturing, business or commercial activities which, in the case of the latter, includes customer facilities, showcase facilities, and sales facilities.

FLORIST, RETAIL

Business whose principal activity is the selling of plants which are not grown on the site and conducting business within an enclosed building.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

FRONTAGE

The length of the front property line of the lot or tract of land abutting a public street, road or highway.

FUNERAL ESTABLISHMENTS

A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in the preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; d) the storage of funeral vehicles; and e) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

FURNITURE AND HOUSEHOLD FURNISHINGS

Establishments are retail operations that sell goods for furnishing or improving housing units. Typical uses include furniture stores and home furnishing stores

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GARDEN SHOP

Place of business where retail and wholesale products and produce are sold to the consumer. These centers import most of the items sold and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GASOLINE SERVICE STATION

A building or lot, or portions thereof, used and limited in function to retail sale of gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories, and such services such as lubrication, washing, polishing and other minor servicing to motor vehicles.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GIFT SHOP

Retail stores where items such as art, antiques, jewelry books, and notions are sold.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GOLF COURSES

A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways and hazards. A golf course may include a clubhouse, restrooms, driving range, and shelters as accessory uses.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GRAIN EQUIPMENT AND PROCESSING

A storage area or structure where grain products are temporarily stored for transferal to trucks, train cars, or other forms of transportation

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GRAVEL PROCESSING AND QUARRYING

An open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GREENHOUSE AND NURSERY

A building used for the growing of plants, all or part of which are sold at retail or wholesale.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

GROCERIES AND FOODSTUFFS

Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

HARDWARE AND BUILDING SUPPLIES

Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

HEDGE

Any row or grouping of shrubbery designed to be used as a screen for privacy or decoration.

HOBBY SHOP

A retail establishment within an enclosed structure which sells goods related to collection of retail items of interest to a group of individuals. Typical uses include specialty stores, sports card stores, gaming stores, etc.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

HOME OCCUPATION

An occupation compliant with all provisions of this chapter, which is clearly incidental to the primary residential occupancy of a residential use.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

HOSPITAL

Any institution, including a sanitorium, which maintains and operates facilities for overnight care and treatment of two or more nonrelated persons as patients suffering mental or physical ailments, but not including any dispensary or first aid treatment facilities maintained by a commercial or industrial plant, educational institution, convent, or a convalescent home.

HOTEL

A building occupied as a more or less temporary abiding place of individuals who are lodged with or without meals, in which as a rule the rooms are occupied singly for hire, in which provision is not made for cooking in any individual apartment, except for the management.^[2]

ICE AND COLD STORAGE PLANT

A facility that contains items that are required to be held in a chilled or frozen environment.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

JUNKYARD

Any land or building used for commercial storage and/or sale of paper, rags, scrap metals, other scrap or discarding materials; for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition; or of machinery or parts, but not to be used as a dump.

KENNEL

An establishment where dogs or cats are boarded for compensation or where dogs or cats are bred or raised for sale purposes.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

LAUNDROMAT, LAUNDRY AND DRY-CLEANING STATION

A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

LIQUOR, PACKAGE SALES

Establishments where the primary goods and service is in the sale of alcoholic beverages for off-premises consumption.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

LOT

Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter for a lot in the district in which such lot is situated, and having the required frontage on a street.

LOT AREA

The total horizontal area included within lot lines. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

LOT FRONTAGE

That portion of a lot extending along a street line. In odd-shaped or triangular-shaped lots the length of the frontage may be reduced to not less than 1/2 of any minimum frontage required in this chapter and that the actual length of the street line shall be not less than 50 feet.

LOT WIDTH

The average horizontal width measured at right angles to the lot depth.

LOT, DEPTH OF

The average horizontal distance between the front lot line and the rear lot line.

LOT, FRONT OF

The side of an interior or through lot which abuts a street; in a corner lot, the side abutting either street may be considered as the front lot line, provided that the side selected as the front has the required minimum lot frontage.

LOT, INTERIOR

A lot other than a corner lot.

LUMBER, FUEL, FEED YARDS

A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber by performing millwork, planing, cutting and other customizing processes. Lumberyards may provide for the sale of associated products, including tools and fasteners.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MACHINE SHOP

Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MACHINERY AND HEAVY EQUIPMENT SALES, INDOOR

Motor vehicles, including but not limited to trucks, recreational vehicles, buses, boats, and heavy equipment, and similar size vehicles which have gross vehicle weights greater than 10,000 pounds, but excluding airplane or aircraft. Such use will not include the outdoor display of such vehicles.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MANUFACTURING, INDOORS

To bring something into being by forming, shaping, combining, or altering materials within a fully enclosed building.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MEDICAL CLINIC

A facility operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MIXED-USE

A structure that is a minimum of two stories in height that contains residential and nonresidential uses, where the entire ground floor is made up of a nonresidential use.

[Added 6-4-2018 by Ord. No. 283]

MOBILE HOME

A structure transportable in one or more sections which in the traveling mode is eight feet wide or more in width or 40 feet or more in length or, when erected, is 320 or more square feet in area, and which is built on a permanent chassis.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MOBILE HOME PARK

Any area or tract of land designed for the parking or other type of installation of mobile homes on spaces or lots offered for lease or rent, including all improvements, buildings, structures, recreation areas, or other facilities for the use of the residents of such development.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MOBILE HOMES SALES

A building that offers sales for mobile homes. Mobile homes sales shall be considered permitted as an accessory use to any property that has a legal mobile home park in conformance with this chapter.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

MOTEL

A group of attached or detached dwellings not more than two stories in height containing guest rooms which are provided for transient occupancy only, including auto courts, motor lodges and tourist homes.

MUSIC AND DANCING SCHOOL

An institution for the teaching of children or adults in dancing and/or music.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

NIGHTCLUB

A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

NONCONFORMING

A condition that occurs when, on the effective date of adoption of this chapter or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district in which the lot, structure, building, sign, development, or use is located.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

NONCONFORMING USES

The use of a building or of land lawfully existing at the time the ordinance became effective, but which does not conform with the use regulations of the district in which it is located.

NURSERY, GREENHOUSE

An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale, and for related accessory sales and uses.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)^[3]]

OFFICES, BUSINESS AND PROFESSIONAL

A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

OFFICES AND OFFICE BUILDINGS

See definition of "offices, business and professional."

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

OUTDOOR ADVERTISING SIGNS

See definition of "billboard."

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

PARKING SPACE, AUTOMOBILE

That area required for the parking or storage of one automobile, including necessary aisle or driveway space providing access thereto.

PHOTOGRAPHY STORE

A retail location that primarily is related to photography and camera accessories.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

PLANNED UNIT DEVELOPMENT (PUD)

A general plan drawn to scale for development of property requested to be zoned PUD and which identifies at least the use of the property; the intensity of the uses expressed in number and type of dwelling unit; gross square feet in commercial, industrial or other uses; general location and size of proposed buildings; public and private streets and roadways within and adjacent to the property; access points, parking areas, and the number of spaces; open space to be preserved and open space to be created; general vegetation; legal description; total acreage; graphic scale; and North point.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

PRINTING, LITHOGRAPHIC, BLUEPRINTING AND SIMILAR USES

A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, and facsimile sending and receiving, and including offset printing.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

PROFESSIONAL OFFICE

Rooms or buildings used for office purposes by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, etc., but not including medical or dental clinics.

PUBLIC UTILITY BUILDINGS

All production, storage, transmission and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of a Public Utilities Commission, except for energy facilities.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

PUBLICLY OWNED AND OPERATED BUILDINGS AND USES

Administrative and cultural buildings, uses, and structures, including buildings, lots, and facilities owned, used, or operated by any governmental agency.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

QUARRYING

The process of removing or extracting stone, rock, or similar materials from an open excavation for financial gain.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RADIO AND TELEVISIONS SALES AND SERVICE

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or broadcasting or communication towers. Typical uses include television studios, telecommunications service centers, telegraph service offices, or film and sound recording facilities.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RECREATION, COMMERCIAL INDOORS

An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RECREATION, COMMERCIAL OUTDOORS

A recreational land use conducted outside of a building, characterized by potentially moderate impacts on traffic, the natural environment, and the surrounding neighborhood, including athletic fields; miniature golf; skateboard park; swimming, bathing, wading and other therapeutic facilities; tennis, handball, basketball courts; batting cages, trampoline facilities.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RELIGIOUS ASSEMBLY

A site used by a bona fide religious group primarily or exclusively for religious worship and related religious services, including a place of worship, retreat site, or religious camp.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RESIDENTIAL CARE FACILITIES

Homes or care facilities providing care services on a part-time or full-time basis. Such uses are established as permitted or special exception uses based upon their compatibility with uses in those individual zoning districts and state licensing requirements, as follows:

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

A. FAMILY DAY-CARE HOMES

Includes child day care and adult day care for six or fewer individuals within a residential setting. Such use is considered a permitted use in any district that permits single-family

dwellings, subject to definition and state licensing requirements. No nonresident employees are permitted and such use shall operate less than 12 hours per day.

B. FAMILY ADULT FOSTER CARE HOMES

Includes adult foster care for within a residential setting. Such use is considered a principal permitted use when there are six or fewer residents in any residential district that permits single-family dwellings, subject to state licensing requirements. Such use is considered a special exception use when there are seven or more residents in any residential district that permits single-family dwellings, in addition to state licensing requirements.

C. GROUP DAY-CARE HOMES

Includes group child day care and group adult day care for between seven and 12 individuals within a residential setting. Such use shall be established as a special exception use. A resident employee is required and no more than one nonresident employee is permitted. Such use shall operate less than 24 hours per day.

D. LIMITED RESIDENTIAL CARE FACILITIES

Includes all other day care or foster care facilities for up to 25 individuals, subject to state licensing requirements. This may include nursing homes, assisted living facilities and senior housing for up to 25 people. It is anticipated that these facilities would operate 24 hours per day and would include nonresident employees.

E. FULL RESIDENTIAL CARE FACILITIES

Includes commercial day-care centers, nursing homes, assisted living facilities or other congregate care and/or senior housing facilities. Such use shall be considered a commercial use and include part-time and full-time staff and/or access to medical staff.

RESIDENTIAL, MULTIPLE-FAMILY

A structure or parcel of and in which there are three or more dwellings regularly used by its occupants as a permanent place of abode, which is made one's home and which has housekeeping and cooking facilities for its occupants only.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RESIDENTIAL, SINGLE-FAMILY

A structure or parcel of land in which there is no more than one dwelling regularly used by its occupants as a permanent place of abode, which is made one's home and which has housekeeping and cooking facilities for its occupants only.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RESIDENTIAL, TWO-FAMILY

A structure or parcel of land in which there are no more than two dwellings regularly used by its occupants as a permanent place of abode, which is made one's home and which has housekeeping and cooking facilities for its occupants only.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RESTAURANT

A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute the majority of the gross sales receipts for food and beverages.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

RIDING STABLE, RACETRACK, COMMERCIAL

A stable for the keeping of horses overnight or a measured course where animals or horses are entered in competition against one another or against time, including tracks used only in the training of animals.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

ROADSIDE STAND

A temporary structure not permanently affixed to the ground and readily removable in its entirety, which is used solely for the display or sale of farm products.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

SCHOOLS, PAROCHIAL AND PRIVATE

A school of learning grades from kindergarten to 12th grade that is not a public school and run by a private or religious entity.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

SCREENING

A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SHELTER, FALLOUT

A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, air raids, storms, or other emergencies. Fallout shelters constructed completely below the ground level, except for a vent not exceeding 30 feet in height above ground level, may be contained within any yard area.

SHOE SALES AND REPAIR

A retail establishment primarily related to footwear and/or shoe repair.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

SHOPPING CENTER

A group of five or more commercial establishments planned, developed and managed as a unit, with off-street parking provided on the same property and related in location, size and type of shops in the center.

SIGN

Announcement, declaration, and illustration insignia when designed and placed so as to attract general public attention. Such shall be deemed to be a single sign whenever the proximity, design, content or continuity reasonably suggests a single unit, notwithstanding any physical separation between parts. "Sign" shall include banner, bulbs or other lighting devices, streamer, pennant, balloon, propeller, flag (other than the official flag of any sports team, nation or state) and similar device of any kind, whether bearing lettering or not.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

SIGN AREA

That part of the sign upon, against or through which the message is displayed or illustrated. The "total surface area of a sign" is the same total of all exterior surfaces of the sign computed in square feet. In the case of a broken sign (a sign with open spaces between the letters) the total surface area shall be measured by multiplying the height of the individual letters or combination of letters by the distance between the outer edges of the two furthestmost letters.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)^[4]]

SLAUGHTERHOUSE

A building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of animals and may include packing, treating, storage, or sale of the product on the premises.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

SPECIAL LAND USE

The granting to a petitioner, by the Board of Appeals, certain uses of land and/or buildings, because of their particular nature and due to certain circumstances, to become established as provided in this chapter. (See Part 3, Special Land Uses, of this chapter.)

SPECIAL USES

Uses of land and/or buildings which, because of their particular nature and due to certain circumstances, are designated as special uses and may be permitted to become established within those districts as specified in this chapter. (See Part 3, Special Land Uses, of this chapter.)

STATIONARY SUPPLIES

A retail establishment related to accessories and equipment related to office uses.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

STORAGE AND WAREHOUSES

Any structure that is used for storage and does not have a door or other entranceway into a dwelling unit, the use of which is limited solely to storage of inanimate objects.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it or of the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story or if it is used for business or dwelling purposes.

STREET

A public dedicated right-of-way other than an alley, which provides primary access to abutting properties, and over which the public has easement of vehicular access.

STRUCTURE

Anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground, and shall include fences which are more than 50% solid, tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars, camp cars or similar structures on wheels or other supports used for business or living purposes. The word "structure" shall not apply to wires and their supporting poles or frames of electrical or telephone utilities or to service utilities entirely below the ground.

SWIM POOL

See Chapter 165, Buildings and Building Regulations, Article IV, Building Code, of this Code and setbacks in § 475-118.

TAILORING AND DRESSMAKING

Establishments primarily engaged in providing individual services generally related to personal needs, such as a tailor shop or dressmaker.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

TRUCK TERMINAL

Storage and distribution facilities having more than five heavy trucks (having a rating of more than 10,000 pounds or an unladen weight of more than 6,000 pounds) on the premises at any one time, but excluding trucking accessory to another industrial use on the site.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

USE

The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied or maintained.

USED CAR LOT

Premises on which new or used passenger automobiles, trailers, mobile homes, or trucks in operating condition are displayed in the open for sale or trade. A used car lot shall operate with a valid license as required by the State of Michigan.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

VARIETY STORE, ANTIQUES, GIFT

Retail stores where items such as art, antiques, jewelry books, and notions are sold.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

VARIANCE

The granting to a petitioner, by the Board of Appeals, permission to vary from the strict application of this chapter as provided in § **475-13**.

VOLUNTEER OR MUNICIPAL FIRE STATION

Facilities operated by public agencies, including fire stations, other fire-prevention and firefighting facilities

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

WAREHOUSES, FULLY ENCLOSED

Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

YARD

Open space on the same lot with a building or group of buildings, lying between the building and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs or fences.

YARD, FRONT

Open space extending across the full width of lot between the front lot line or the proposed front street line and the nearest line of the building or portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any portion thereof.

YARD, REAR

Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch or projection thereof. The depth of such yard is the average distance between the rear lot line and the nearest point of the building.

YARD, SIDE

Open space between side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the nearest line of the building, porch, or projection thereof, extending from the front yard to the rear yard or, in the absence of either of such yards, to the front lot line or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the building, porch or projection thereof.

ZONE

See the definition of the word "district."

ZONE, FLOATING

A district or zone which has been described in the text of this chapter but not included as a district on the Official Zoning Map.

- [1] *Editor's Note: This chapter also repealed the definition of "care home," which originally followed this definition.*
- [2] *Editor's Note: The definition of "house trailer," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [3] *Editor's Note: The definition of "nursing home," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [4] *Editor's Note: This chapter also repealed the former definition of "sign, outdoor advertising," which immediately followed this definition.*

§ 475-5. Interpretation of conflicting provisions.

In interpreting and applying this chapter, the requirements contained in this chapter are declared to be the minimum requirements for the protection of health, morals, safety or welfare. This chapter shall not be deemed to interfere with or abrogate or annul or otherwise affect in any manner whatsoever any ordinances, rules, regulations or permits, or easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or larger open spaces than are imposed or required by other ordinances, rules, regulations, or permits, or by easements, covenants, or agreements between parties, the provisions of this chapter shall prevail.

§ 475-6. Enforcement.

- A. Declared nuisances; report. Buildings erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this chapter, are declared to be a nuisance per se. Any and all buildings or land use activities considered possible violations of the provisions of this chapter observed by or communicated to police and fire department employees or to any Village official shall be reported to the Zoning Enforcement Officer.
- B. Inspection by Zoning Enforcement Officer. The Zoning Enforcement Officer shall inspect each alleged violation and shall order correction, in writing or by posting the premises, of all conditions found to be in violation of this chapter.
- C. Appeal. An appeal may be taken to the Board of Appeals by any person alleging error in any administrative order concerning the enforcement of this chapter.
- D. Correction; failure to correct; prosecution. All violations shall be promptly corrected after receipt of notification thereof by writing or by posting premises by the Zoning Enforcement Officer. A violation not so corrected shall be reported to the Village Attorney, who shall initiate prosecution procedures.

§ 475-7. Municipal civil infraction.

[Added 11-16-1995 by Ord. No. 216]

A person who violates any provision of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in § 55-8. Repeat offenses under this chapter shall be subject to increased fines as set forth in § 55-8.

Part 2. Administration

Article I. Generally

§ 475-8. Authority of administrative arrangement.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

The provisions of this chapter shall be administered by such person who shall be designated by the Village Council and the Village Planning Commission in accordance with the Michigan Planning Enabling Act, PA 2008, No. 33 (MCLA § 125.3801 et seq.), as amended.

§ 475-9. Enforcement of chapter.

The provisions of this chapter shall be enforced by the Planning Commission and/or such official as may be designated by resolution of the Village Council.

§ 475-10. Building permit required to erect or alter structures.

No structure or swimming pool shall be erected, altered, or excavation started until a building permit for such erection or alteration shall have been issued.

§ 475-11. Certificate of occupancy required for use of buildings or premises.

- A. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged, wholly or partly, until a certificate of occupancy has been issued for that premises, certifying that the structure or use complies with the provisions of this chapter. Such occupancy permits shall be granted or denied within 30 days from the date that a written application is filed with the Building Inspector or Zoning Enforcement Officer.
- B. The issuance of a certificate of occupancy shall not be construed as permitting any violation of this chapter.

Article II. Board of Appeals

§ 475-12. Establishment.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

The Village Council shall act as the Zoning Board of Appeals as provided by Section 601 of Act No. 110 of the Public Acts of 2006 (MCLA § 125.3601), as amended, with such powers and duties as prescribed by law.

§ 475-13. Authority.

The Board of Appeals shall have authority to do the following:

- A. Hear and decide, upon request, the interpretation of the provisions of this chapter.
- B. Grant variances from the strict application of this chapter when, by reason of exceptional narrowness, shallowness, shape or topography of specific parcels of property at the time of the original enactment of this chapter or amendments, or where the strict application of this chapter or amendments would result in exceptional or undue hardship upon a property; provided, however, that such relief of variances can be granted without substantial impairment of the intent or purpose of this chapter. This subsection shall not be construed to permit the Board, under the guise of a variance, to change the uses of land.
- C. Hear and decide appeals where it is alleged by appellants that there is error in any refusal of building, use or occupancy permit or in any other order, requirement, decision, or determination made by the Building Inspector, Zoning Enforcement Officer, or other Village employee when passing upon an application for a building or other permit, or by any other officer or body in the administration of this chapter.
- D. Hear and decide petitions for special land uses.

§ 475-14. Limitation of authority.

- A. Nothing contained in this chapter shall be deemed to authorize the Board to reverse or modify any refusal of a permit or any other order, requirement, decision, or determination which conforms to the provisions of this chapter and which, therefore, is not erroneous; nor to authorize the Board to validate, ratify, or legalize any violation of law or any of the regulations of this chapter.
- B. The Board shall not amend any portion of this chapter or the Zoning Map; nor shall such power or authority be vested in the Board.
- C. A decision of the Board permitting the erection or alteration of a building or other use of land shall be valid for a period of six months, during which time a building permit for such erection or alteration must be obtained and the erection or alteration started.
- D. No application for a variance or special land use which has been denied, wholly or in part, by the Board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

§ 475-15. Application for variances, appeals or special land uses.

- A. Requests for variances, appeals, or special land uses may be made by submitting an application to the Village Manager. A fee as set by resolution of Village Council shall accompany the application to help defray costs of processing the application.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Requests for variances, appeals, or special land uses may be forwarded to the Planning Commission for its review. The Planning Commission has 30 days after receipt of the application in which to render an opinion to the Board of Appeals. This procedure, although not a requirement for processing the application, affords the Planning Commission an opportunity to review and give an opinion to the Board of Appeals. As this opinion is not binding upon the Board of Appeals, should the Board not concur with it the case may be judged upon its merits and not referred back to the Planning Commission for additional comments.
- C. A site plan, plot plan, or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, and the types of buildings and their uses shall be submitted with each request for a variance, appeal or special land use.

Article III. Amendment Procedures

§ 475-16. Enumeration.

[Amended 6-15-1988 by Ord. No. 168]

- A. The Village Council may from time to time on recommendation from the Planning Commission, or on petition, amend, supplement or change the district boundaries or the regulations pertaining thereto which may now exist or which may be subsequently established pursuant to the authority and procedure set forth Sections 401 and 403 of Act No. 110 of the Public Acts of 2006 (MCLA §§ 125.3401 and 125.3403), as amended.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Under no circumstances shall a property owner or owners reinitiate a request for the same rezoning on the same property within 12 months from the date of last action by the Village Council.
- C. Amendments to this chapter may be initiated by any interested person, the Planning Commission, the Village Council, or any other interested governmental agency, by filing a written application

with the Village Manager or officer of the Planning Commission. A request for amendment to this chapter shall follow the general procedure as outlined in this subsection:

- (1) In case of a text amendment, the applicant shall submit, in writing, the proposed text to be added and/or the existing text to be deleted.
 - (2) In case of a map amendment, the applicant shall submit a written statement specifying the following:
 - (a) The name and address of the owner of the land.
 - (b) The street number, if any, or, if none, the location with respect to nearby public roads serving the land which is proposed to be reclassified.
 - (c) A description by metes and bounds, courses and distances of the land, or if the boundaries conform to lap boundaries within a subdivision from which a part is recorded in the land records of the county, then a lot and subdivision designation with appropriate plat reference.
 - (d) An identification plat prepared and certified by a civil engineer, or other competent person, to be correct and in conformity with this section, showing the land proposed to be reclassified, or if the boundaries formed a lot boundaries within a subdivision for which a plat is recorded among the land records of the county, and a copy of such plat, the land proposed to be reclassified appearing in color distinctive from that of other land shown on the plat.
 - (e) The land proposed to be reclassified, stated in square feet if less than one acre and in acres if more than one.
 - (f) The present classification and the classification proposed for such land.
- D. An application fee as set by resolution of Village Council to cover the cost of advertising and processing shall accompany the application.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Article IV. Planning Commission

[Added 4-16-2007 by Ord. No. 257; amended 11-4-2019 by Ord. No. 292^[1]]

- [1] *Editor's Note: Nothing in this article shall be interpreted as a discontinuation of the Village Planning (zoning) Commission. The Planning Commission shall be and remain constituted in accordance with and shall have all of the powers and duties set forth in the Michigan Planning Enabling Act (Act 33 of 2008), as amended from time to time, those powers and duties previously set forth in the Michigan Zoning Enabling Act (Act 110 of 2006) and in this article. No matter pending before the Planning Commission as of the effective date of this article shall be affected in any way by the fact that the Planning Commission is being reconstituted by this article. All such pending matters shall be carried forward under the Planning Commission at the same status as existed prior to the effective date of this article.*

§ 475-17. Establishment.

- A. Pursuant to the requirements and authority of the Michigan Planning Enabling Act (Act 33 of 2008) and the Michigan Zoning Enabling Act (Act 110 of 2006), the Village Council hereby establishes a Planning Commission consisting of nine members, which shall replace the existing Planning (Zoning) Commission.
- B. The Village President shall appoint members of the Planning Commission, subject to approval by a majority vote of the members of the Village Council.

- C. Each member of the Planning Commission shall serve a three-year term. The initial appointment of members shall be for periods of one, two, and three years, as determined by the Village Council. The Village Council may appoint up to three ex officio members to the Planning Commission.
- D. Members of the Planning Commission shall be qualified electors of the local unit of government, except that two members of the Planning Commission need not be qualified electors of the local unit of government.
- E. The Planning Commission shall adopt bylaws of the Planning Commission upon the approval of same by the Village Council.

§ 475-18. Authority, powers and duties.

- A. The Planning Commission shall have all authority, power and duties identified by the Michigan Planning Enabling Act as well as those powers and duties identified and transferred from the previous planning (zoning) commission pursuant to the Michigan Zoning Enabling Act. In the event that any provision of the Village's Zoning Ordinance conflicts with the Michigan Planning Enabling Act, the provisions of the Michigan Planning Enabling Act shall control.
- B. The Planning Commission shall have all zoning authority specifically provided by the Michigan Planning Enabling Act and those powers and duties transferred from its role pursuant to the Michigan Zoning Enabling Act.

§ 475-19. Officers.

The Planning Commission shall elect at its first meeting of the year a chair, vice-chair and secretary to serve for terms of one year.

§ 475-20. Compensation.

Planning Commission members shall be compensated in amounts established by resolution by the Village Council.

§ 475-21. Oath of office.

All Planning Commission members shall take an oath of office in a form approved by the Village Council.

§ 475-22. Adoption and incorporation of amendments to Michigan Planning Enabling Act and other relevant statutory provisions.

All applicable amendments to the Michigan Planning Enabling Act and any other relevant statutes shall be incorporated in this chapter by reference and shall supersede the statutes that they amend or replace.

§ 475-23. Planning Commission serving as DDA Board.

Pursuant to the Michigan Planning Enabling Act, the Planning Commission shall concurrently serve as the board of the Village of Vicksburg Downtown Development Authority and shall have all authority and duties of the DDA Board as set forth in the recodified Tax Increment Financing Act (Act 37 of 2018).

Part 3. Special Land Uses

§ 475-24. Purpose of article.

In order to make this chapter flexible to meet the needs of changing trends in development and new technology, the Board of Appeals is authorized to approve the establishment of special land uses. In this way the chapter does not become a rigid document that cannot be altered, but serves as a guideline upon which the Zoning Board of Appeals may make enlightened judgments, keeping development within the general philosophy of this chapter. Land and structure uses not specifically mentioned in the foregoing text or possessing unique characteristics may be designated as special uses and, as such, may be authorized by the issuance of special land use approval, with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as dumps and junkyards, are inherently so objectionable as to make extra regulations and controls advisable even in the zone in which they are permitted. Others, such as gasoline stations and taverns, must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as special land uses are permitted in certain zones only if granted by the Board of Zoning Appeals.

§ 475-25. Filing request.

- A. Petitions for the grant of special land uses shall be filed with the Village Manager. The petitioner shall submit plans and specifications or other data or exploratory material stating the methods by which he/she will comply with the conditions specified for each grant of special land use. At the time of filing his/her request for a grant of special land use, the petitioner shall pay to the Village Manager the fee required to cover the cost of advertising and sending notices and other miscellaneous expenses in connection with this petition.
- B. The Board shall review the application and, after a public hearing, shall grant or refuse the special land use and notify the petitioner and Building Inspector and/or Zoning Enforcement Officer.

§ 475-26. Qualifying principles and conditions.

In hearing a request for any special land use, the Board of Appeals shall be governed by the following principles and conditions:

- A. The applicant for a special land use shall have the burden of proof, which shall include the burden of going forward with the evidence, and the burden of persuasion on all questions of fact which are to be determined by the Board.
- B. A special land use may be granted when the Board of Appeals finds from the evidence produced at the hearing that:
 - (1) The proposed use does not affect adversely the general plan for physical development of the Village, as embodied in this chapter and in any master plan or portion adopted by the Village.

- (2) The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood.
- (3) The standards as may be set forth for a particular use for which a special land use may be granted can and will be met by the applicant.

§ 475-27. Special provisions.

The Board of Appeals may, and is hereby empowered to, add to the specific provisions enumerated in this article other provisions that it may deem necessary to protect adjacent properties, the general neighborhood, and the residents and workers therein.

§ 475-28. Specific standards required of special land uses.

[Amended 1-2-1996 by Ord. No. 218]

- A. Special land uses shall comply with all of the specific standards as specified in this section. The Board of Appeals may add to the standards, as provided, where it is necessary to protect adjacent properties, the general neighborhood and the residents and workers therein.

Special Land Use	Minimum Required Standards (refer to standards in corresponding Subsection B)
Animal hospital and kennel	Subsection B(2), (4), (5)(e)
Asphalt and concrete ready-mix plant	Subsection B(2), (4), (5)(f)
Automobile repair garage	Subsection B(2), (4), (5)(d), (8)
Bar, tavern and nightclub	Subsection B(2), (4), (5)(e)
Bus or truck terminal	Subsection B(2), (4), (5)(e)
Cemetery	Subsection B(2), (3), (5)(a)
Church	Subsection B(1), (5)(b)
Club, private, noncommercial	Subsection B(1), (4), (5)(b)
Drive-in theater	Subsection B(2), (5)(f), (9)
Dump	Subsection B(2), (5)(f), (9)
Earth removal, excavations, commercial	Subsection B(2), (5)(e)
Gasoline service station	Subsection B(2), (4), (5)(d), (7)
Golf courses	Subsection B(2), (3), (5)(d)
Gravel processing and quarrying	Subsection B(2), (4), (5)(f)
Hospital	Subsection B(2), (3), (5)(c)
Institutions, charitable, eleemosynary, philanthropic	Subsection B(1), (3), (5)(c)
Junkyards, building material salvage yard	Subsection B(2), (4), (5)(f), (9)
Kennel	Subsection B(2), (4), (5)(e)
Liquor, package sale	Subsection B(5)(d)
Medical clinic	Subsection B(1), (4), (5)(a)
Mobile home sales	Subsection B(2), (4), (5)(e)
Offices and office buildings	Subsection B(2), (4), (5)(a)

Special Land Use	Minimum Required Standards (refer to standards in corresponding Subsection B)
Public utility buildings and structures	Subsection B(1), (4), (5)(a), (9)
Quarrying	Subsection B(2), (4), (5)(f)
Recreation, commercial; outdoors	Subsection B(2), (4), (5)(e)
Residential care facility	Subsection B(3), (5)(a)
Riding stable; race track; commercial	Subsection B(2), (4), (5)(e)
School, parochial and private	Subsection B(1), (5)(b)
Slaughterhouse	Subsection B(2), (4), (5)(f)
Truck terminal	Subsection B(2), (4), (5)(e)
Used car lot	Subsection B(2), (4), (5)(e), (8)
Volunteer or municipal fire station	Subsection B(2), (4), (5)(e)

B. The minimum required standards enumerated in this subsection are referred to by the numbers following each special land use:

- (1) The use shall have frontage on an existing or officially proposed road having a primary or greater classification.
- (2) The use shall have frontage on an existing or officially proposed road having a major or greater road classification.
- (3) The use shall have off-street parking facilities to satisfy average parking needs.
- (4) The use shall have off-street parking facilities to satisfy peak parking needs.
- (5) Buildings and activities shall not be closer than the specified number of feet to adjacent residential properties:
 - (a) Twenty-five feet.
 - (b) Fifty feet.
 - (c) One hundred feet.
 - (d) Two hundred feet.
 - (e) Five hundred feet.
 - (f) One thousand feet.
- (6) Public utility buildings shall, whenever practicable, have an exterior appearance similar to those buildings in the immediate area. The public utility buildings and structures shall have suitable landscaping, screen planting and fencing whenever deemed necessary by the Board of Appeals.
- (7) Gasoline pumps or other service appliances shall be set back at least 20 feet from the lot line.
- (8) No major repairs or dismantling shall be permitted outside of a closed structure.
- (9) The use shall be enclosed by a solid wall or compact screening of suitable material as determined by the Board of Appeals and shall not be less than six feet in height.

Part 4. Nonconforming Uses

§ 475-29. Enumeration of controlling regulations.

[Amended 1-21-2008 by Ord. No. 259]

The following regulations shall control nonconforming uses:

- A. If the cost of repair or replacement of a nonconforming commercial use or structure, which has been destroyed by reason of windstorm, fire, explosion or any act of God or the public enemy, exceeds 50% of the total replacement cost of the commercial use or structure, such commercial use or structure shall not be continued or rebuilt except in conformity with the provisions of this chapter.
- B. In the event that any nonconforming residential structure shall be damaged by fire, wind, explosion, act of God or the public enemy, such structure may be rebuilt or restored, provided that the rebuilt or restored structure does not exceed the size, height and placement of the original structure. All rebuilding or restoration shall comply with all applicable building and fire codes and shall be completed within one year of the date of damage. Damage that is caused by an intentional act of the owner, or the owner's agent, is excluded.
- C. An "act of God" (event) shall be defined as a sudden manifestation of the forces of nature which man cannot resist, and which will include, in part, floods, storms, fires and other catastrophic events.
- D. Nonconforming uses or structures in existence at the time of passage of the ordinance codified in this section shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this chapter.
- E. If the nonconforming use of any land or structure shall terminate its activity for a continuous period of time exceeding one year, such use shall not be reestablished, and any future use of land and structure shall be in conformity with this chapter.
- F. If a nonconforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a nonconforming or less restrictive use.
- G. The lawful nonconforming use of land not involving substantial buildings, nonconforming advertising signs and structures which are not necessary to the permitted uses of substantial structures, and temporary, movable or makeshift buildings, fences and other structures which are accessory to nonconforming uses not involving substantial buildings shall be discontinued and the incidental structures removed within five years from the date of passage of the ordinance. All subsequent use of such land shall be in conformity with the provisions of this chapter.

Part 5. Site Plan Review

[Amended 6-6-2016 by Ord. No. 281; 12-3-2018 by Ord. No. 286; 4-15-2019 by Ord. No. 188]

§ 475-30. Purpose of article.

The intent of this article is to provide for consultation and cooperation between the land developer and the Planning Commission in order that the developer may accomplish his/her objectives in the utilization of his/her land in accordance with the regulations of this chapter and with minimum adverse effect on the use of adjacent streets and on existing and future land uses in the immediate area and vicinity.

§ 475-31. Developments requiring review.

The Building Inspector shall not issue a building permit for the construction or alteration of the following buildings;, structures or uses until a site plan has been reviewed and approved by the Planning Commission:

- A. Multiple-family buildings containing four or more dwelling units.
- B. Mobile home parks.
- C. Office, commercial or industrial buildings with a total floor area greater than 1,500 square feet.
- D. An increase in the building floor area up to 1,500 square feet or 20% of the existing floor area, whichever is less, based on the cumulative total of the proposed expansion to multiple-family buildings containing four or more dwelling units, office, commercial or industrial buildings.
- E. A commercial parking lot in which the parking is not on the same parcel of land as the land use the parking lot serves; or any expansion of at least 20 parking spaces or 4,000 square feet of vehicle parking surface to any vehicle parking area.

§ 475-32. Application procedure.

A request for site plan review shall be filed with the Village Manager and be accompanied by the following:

- A. Application. Three copies of the application for site plan review shall be filled out completely and returned to the Village Manager's office.
- B. Fee. A review fee, the schedule of which shall be determined by the Village Council, will be paid by the applicant to cover the cost of processing the site plan.
- C. Site plan requirements. The following information must be included on all site plans submitted for review.

(1) General.

- (a) Two sets of plan documents on uniform sheets no greater than 30 inches by 42 inches and seven 18-inch by 24-inch reproductions of the plan.
- (b) It shall be of a scale not greater than one inch equals 20 feet nor smaller than one inch equals 200 feet and of such accuracy that the Planning Commission can readily interpret the plan.
- (c) All plans shall be accurately scaled with an appropriate descriptive legend and a North arrow oriented to the top of the sheet.
- (d) A vicinity map shall be submitted showing the location of the site in relation to the surrounding street system.
- (e) It shall identify subject property by lot lines and location, including dimensions, angles and parcel size, correlated with the legal description of the property.
- (f) It shall show the name, address and phone number of the property owner and applicant.
- (g) It shall show the professional seal, signature, address and telephone number of the firms/professionals involved with the preparation of the site plan.
- (h) Environmental checklist. The applicant or owner shall submit to the Village Manager's office a completed environmental checklist.
- (i) Stormwater management plan. The applicant or owner shall submit to the Village Manager's office a stormwater management plan and stormwater calculations worksheet, completed and endorsed (stamped) by a licensed qualified professional.
- (j) Stormwater best management practices operations and maintenance agreement. The applicant or owner shall submit to the Clerk's office a signed stormwater best

management practices operations and maintenance agreement between the Village and the landowner or designee and the applicable recording fee.

(2) Location.

- (a) It shall show the existing and proposed topography in at least two-foot contour intervals, including natural features such as woodlots, streams, rivers, lakes, drains and similar features.
- (b) It shall show existing man-made features on and within 100 feet of the site, such as buildings, structures, high tension towers, pipelines, existing utilities such as water and sewer lines, etc., excavations, bridges, culverts, drains and easements, and shall identify the existing uses and zoning of adjacent properties.
- (c) It shall identify any buildings or structures to be demolished on the site.
- (d) It shall show the building location, including front, side and rear setbacks; proposed finished floor and grade line elevations; size of proposed main and accessory buildings, their relation to one another and to any existing structures on the site; the height of all buildings and square footage of floor space.
- (e) Site plans for multiple-family residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit type.
- (f) It shall show the proposed streets, driveways, sidewalks, bike paths and other vehicular and pedestrian circulation features within the properties adjacent to the site.
- (g) It shall show access, both pedestrian and vehicular, showing approach type, dimensions, materials, radii on curb returns and points of ingress and egress.
- (h) It shall show the location, typical size and number of standard and handicap parking spaces in the off-street parking areas and the identification and dimension of service lanes, service parking and loading and unloading areas.
- (i) It shall show location of refuse area and proposed screening.
- (j) It shall show the location, height, type and wattage of proposed lighting fixtures, structures or poles.
- (k) It shall show the location size and height of existing and proposed signs.
- (l) It shall show the proposed location, use and size of open spaces and the location, type and height of any landscaping, screening, fences or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated.
- (m) It shall show location of proposed stormwater structures and systems.
- (n) Any other information deemed necessary by the Planning Commission.

(3) Calculations.

- (a) Gross area of site.
- (b) Net area of open space, exclusive of buildings, parking areas, drives and other developed areas.
- (c) Number of parking spaces required by ordinance.
- (d) Number of parking spaces provided.
- (e) Net usable floor area.
- (f) Calculated runoff volume.

§ 475-33. Action on site plan.

- A. The disposition of all site plans shall be the responsibility of the Planning Commission.
- B. The Village Manager shall transmit the completed application to the Chairperson of the Planning Commission or Zoning Board of Appeals who shall place it on the agenda of the commission.
- C. The applicant will receive a written notice stating the date, time and place that his/her application will be reviewed.
- D. Approval or disapproval of the site plan shall be issued within 60 days of receipt of the application. All provisions of applicable ordinances must be met and also any special conditions or requirements imposed by the Planning Commission must be incorporated into the plan before the issuance of a building permit.
- E. Site plan approval shall be valid for one year from and after the date of approval.
 - (1) Extension. Upon written request, one extension of six months may be granted by the body that approved the sketch plan or final site plan for good cause shown if a request for an extension is submitted prior to the expiration of the permit.

§ 475-34. Criteria.

The site plan shall be approved by the Planning Commission upon finding that:

- A. The proposed use will be compatible with the surrounding neighborhood development. The provision for fencing, walls, and/or landscaping may be required as a screening device to minimize adverse effects upon the surrounding development.
- B. There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas so as to ensure the safety and convenience of pedestrian and vehicular traffic.
- C. Any possible adverse effects resulting from the locations of buildings and accessory structures will be minimized to the occupants of that use and the occupants of adjacent properties.
- D. The proper development of roads, easements and public utilities has been provided to protect the general health, safety and welfare of the community.
- E. The development proposed in the site plan is harmonious with, and not harmful or injurious to, existing and planned future uses in the immediate area. The proposed development will be coordinated with improvements serving the subject property and with the other developments in the vicinity.
- F. Exterior lighting proposed in the site plan complies with applicable Village regulations. Exterior lighting is arranged so it is deflected away from adjacent properties and it does not impede the vision of traffic along adjacent streets.
- G. Signage proposed in the site plan complies with applicable Village regulations and is generally complementary with surrounding signage and does not impede adjacent traffic operations.
- H. The number and dimensions of off-street parking and loading/unloading spaces, and the design of parking and loading areas, comply with the requirements of Part 9, Off-Street Parking. The site provides barrier-free parking and access in compliance with all applicable federal, state and Village regulations.
- I. The proposed project, the structure itself, and all proposed uses of the establishment must comply with all regulations implemented by the Village Council for the areas within the Vicksburg Central Shopping Overlay District and/or the Vicksburg Downtown Development Authority boundaries.

§ 475-35. Conformity to approved site plan.

- A. When an applicant receives site plan approval, he/she must develop the subject property in complete conformity with the approved plan, except as may be modified by the Planning Commission. Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and the on-site development was not begun within one year of the date of approval, the site plan approval shall become void and the developer shall make a new application for approval before proceeding.
- B. Once approved, the Village Manager may request a performance bond equal to 50% of the total cost of the project to ensure conformity with the approved site plan.
- C. A property that does not conform to the approved plan will be denied a certificate of occupancy until it is brought into conformity with the approved plan.

§ 475-36. Amendment or modification to site plan.

- A. A proposed amendment or modification to a previously approved site plan shall be submitted for review in accordance with the procedures of this article and may be approved by the reviewing body, subject to its conformance with all applicable requirements of this chapter.
- B. Modification of final site plan during construction. It shall be the responsibility of the applicant to notify the Village if changes to the site plan are made during construction. If they constitute minor deviations, they are subject to review and approval, approval with conditions or disapproval by the Village Manager and Building Official. If they constitute amendments, they are subject to review and approval, approval with conditions or disapproval by the Planning Commission.
- C. Minor deviations. Minor deviations from a site plan may be approved by the Village Manager and Building Official. All minor deviations shall comply with the minimum requirements of this chapter. All other modifications shall be considered amendments and shall be reviewed and approved by the Planning Commission in accordance with all requirements of this chapter. Minor deviations shall consist of:
 - (1) Minor variations in layout. Minor variations in the design layout of the development.
 - (2) Residential floor area. An increase or decrease in residential floor area of 5% or less of the site plan.
 - (3) Nonresidential floor area. An increase or decrease in commercial, industrial, institutional, semipublic, organizational and other nonresidential floor area of 5% or less of the site plan.
 - (4) Finished grades or heights of landscape or screening berms. Increases or decreases from the planned finished grades or heights of landscape or screening berms within two feet.
 - (5) Trees, shrubs, ground cover. Changes in the species, sizes of specimens or spacing of required trees, shrubs, or the type of ground cover to be used as designated on the site plan.
 - (6) Finished surface. Changes in the type of finished surface of walks, roads, drives, parking lots and loading and unloading paved areas.
 - (7) Height. Increases in the height of buildings or structures by less than 10%.
 - (8) Walls, fencing, or screening. Increases or decreases of the length or height of walls, fencing or screening by 20% or less.
 - (9) Accessory uses. Additions or deletions of permitted accessory uses to the approved principal uses designated on the site plan.

- (10) Rights-of-way and public or private easements. Additions, deletions or relocations of rights-of-way and public or private easements or adjustments to accommodate essential services for the proposed development or developments on adjacent properties.
 - (11) Changes due to unforeseen natural or environmental conditions or natural or constructed features. Additions to accommodate changes due to unforeseen natural or environmental conditions or natural or constructed features, e.g., underground water or geological features, existing structures and improvements, and items of historical or other significance.
- D. Amendments. A site plan may be amended only in accordance with the procedures and standards established for its original approval.

Part 6. District Regulations

Article V. Generally

§ 475-37. Boundaries of zones.

Where uncertainty exists as to the boundaries of any of the zones as shown on the Zoning Map, the following rules shall apply:

- A. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on the Zoning Map on file at the office of the Village Manager.
- B. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
- C. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries.
- D. In unsubdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- E. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, such land shall be subject to the provisions of this section which apply within the zone immediately adjacent; zones, if there is more than one.

§ 475-38. Zoning districts.

[Amended 8-11-1993 by Ord. No. 196]

- A. For the purpose of this chapter the Village is hereby divided into the following zoning districts:
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

- AG-1 Agricultural-Preservation District
- CP Conservation-Preservation District
- R-1 Residential, Single-Family District
- R-2 Residential, Single-Family District
- R-2A Residential, Single-Family District
- R-3 Residential, Single- and Two-Family District

R-4 Residential, Multiple-Family District
 R-5 Mobile Home Park District
 C-1 Commercial, Local District
 C-2 Commercial District
 C-3 Commercial, Shopping Center District
 C-4 Commercial, Highway District
 I-1 Industrial, Restricted District
 I-2 Industrial, Service District
 I-3 Industrial, Manufacturing District
 PRD Planned Residential Development District

- B. The location and boundaries of the zones established in the Village shall be shown on the map entitled "Zoning Map of the Village of Vicksburg," and as such map may be amended subsequent to the adoption thereof; and such map, section, or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this chapter to the same extent as the information set forth on the map more fully described and incorporated in this section. Zoning districts, which are approved and described in the text, may not necessarily appear on the Zoning Map and as such shall be known as "floating districts." Therefore, any person, group of persons, corporation, or agency may request a rezoning under these districts. The approval of these requests are at the discretion of the Planning Commission and Village Council.
- C. The official copy of the Zoning Map shall be in the custody of the Village Manager.

§ 475-39. Table of Uses.

[Amended 3-6-2006 by Ord. No. 252]

The Table of Uses for the zoning districts of the Village is included as an attachment to this chapter.

Article VI. AG-1 Agricultural-Preservation District

[Added 8-11-1993 by Ord. No. 196]

§ 475-40. Description.

- A. The intent of the AG-1 Agricultural-Preservation District is to preserve and control development within certain land areas of the Village which have any or all of the following characteristics:
- (1) Reserved for parcels of land 10 acres in size or greater.
 - (2) Currently being used for farming activities, such as crop production.
 - (3) Has been used in the past for agricultural production, groundwater recharge, or a wood lot.
- B. The regulations which apply within this AG-1 District are designed to reserve such areas for the purposes outlined in this section, reflecting the future potential for development by residential, commercial, industrial or other uses conducive to urban growth.

§ 475-41. Permitted uses.

The following uses shall be permitted in any AG-1 Agricultural-Preservation District:

- A. Crop production;
- B. Single-family residences of landowners;
- C. Roadside stands, limited to one per 1,320 feet of road frontage;
- D. Parks, outdoor recreation facilities;
- E. Accessory building and uses; and
- F. Buildings and structures used during construction.

§ 475-42. Special land uses.

Special land uses for an AG-1 Agricultural-Preservation District are as follows:

- A. Nurseries for plants and flowers;
- B. Private clubs and lodges;
- C. Home occupations; and
- D. Accessory building and uses.

§ 475-43. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements for an AG-1 Agricultural-Preservation District shall be specified in § **475-118**.

Article VII. CP Conservation-Preservation District

§ 475-44. Description.

- A. The intent of the CP Conservation-Preservation District is to preserve and control development within certain land and/or water areas of the Village which have any or all of the following characteristics:
 - (1) Serve as wildlife refuges.
 - (2) Possess great natural beauty or are of historical significance.
 - (3) Are utilized for outdoor recreational purposes.
 - (4) Provide needed open space for the health and general welfare of the Village's inhabitants.
 - (5) Are subject to periodic flooding.
- B. The regulations which apply within this CP District are designed to reserve such areas for the purposes outlined in this section and to discourage any encroachment by residential, commercial, industrial or other uses capable of adversely affecting the relatively undeveloped character of the CP District.

§ 475-45. Permitted uses.

The following uses shall be permitted in any CP Conservation-Preservation District:

- A. Private boat dock or boathouse.
- B. Public utility line, fire or water tower or substation.
- C. Publicly owned and/or operated park, open space, recreational facility or use, and the equipment necessary for servicing the users.

§ 475-46. Special land uses.

The following special land uses shall be permitted in a CP Conservation-Preservation District:

- A. Churches, cemeteries, parochial and private schools.
- B. Eleemosynary, charitable and philanthropic institutions.
- C. Golf courses, private noncommercial clubs.
- D. Public utility buildings and structures necessary for the service of the community, except that:
 - (1) There is no zoning restrictions for utilities to be located in public streets or public rights-of-way.
 - (2) Public utility activities of an industrial character, such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.

§ 475-47. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements of a CP Conservation-Preservation District shall be as specified in § **475-118**.

Article VIII. R-1 Residential, Single-Family District

§ 475-48. Description.

This R-1 Residential, Single-Family District is composed of certain land in outlying areas presently of a rural residential character where low-density single-family residential development has occurred or appears likely to occur. The regulations for this R-1 District are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to low-density single-family residential use, consistent with limited rural-type facilities and services.

§ 475-49. Permitted uses.

[Amended 12-14-1988 by Ord. No. 172]

Permitted uses in an R-1 Residential, Single-Family District are as follows:

- A. Single-family dwellings, and the accessory structures and uses normally auxiliary thereto, as specified in § **475-44** of the CP Conservation-Preservation District.
- B. Home occupations.
- C. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- D. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.

- E. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.

§ 475-50. Special land uses.

In a R-1 Residential, Single-Family District any special land use permitted in the CP Conservation-Preservation Zone may be permitted.

§ 475-51. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in an R-1 Residential, Single-Family District shall be as specified in § **475-118**.

Article IX. R-2 Residential, Single-Family District

§ 475-52. Description.

This R-2 Residential, Single-Family District is composed of medium density single-family residential areas in the Village where medium density single-family residential development has occurred or appears likely to occur. The regulations for this R-2 District are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to medium density single-family residential use, where adequate facilities and services will be provided.

§ 475-53. Permitted uses.

[Amended 12-14-1988 by Ord. No. 172; 1-2-1996 by Ord. No. 218]

In the R-2 Residential, Single-Family District, the following uses are permitted:

- A. Single-family dwellings and the accessory structures and uses normally auxiliary thereto.
- B. Home occupations.
- C. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- D. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- E. Family day-care homes.

§ 475-54. Special land uses.

[Amended 8-10-1994 by Ord. No. 210; 1-2-1996 by Ord. No. 218]

The following special land uses may be permitted in an R-2 Residential, Single-Family District:

- A. Any special land use permitted in the CP Conservation-Preservation District.
- B. Residential care facility.
- C. Hospital or medical clinic, excluding veterinary hospitals.

§ 475-55. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in an R-2 Residential, Single-Family District shall be as specified in § **475-118**.

Article X. R-2A Single-Family Residential District

[Added 4-18-2005 by Ord. No. 250]

§ 475-56. Description of district.

This R-2A Residential Single-Family District is meant for older portions of the Village where lots are smaller in width and depth (area), with some vacant lots, which cause issues with buildability due to lot development requirements. The R-2A regulations are meant to allow these lots to be developed for single-family housing, while protecting existing developed lots, and stabilizing the essential characteristics of the neighborhoods. To these ends development is permitted on existing, platted lots where adequate facilities are provided.

§ 475-57. Permitted uses.

In the R-2A Residential, Single-Family District, the following uses are permitted:

- A. Single-family dwellings and accessory structures and uses normally auxiliary thereto.
- B. Home occupations.
- C. Publicly owned and operated buildings and uses.
- D. Signs in accord with the provision of Chapter **370**, Signs, of this Code.

§ 475-58. Special land uses.

The following special land uses may be permitted in an R-2A, Residential Single-Family District:

- A. Any special use permitted in the CP Conservation-Preservation District.

§ 475-59. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in a R-2A District shall be as specified in § **475-118**.

Article XI. R-3 Residential, Single- and Two-Family District

§ 475-60. Description.

This R-3 Residential, Single- and Two-Family District is composed of higher density single- and two-family residential areas in the Village where high density single-family or two-family residential development has occurred or appears likely to occur. The regulations for this R-3 District are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to higher density single-family and two-family residential use where adequate facilities and services will be provided.

§ 475-61. Permitted uses.

[Amended 12-14-1988 by Ord. No. 172; 1-2-1996 by Ord. No. 218]

Uses permitted in an R-3 Residential, Single- and Two-Family District are as follows:

- A. Single-family dwellings and the accessory structures and uses normally auxiliary thereto.
- B. Two-family dwellings.
- C. Home occupations.
- D. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- E. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- F. Accessory uses, or buildings, when in accordance with the provisions of § **475-119**.
- G. Family day care homes.

§ 475-62. Special land uses.

Special land uses permitted in an R-3 Residential, Single- and Two-Family District are as follows: Any special land use permitted in the R-2 Residential, Single-Family District.

§ 475-63. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in an R-3 Residential, Single- and Two-Family District shall be as specified in § **475-118**.

Article XII. R-4 Residential, Multiple-Family District

§ 475-64. Description.

This R-4 Residential, Multiple-Family District is composed of certain areas within the Village where multiple-family residential development has occurred or appears desirable to occur. The regulations for this R-4 District are designed to protect and stabilize the essential characteristics of these areas, and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to multiple-family residential use where adequate public facilities and services will be provided.

§ 475-65. Permitted uses.

[Amended 12-14-1988 by Ord. No. 172]

Uses permitted in an R-4 Residential, Multiple-Family District are as follows:

- A. Two-family semidetached dwellings and the accessory structures and uses normally auxiliary thereto.
- B. Apartment houses, boardinghouses, garden apartment development and the accessory structures and uses normally auxiliary thereto.
- C. Business offices in an apartment building for conducting business incidental to the rental, operation, service and maintenance of the apartment building.
- D. Home occupations, limited to existing single-family dwellings and to two-family semidetached dwellings.

- E. Publicly owned and operated buildings and public parks, playgrounds and other recreational areas.
- F. Signs, in accordance with the provisions of Chapter **370**, Signs, of this Code.
- G. Accessory uses or buildings, in accordance with the provisions of § **475-119**.

§ 475-66. Special land uses.

Special land uses permitted in an R-4 Residential, Multiple-Family District are as follows: Any special land use permitted in the R-3 Residential, Single- and Two-Family District.

§ 475-67. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements of an R-4 Residential, Multiple-Family District shall be as specified in § **475-118**.

Article XIII. R-5 Mobile Home Park District

§ 475-68. Description.

This R-5 Mobile Home Park District is designed solely for mobile home parks and such accessory structures and uses normally associated thereto, in accordance with those regulations specified by the Mobile Home Commission Act, Act No. 96 of the Public Acts of Michigan of 1987 (MCLA § 125.2301 et seq.), as amended, and in accordance with the area requirements specified in this article.

§ 475-69. Permitted uses.

Uses permitted in an R-5 Mobile Home Park District are mobile home parks and those uses customarily incidental to the principal use.

§ 475-70. Regulations required of mobile home parks.

[Amended 12-14-1988 by Ord. No. 172]

Regulations which must be followed in the R-5 Mobile Home Park District are as follows:

- A. R-5 Mobile Home Park Districts shall have frontage on a primary or major county street, or similarly adequate thoroughfare or a state trunkline.
- B. R-5 Mobile Home Park Districts shall not be less than five acres in size.
- C. The owner of every mobile home park which lies immediately adjacent to a residential district shall provide a screening area separating the park from the adjoining residential district. The screen shall be in the form of either a wall, fence, or evergreen planting which is compact and maintained in good condition at all times. The height of the screen shall not be less than five feet, except where the screen would interfere with traffic safety, in which case it may be reduced in height to, but not less than, three feet in height. Adequate landscaping shall also be provided by the owner of the mobile home park within the front yard setback area, between the mobile home sites and any public street, so as to provide an attractive frontage upon the street.
- D. All interior drives within a mobile home park shall be paved with asphalt or a similar hard surface to a minimum width of 20 feet. Paved parking spaces for each mobile home site shall be provided

in addition to the twenty-foot service drive, either by the provision of additional parking lanes or by parking spaces off the driveway.

- E. Sidewalks, not less than 30 inches wide, constructed of asphalt or concrete, shall be provided extending between individual mobile home sites and the park service buildings.
- F. Interior drives and walkways shall be lighted at intervals of not more than 100 feet by electric lamps of not less than 100 watts each.
- G. Each mobile home site shall contain an area of not less than 2,000 square feet and have a width of not less than 30 feet.
- H. Each mobile home site shall be well drained and be provided with a concrete slab base for the storage of each mobile home.
- I. No mobile home within a park shall be within 35 feet of a residential district boundary.
- J. Where individual fuel oil tanks are used above ground level, they shall be placed on permanent masonry foundations of uniform design.
- K. Site and development plans of new mobile home parks or additions to existing parks shall be submitted to and approved by the Village Council or its authorized representatives, as such may be designated from time to time by the Village Council, and no mobile home park shall be licensed or licensable unless the plans are first approved by the Village Council or its authorized representative.
- L. Every mobile home park established within the Village shall be inspected periodically by an official designated by the Village Council. The frequency of the inspections and any fees shall be determined by the Village Council.

§ 475-71. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in an R-5 Mobile Home Park District shall be as specified in § 475-118.

Article XIV. C-1 Commercial, Local District

§ 475-72. Description.

This C-1 Commercial, Local District is designed solely for the convenience shopping of persons residing in the surrounding residential neighborhood. The regulations of this article are designed to permit development of the enumerated functions as limited to protect the abutting and surrounding residential properties. See the Zoning Map.

§ 475-73. Permitted uses.

Uses permitted in a C-1 Commercial, Local District are as follows: Retail sales of goods and services, such as:

- A. Bakery and dairy products, retail sales only.
- B. Banks, savings and loan associations.
- C. Barber and beauty shops.
- D. Books, stationery and newspapers.

- E. Clothing and dry goods.
- F. Drugs and pharmaceuticals.
- G. Florist and garden shops.
- H. Funeral establishments.
- I. Groceries and foodstuffs.
- J. Hardware, hobby shop, household appliances.
- K. Laundromat, laundry and dry cleaning pickup station.
- L. Music and dancing schools.
- M. Offices, business or professional.
- N. Photography store.
- O. Radio and television, sales and service.
- P. Restaurant or similar eating establishment.
- Q. Shoe sales and repair.
- R. Signs when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- S. Tailoring and dressmaking.
- T. Variety store, antiques, gifts.
- U. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.
- V. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.

§ 475-74. Special land uses.

[Amended 10-26-1982 by Ord. No. 136]

Special land uses which may be permitted in a C-1 Commercial, Local District are as follows:

- A. Any retail use similar to those uses permitted in this article which is not specifically mentioned in the C-2, C-3 and C-4 Commercial Districts.
- B. Gasoline service stations.
- C. Package liquor sales.
- D. Public utility buildings and structures necessary for the service of the community, except that:
 - (1) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (2) Public utility activities of an industrial character, such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.
- E. Bar, tavern and nightclub.

§ 475-75. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in the C-1 Commercial, Local District shall be as specified in § **475-118**.

Article XV. C-2 Commercial District

§ 475-76. Description.

[Amended 10-26-1982 by Ord. No. 136]

This C-2 Commercial District is established for the accommodation of community-wide needs for general retail sales and service facilities and for certain type of private manufacturing facilities. The regulations of this article are designed to permit development of the enumerated functions as limited to protect the abutting and surrounding properties.

§ 475-77. Permitted uses.

[Amended 1-2-1996 by Ord. No. 218]

Uses permitted in the C-2 Commercial District are as follows:

- A. Any uses permitted in the C-1 Commercial, Local District.
- B. Automobile repair garage.
- C. Automobile sales agency and adjoining outdoor sales area of new or used cars, provided that no dismantling of cars or storage of dismantled cars shall take place outdoors.
- D. Boats and equipment sales.
- E. Commercial recreation enterprises, indoors.
- F. Contractors' workshops.
- G. Greenhouse, nursery.
- H. Hotel, motel.
- I. Machinery and heavy equipment sales, indoors.
- J. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- K. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.
- L. Child-care center.
- M. mixed-use structures (minimum two stories required).
[Added 6-4-2018 by Ord. No. 283]
- N. Private clubs and bowling alleys.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 475-78. Special land uses.

[Amended 10-26-1982 by Ord. No. 136]

Special land uses permitted in the C-2 Commercial District are as follows:

- A. Animal hospital and kennel.
- B. Any general retail use similar to those uses permitted in this article.
- C. Bar, tavern and nightclub.
- D. Bus or truck terminal.

- E. Commercial recreation enterprises, outdoors.
- F. Earth removal, excavations, commercial.
- G. Gasoline service stations.
- H. Package liquor sales.
- I. Public utility buildings and structures necessary for the service of the community, except that:
 - (1) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (2) Public utility activities of an industrial character, such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.
- J. Riding stable, racetrack, commercial.
- K. Volunteer or municipal fire station.
- L. Used car lot.^[1]
 - [1] *Editor's Note: The entry for "machine shop," which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- M. Light manufacturing, provided it is wholly contained in an enclosed building that generates little noise, traffic, liquid waste, odor, vibration, smoke, or other disturbance objectionable to the surrounding properties.

§ 475-79. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements of a C-2 Commercial District shall be as specified in § **475-118**.

Article XVI. C-3 Commercial, Shopping Center District

§ 475-80. Description.

This C-3 Commercial, Shopping Center District is designed solely to provide for integrated community or regional shopping centers. The regulations of this article are designed to permit development of the enumerated functions as limited by the standards designed to protect abutting and surrounding properties.

§ 475-81. Permitted uses.

Uses permitted in a C-3 Commercial, Shopping Center District are as follows:

- A. Any uses permitted in a C-1 Commercial, Local District, when established as an integrated shopping center.
- B. Bowling alleys and commercial recreation enterprises such as dance halls and skating rinks (indoors).
- C. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- D. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.

§ 475-82. Special land uses.

Special land uses permitted in a C-3 Commercial, Shopping Center District are as follows: Any special land use permitted in the C-1 Commercial, Local District.

§ 475-83. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in a C-3 Commercial, Shopping Center District shall be as specified in § **475-118**.

Article XVII. C-4 Commercial, Highway District

§ 475-84. Description.

This C-4 Commercial, Highway District is composed of certain land along state highways or major county thoroughfares to serve the residents of the community and for the convenience of those persons in transit and for the purpose of accommodating those commercial establishments which are of a similar nature in their service to the public.

§ 475-85. Permitted uses.

Uses permitted in a C-4 Commercial, Highway District are as follows:

- A. Automobile sales agency and adjoining outdoor sales area, provided that no dismantling of cars or storage of dismantled cars shall take place outdoors.
- B. Boats and equipment.
- C. Commercial recreation enterprises.
- D. Drive-in eating establishments.
- E. Greenhouse and nursery.
- F. Motel.
- G. Restaurant.
- H. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- I. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- J. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.
- K. Bars, taverns, bowling alleys and nightclubs.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 475-86. Special land uses.

Special exception uses which may be permitted in a C-4 Commercial, Highway District are as follows:

- A. Any special land use permitted in the C-2 Commercial District.
- B. Automobile repair garage.
- C. Drive-in theater.

D. Mobile home sales.

§ 475-87. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements of a C-4 Commercial, Highway District shall be as specified in § **475-118**.

Article XVIII. I-1 Industrial, Restricted District

§ 475-88. Description.

This I-1 Industrial, Restricted District is limited to large tracts located along state highways, major county thoroughfares and railroad rights-of-way and/or adjoining residential and/or commercial areas. The regulations of this article are intended to provide standards of intensity of use and standards of external effects or amenities compatible with the surrounding or abutting residential districts. To these ends, development is limited to a low concentration, external effects are limited, and uses are limited to those industrial activities which can be operated in a clean and quiet manner and which will be least objectionable to adjoining residential districts.

§ 475-89. Permitted uses.

Uses permitted in an I-1 Industrial, Restricted District are as follows:

- A. Agriculture.
- B. Assembly of merchandise such as electrical appliances, electronic or precision instruments, and articles of similar nature.
- C. Packaging of previously prepared materials.
- D. Printing, lithographic, blueprinting and similar uses.
- E. Processing or compounding commodities such as drugs, cosmetics, pottery, plastics and food products.
- F. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- G. Storage or warehousing of commodities such as hardware, packaged or fresh foods, clothing, drugs, except live fowl or animals, commercial explosives, or aboveground or below-ground bulk storage of flammable liquids or gases, unless and only to the extent that such storage of liquids or gases is directly connected to energy or heating on the premises.
- H. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- I. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.

§ 475-90. Special land uses.

Special land uses which may be permitted in an I-1 Industrial, Restricted District are as follows:

- A. Office buildings.

§ 475-91. Lot, yard and area requirements.

The lot, yard and area requirements for an I-1 Industrial, Restricted District are as follows:

- A. Except as elsewhere specified, the lot, yard and area requirements in an I-1 District shall be as specified in § 475-118.
- B. Each district shall contain at least 25 acres.

Article XIX. I-2 Industrial, Service District

§ 475-92. Description.

This I-2 Industrial, Service District is composed of certain lands located along state highways, major county thoroughfares and railroad rights-of-way. The I-2 District is designed to provide land for activities of an industrial nature placing emphasis on the service type of industry as opposed to manufacturing type of industry. Because of the nature of the I-2 District, it should be located so as to be least objectionable to adjoining commercial or residential uses.

§ 475-93. Permitted uses.

Uses permitted in an I-2 Industrial, Service District are as follows:

- A. Offices and office buildings.
- B. Manufacturing, compounding, assembling or treatment of articles, or merchandise, where all work is carried on within an enclosed building, and where any outdoor storage is limited to not more than 10% of the lot area, and is maintained within the rear yard area.
- C. Public utility buildings.
- D. Signs, when in accordance with the provisions of Chapter 370, Signs, of this Code.
- E. Warehouses, fully enclosed.
- F. Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- G. Accessory uses or buildings, when in accordance with the provisions of § 475-119.
- H. Any use permitted in I-1 Industrial, Restricted District.
- I. Private noncommercial clubs.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- J. Contractors' workshops.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- K. Machine shops.
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 475-94. Special land uses.

[Amended 4-20-1998 by Ord. No. 225]

Outdoor advertising signs (billboards) and any industrial use which meets the intent and purpose of this I-2 Industrial, Service District where all work is carried on within an enclosed building, and which does not emanate noise, vibration, odor, smoke, liquid wastes, or light to such an extent as to be objectionable to surrounding properties shall be permitted as a special land use. A determination of the

Board of Appeals shall be conclusive on any question of any business or operation being declared a nuisance or objectionable under the terms of this article.

§ 475-95. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements of an I-2 Industrial, Service District shall be as specified in § **475-118**.

Article XX. I-3 Industrial, Manufacturing District

§ 475-96. Description.

The I-3 Industrial, Manufacturing District is composed of certain lands located along state highways, major county thoroughfares and railroad rights-of-way. The I-3 District is designed to provide land for industries of a manufacturing nature where all work is carried on within an enclosed building producing little external effect of an objectionable nature to the surrounding properties.

§ 475-97. Permitted uses.

[Amended 3-6-2006 by Ord. No. 252]

Uses permitted in an I-3 Industrial, Manufacturing District are as follows:

- A. Automobile repair garage.
- B. Construction and farm equipment sales.
- C. Contractor's equipment yard.
- D. Gasoline service station.
- E. Grain equipment and processing.
- F. Hardware and building supplies.
- G. Ice and cold storage plant.
- H. Lumber, fuel and feed yards.
- I. Machine shop.
- J. Public utility buildings and storage yards.
- K. Signs, when in accordance with the provisions of Chapter **370**, Signs, of this Code.
- L. Storage and warehousing.
- M. Truck terminal, maintenance and service yard.
- N. Publicly owned and operated buildings and uses. including community buildings and public parks, playgrounds and other recreational areas.
- O. Accessory uses or buildings, when in accordance with the provisions of § **475-119**.
- P. Any use permitted in I-2 Industrial, Service District.
- Q. Adult regulated uses as governed and regulated by the provisions of Part **10** of this chapter.
- R. Bus or truck terminal.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

S. Clothing and dry goods.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 475-98. Special land uses.

[Amended 4-20-1998 by Ord. No. 225]

A. Special land uses which may be permitted in an I-3 Industrial, Manufacturing District are as follows:

- (1) Dump.
- (2) Earth removal, excavation; commercial.
- (3) Gravel processing and quarrying.
- (4) Junkyards, building material salvage yard.
- (5) Ready-mix concrete and asphalt plants.
- (6) Slaughterhouse.
- (7) Any industrial use which meets the intent and purpose of this I-3 District, which does not emanate noise, vibration, odor, smoke, liquid wastes or light to such an extent as to be objectionable to surrounding properties.
- (8) Outdoor advertising signs (billboard).

B. A determination of the Board of Appeals shall be conclusive on any question of any business or operation being declared a nuisance or objectionable under the terms of this article.

§ 475-99. Lot, yard and area requirements.

Except as elsewhere specified, the lot, yard and area requirements in an I-3 Industrial, Manufacturing District shall be as specified in § 475-118.

Part 7. Planned Development

Article XXI. Planned Residential Development

§ 475-100. Recognized as special land use; Planning Commission authority.

Planned residential developments shall be recognized as special land uses. The disposition of such developments shall be the responsibility of the Planning Commission.

§ 475-101. Purpose of article.

The purpose of this article is to permit greater flexibility and, consequently, more creative and imaginative design in the development of residential areas than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of

the land while providing a harmonious variety of housing choices, the integration of necessary commercial and community facilities, and the preservation of open space for park and recreational use. A permit may be issued for construction and occupancy of a planned residential development, subject to compliance with the requirements, standards and procedures set forth in this article.

§ 475-102. General requirements.

Any application for a special land use permit must meet the following conditions to qualify for consideration as a planned residential development (PRD):

- A. **Minimum area.** The minimum area required to qualify for a planned residential development special land use permit shall not be less than four contiguous acres of land.
- B. **Ownership.** The tract of land for a project must be either in one ownership or the subject of an application filed jointly by the owners of all properties included. The holder of a written option to purchase land or the holder of an executory land contract shall, for purposes of such application, be deemed to be an owner of such land.
- C. **Location.** Planned residential developments shall be allowed only within the R-1, R-2, R-3 and R-4 Residential Districts and providing the applicant can demonstrate that the proposed character of development will meet the objectives of planned residential developments. In all PRD projects, the general provisions, as set forth in §§ **475-5, 475-10, 475-11, 475-37, 475-113, 475-115, 475-117** and Part **9** of this chapter shall govern, unless relief is granted by the Planning Commission and the Village Council.
- D. **Utilities.** Public water, sanitary sewer and storm drainage facilities shall be provided as part of the site development. All electric and telephone transmission wires shall be placed underground.
- E. **Approval.** Approval by the Planning Commission of a sketch plan and detailed site plan of all planned residential developments is required.

§ 475-103. Permitted uses.

No structure or part thereof shall be erected, altered or used, and no land shall be used in a planned residential development (PRD) except for one or more of the following:

- A. **Residential uses.** The following housing types, excepting mobile homes, shall be deemed desirable in keeping with the objectives of this concept:
 - (1) Single-family detached dwellings;
 - (2) Two-family dwellings;
 - (3) Apartments;
 - (4) Townhouses;
 - (5) Condominiums; and
 - (6) Other multifamily dwellings.
- B. **Commercial uses.** The following commercial uses may be designed and intended to serve the convenience needs of the people residing in the planned residential development:
 - (1) Foodstores;
 - (2) Bakeries, retail only;
 - (3) Barber or beauty shops;

- (4) Banks and financial institutions;
 - (5) Shoe sales and repair stores;
 - (6) Florist and garden shops;
 - (7) Hardware stores;
 - (8) Variety stores;
 - (9) Book and stationery stores;
 - (10) Dry cleaning, pickup or coin-operated only;
 - (11) Wearing apparel shops;
 - (12) Medical or professional offices;
 - (13) Drugstores; and
 - (14) Post offices.
- C. Accessory and associated uses. The following accessory and associated uses may be permitted in a PRD planned residential development:
- (1) Private garages;
 - (2) Storage sheds;
 - (3) Recreational play areas;
 - (4) Churches; and
 - (5) Elementary and secondary schools.

§ 475-104. Design requirements.

Within any PRD planned residential development approved under this article, the requirements set forth in this section shall apply in lieu of regulations set forth in the district in which the development is located.

- A. Number of dwelling units permitted. The maximum number of dwelling units permitted within the PRD project shall be determined by dividing the net residential development area by the minimum residential lot area per dwelling unit required by the district in which the project is located. If the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately.
- B. Lot area requirements. The minimum lot area for single-family dwellings shall not be reduced more than 20% below that required in the district in which the project is located. The lot area requirement for multiple-family dwellings shall not be reduced by more than 10% of that permitted in the district in which the PRD project is located.
- C. Setback and yards. Setback and yard requirements for a PRD planned residential development shall be as follows:
 - (1) Front yards. The minimum setback from a street line for a building or structure may be reduced 15 feet for any cul-de-sac street and 10 feet for any other street below that required in the district regulation in which the planned residential development is located.
 - (2) Rear yards. The minimum rear yard requirements may be reduced to 25 feet in planned residential developments.

- (3) Side yards. The minimum side yard requirements may be reduced to five feet in planned residential developments.
- D. Minimum lot frontage and width. The minimum lot frontage and width for any lot designated for single-family dwelling may be reduced 20% below the requirements of the district in which the planned residential development is located.
- E. Screening. A screening area shall be provided along the perimeter of property on which multiple-family dwellings and/or commercial buildings are erected.
- F. Amount of open space required. Within every PRD planned residential development there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this subsection, the Planning Commission must find the land thus designated to be sufficient in size, suitably located, with adequate access, and that evidence is given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the Village of the future maintenance.
- G. Arrangement of open space. All required open space within a planned residential development shall be arranged so as to provide access and benefit to the maximum number of lots and/or dwelling units. Separate tracts of open space shall have adequate access from at least one point along a public street.

§ 475-105. Application procedure and approval process.

- A. General. Whenever any PRD planned residential development is proposed, before any building permit is granted, the developer shall apply for and secure approval of the special land use in accordance with the following procedures and obtain approval of a detailed site plan from the Planning Commission.
- B. Application for sketch plan approval. Application for sketch plan approval of a PRD planned residential development shall be made as follows:
 - (1) In order to allow the Planning Commission and the developer to reach an understanding of basic design requirements prior to detailed site design investment, the developer shall submit a sketch plan of his/her proposal to the Planning Commission. The sketch plan shall be drawn to approximate scale and clearly show the following information:
 - (a) Boundaries of the property.
 - (b) Location and height of all buildings.
 - (c) Interior roadway system, parking facilities and all existing rights-of-way and easements, whether public or private.
 - (d) Delineation of the various residential areas, indicating for each such area its size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type, plus a calculation of the net residential density.
 - (e) The interior open space system.
 - (f) The overall stormwater drainage system.
 - (g) If grades exceed 30%, or portions of the site have a moderate to high susceptibility to erosion, or a moderate to high susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be provided.
 - (h) Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.

- (i) General description of the provision of other community facilities, such as schools, recreational facilities, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 - (j) A location map showing uses and ownership of abutting lands.
 - (2) In addition, the following documentation shall accompany the sketch plan.
 - (a) Evidence that the proposal is compatible with the objectives of the community's comprehensive plan.
 - (b) General statement as to how common open space is to be owned and maintained.
 - (c) The sketch plan shall show the intended total project. If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified.
 - (3) The Planning Commission shall hold a public hearing or hearings on the application for planned residential development in accordance with Section 503 of Act No. 110 of the Public Acts of 2006 (MCLA § 125.3503), as amended.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
 - (4) Following the public hearing, the Planning Commission shall, within 60 days, approve or disapprove the sketch plan and so notify the applicant of its decision.
 - (5) Approval of the sketch plan shall not constitute approval of the detailed site plan, rather it shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan.
 - (6) Request for changes in sketch plan. If it becomes apparent that certain elements of the sketch plan, as it has been approved by the Planning Commission, become unfeasible and in need of modification, the applicant shall then resubmit his/her entire sketch plan, as amended, to the Planning Commission, pursuant to the procedures of Subsection **B** of this section.
- C. Application for detailed site plan approval. Application for detailed site plan approval for a PRD planned residential development shall be made as follows:
 - (1) After receiving approval from the Planning Commission on a sketch plan, the applicant may prepare his/her detailed site plan and submit it to the Planning Commission for approval. However, if more than six months have elapsed since the time of sketch plan approval, the Planning Commission may require a resubmission of the sketch plan for further review and possible revision.
 - (2) The detailed site plan shall conform to the sketch plan that has received approval. It should incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
 - (3) The detailed site plan shall include the following information:
 - (a) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets, utilities, and easements within 300 feet of the applicant's property.
 - (b) A topographic map showing contour intervals of not more than four feet of elevation shall be provided.
 - (c) A site plan showing location, proposed use, and height of all buildings, location of all parking areas, with access and egress drives thereto; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and

location of such facilities; location and size of all signs; location and proposed development of screened areas; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.

- (d) A tracing overlay showing all soil types and their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.
- (4) Required standards for approval. The Planning Commission's review of the detailed site plan shall include the following:
- (a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movement.
 - (b) Location, arrangement, appearance, and sufficiency of off-street parking.
 - (c) Location, arrangement, size and entrances of buildings, walkways and lighting.
 - (d) Relationship of the various uses to one another.
 - (e) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering screen between adjacent uses and adjoining lands.
 - (f) In the case of multiple dwellings, the adequacy of usable open space for playgrounds and recreation.
 - (g) Adequacy of water supply, stormwater and sanitary waste disposal facilities.
 - (h) Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 - (i) Compliance with all regulations of this chapter.
- D. Action on the detailed site plan. The Planning Commission shall render its approval or disapproval of the detailed site plan for a PRD planned residential development and so notify the applicant and the Building Inspector.
- E. Revocation. In any case where construction on the PRD planned residential development has not commenced within one year from the date of approval, then the special land use permit shall be null and void.

Article XXII. Planned Unit Development District (PUD)

[Added 6-4-2018 by Ord. No. 284]

§ 475-106. Purpose of article.

This article sets forth the procedures and approval standards to rezone land within the Village of Vicksburg to a Planned Unit Development District ("PUD District"). The purpose and intention of establishing a PUD District is to afford landowners a degree of flexibility from the development standards found in non-PUD Districts. By establishing a PUD District, the Village seeks to encourage innovation in land use, specifically on sites with significant natural, historical and architectural value or on sites that exhibit difficult development constraints.

§ 475-107. Objectives.

The following objectives shall be satisfied by the creation of a PUD District:

- A. To provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible;
- B. To encourage the preservation of open space and the development of recreational space and facilities;
- C. To allow phased construction with the knowledge and security that subsequent phases will be approved as originally planned and approved by the Village;
- D. To promote flexibility in design and development plans;
- E. To promote the efficient and beneficial use of land for and by Village residents and visitors alike; and
- F. To ensure a quality of construction similar to other developments within the Village.

§ 475-108. Application and approval procedures.

- A. Application for PUD approval. An application and all supporting materials referenced below (collectively referred to as the "application") may be submitted to the Village c/o the Village Manager during regular business hours.
- B. Application review. Upon submission of the application, the Village Manager will review same with the assistance of Village personnel and third party consultants.
- C. Planning Commission. Within 30 days after the submission of the application, or as soon thereafter as possible, the application shall be reviewed by the Village Planning Commission at a public meeting along with any reports or documents provided to the Planning Commission by Village personnel and consultants.
- D. Village Council.
 - (1) After the application has been reviewed by the Vicksburg Planning Commission, the Village of Vicksburg Council shall hold a public hearing on the application. Based on a review of the materials, including but not limited to the application, all supporting documents and reports provided by the applicant, all reports and documents provided by Village personnel and consultants, the opinion rendered by the Planning Commission, and upon the consideration of public opinion, the Village Council shall vote to approve or deny the application to create a new PUD District. The Village Council may adjourn the matter for up to 45 days to provide the applicant time to submit additional information.
 - (2) A PUD District may be developed in multiple stages. Any development within the PUD District that includes uses proposed for the PUD District that are not already permitted by the PUD District's existing PUD development agreement must be submitted to the Planning Commission for review and must be approved by the Village Council after a public hearing.
 - (3) Approval of an application for a PUD District shall have no bearing on the Village's review or approval of a subsequent application or modified application for a PUD District.

§ 475-109. Application materials.

An application packet shall include all of the following materials:

- A. Application for planned unit development approval. An application shall be available at the Vicksburg Village Hall during all regular business hours;
- B. District site plan. Applicants must provide materials related to the tentative development of the PUD District. The district site plan must include information related to:

- (1) Building development, including estimated timelines for construction;
 - (2) Landscaping and open space use within the PUD District;
 - (3) Environmental impact showing the effect the PUD District may have on the surrounding: land, streams and wetlands; air quality; and stormwater drainage, water supply and sewage disposal systems.
 - (a) If it is determined that the PUD District will have a greater than proportional impact on the Village's infrastructure, the applicant may be responsible for its reasonable share of costs associated with the improvements necessary to make the system(s) operative, as determined by the Village.
 - (4) Traffic impact study detailing the impact that the PUD District would have on traffic and public roadways as well as parking within the Village;
 - (5) Community impact study outlining the impact that the PUD District would have on the Village residents, including but not limited to the following:
 - (a) The impact on surrounding property values;
 - (b) Any potential changes to the Village in terms of noise, litter, odor or light;
 - (c) The impact on the population of the Village, including data regarding the effects on the local school district; and
 - (d) An outline of the potential costs to the Village, the school district, and the police and fire departments serving the Village.
 - (6) Economic feasibility study showing the economic impact that the PUD District would have on the Village; and
 - (7) Additional Village requests. In order to better evaluate the impact of the PUD District on the Village, the Planning Commission and the Village Council may require additional information about the applicant's plan.
- C. Any development of the PUD District shall require individual development site plans that must be submitted to the Planning Commission and approved by the Village Council.

§ 475-110. Standards for approval.

The application and supporting information referenced above must show that:

- A. The PUD District is compatible with the Village's Master Plan;
- B. The PUD District would not have a significant negative impact, as reasonably determined by the Village Council, on properties and bodies of water adjacent to the PUD District;
- C. The PUD District would not have a significant negative impact, as reasonably determined by the Village Council, on the residents of the Village;
- D. The creation or continued development of the PUD District would not create additional costs for either the Village or the Village residents or, alternatively, all such costs will be paid for directly by the applicant; and
- E. The PUD District would not have a significant and unreasonable negative impact, as determined by the Village Council, on government services provided to Village residents.

§ 475-111. Zoning standards.

- A. The Village has established the following minimum standards for every PUD District. Applicants shall submit an individual development site plan for each construction phase. Any provisions of the Village Code which are not addressed or otherwise superseded by this article shall remain in full force and effect.
- (1) Permitted uses.
 - (a) Multiple-family residential dwelling. No PUD District may exceed an average of three residential units per acre within the PUD District. Residential dwellings located in a PUD District may only be permitted when part of a mixed-use development. Mixed-use may include residential uses on the ground floor only when located within a PUD District; and
 - (b) Mixed-use. For the purposes of this chapter, mixed-use may include any permitted or special land use allowed in the C-2, C-3 and I-2 Zones in conjunction with any multiple-family residential use.
 - (c) Such other unique use, or combination of uses, that may be approved by the Planning Commission and Village Council pursuant to a PUD District application.
 - (2) Lot. Each PUD District must contain no less than 10 acres of land. If the PUD District consists of more than one parcel, all parcels must be adjacent to each other. All standard setbacks apply within the PUD District for individually owned parcels. For all parcels under common ownership, the setbacks shall be applied from the perimeter of the parcels as if they were adjoined.
 - (3) Ownership. All parcels of land within the PUD District must be owned by one party, entity or individual or, alternatively, all owners of property within the PUD District must acknowledge their desire to create the PUD District and willingness to abide by the terms of all applicable regulations and ordinances in writing.
 - (4) Structures. No newly developed structure may be taller than 40 feet in height.
 - (5) Open space. No less than 30% of any PUD District shall remain undeveloped and be designated as open space.
 - (6) Setback. All newly developed permanent structures within the PUD District must be located no less than 50 feet from all property lines.
 - (7) Off-street parking. Applicant must demonstrate that sufficient parking exists for any and all proposed uses. Parking may be permitted on or off premises. Parking shall conform to the standards of this chapter or as determined sufficient by the Village Council. Approval of off-premises parking shall be subject to written consent from any property owners where such parking may be provided. The Planning Commission or Village Council may require notarized documents or recording of documents verifying off-premises parking if deemed necessary. Failure to maintain minimum approved off-street parking shall be considered a violation of this chapter.
 - (8) Site work such as vehicle parking areas in excess of 20 parking spaces, grade changes requiring a soil erosion permit and any development subject to site plan review per § **475-31** of this chapter shall require site plan approval prior to the start of work or issuance of a building permit. Phased development of a PUD is subject to all reviews and approvals as outlined in the Code of the Village of Vicksburg that may apply. The PUD plan on file for any area zoned PUD in the Village shall be valid in perpetuity such that any site plan review of further development within a PUD District will be subject to that plan as approved.
 - (9) Notwithstanding the forgoing, the Village Council, upon recommendation of the Planning Commission, shall have the authority to deviate from the aforementioned standards on a case-by-case basis when reviewing and approving a PUD District application.
- B. Any modification from these standards shall be requested in the application and, if approved, outlined in the development agreement.

§ 475-112. Fees.

- A. At the time the application is submitted, the applicant must submit a fee to the Village to be held in a separate escrow account and applied to all actual costs associated with the review of and decisions made on the application. The actual costs shall include but not be limited to all administrative costs (copies), legal fees, consultant fees, publication costs, and all other costs that the Village incurs in reviewing and either approving or denying the application. The Village will provide the applicant with an updated invoice within a reasonable time after such a request is made to the Village.
- B. The initial fee shall be in the amount of \$25,000. If the Village incurs additional charges above the amount retained, it shall provide an invoice to the applicant and the applicant shall provide payment for the invoice within 30 days. Any funds not used by the Village in the review and approval or denial process shall be refunded to the applicant.

Part 8. Supplementary District Regulations

Article XXIII. Generally

§ 475-113. Limitations on all land and structures.

- A. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be used, designed, or arranged to be used, for any purpose or in any manner other than that included among the uses permitted in the zone in which such building or land is located.
- B. Every building erected shall be located on a lot, and except as provided herein, there shall be not more than one single-family dwelling on one lot.
- C. Every dwelling structure shall be built upon a lot with frontage upon a public street, except that any one lot of record created before the effective date of this chapter without any frontage on a public street, but provided with an easement or other right-of-way of no less than 20 feet wide, may be granted a building permit, providing all other requirements of this article can be met.
- D. The illumination of any buildings or uses of land shall be designed and operated so that the source of light shall not be directed upon adjacent properties or the public streets. In no event shall the illumination of a building or use of land be permitted to flood upon adjacent residential structures.

§ 475-114. Motor vehicles parking and storage.

[Added 6-28-1986 by Ord. No. 153; amended 8-15-2011 by Ord. No. 263]

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

DRIVEWAY

That area surfaced with concrete, asphalt, gravel or similar material leading from an approved and authorized curb cut to a garage, carport or approved parking space.

FRONT YARD

That area measured from the front lot line to the first supporting member of a structure. In the case of corner lots, the front yard shall be the area measured by the lot lines on each street to

a depth measured from the lot lines to the first supporting member of the structure.

MOTOR VEHICLE

Any automobile, truck, trailer, motorcycle, boat or other motor-driven vehicle.

PARKING SURFACE

An area for the purpose of parking one automobile, having a minimum width of 10 feet and a minimum length of 22 feet, surfaced with concrete or asphalt, with access to a public street or alley.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

REAR YARD

An open space extending the full width of the lot between a building and the rear lot line.

SIDE YARD

An open space unoccupied and unobstructed between a building and the side lot line extending from the front yard to the rear yard.

- B. Policy of section. In order to protect the public health, safety and general welfare, to enhance the visual environment of the Village and to preserve residential neighborhoods, the parking and storage of motor vehicles in certain areas is prohibited.
- C. Parking. The parking, storage or leaving unattended of any motor vehicle in any front, side or rear yard in any residential district in the Village is declared to be a public nuisance and is hereby prohibited. All motor vehicles in residential zoned districts shall be parked in zoning-approved driveways or garages, provided such vehicles shall not be parked so as to obstruct sidewalks. A noncommercial trailer not exceeding eight feet by 16 feet, a boat or motorboat less than 21 feet in length, and nonmotorized portable living quarters not exceeding 28 feet may be parked or stored in the rear yard of residential zoned and/or used properties.
- D. Enforcement of section. This section may be enforced by injunction, suit for damages or by any other appropriate remedy.^[1]

[1] *Editor's Note: Former subsection (e), penalty for violation of the section, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

Article XXIV. Area Requirements and Limitations

§ 475-115. Limitations on area.

- A. No building shall be erected, nor shall any existing building be altered, enlarged, moved or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations designated for the zone in which such buildings or open space is located, except as otherwise specifically provided.
- B. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as a yard or open space for any other building.
- C. Any lot which was legally recorded at the time of adoption of the ordinance from which this section is derived, and which was a buildable lot under this chapter in effect immediately prior to the adoption of the ordinance from which this section is derived, shall be deemed a buildable lot even though it may have less than the minimum area requirements.

§ 475-116. Setback from lakes, ponds, streams and rivers.

- A. Any building constructed on a lot abutting a lake, pond, stream or river shall be set back at least 100 feet from the high-water line, except:
- (1) Those buildings in existence at the time of passage of the ordinance from which this section is derived.
 - (2) Where the majority of the property abutting the waterline within 500 feet of a vacant lot has been built upon at the time of passing of the ordinance from which this section is derived, the setback of any building hereafter erected on the vacant lot shall not be required to be greater than, nor shall it be less than, the average setback of the improved properties.
 - (3) One-story boathouses used exclusively for boating and bathing facilities may be constructed at the high-water shoreline, but not over the water. However docks, together with temporary boat shelters which are dismantled during the winter months, may be constructed out into the lake beyond the high-water shoreline not more than 50 feet from the shoreline.
- B. In the event of a controversy concerning the location of the high-water shoreline for the purposes set forth in this section, the determination of the Board of Appeals shall be conclusive on such question.

§ 475-117. Limitations on height.

No building shall be erected, reconstructed or structurally altered to exceed in height the limit designated for the zone in which such building is located, except the height limitations of this chapter shall not apply to church spires, belfries, cupolas, antennas, domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, silos, bulkheads, and necessary mechanical appurtenances usually carried above the roof level, except where, in the opinion of the Building Inspector, such may be deemed to interfere with aerial navigation or constitute a fire hazard. Such features, however, shall not exceed in total coverage 20% of the total roof area and shall not exceed a reasonable height to be determined upon reference of all such cases to the Zoning Board of Appeals by the Building Inspector.

§ 475-118. Schedule of Lot, Yard and Area Requirements.

[Amended 8-11-1993 by Ord. No. 197; 4-18-2005 by Ord. No. 250; 6-4-2018 by Ord. No. 283]

The following is a Schedule of Lot, Yard and Area Requirements for this chapter.^[1]

[1] *Editor's Note: The Schedule of Lot, Yard and Area Requirements is included as an attachment to this chapter.*

Article XXV. Accessory Uses or Buildings

§ 475-119. Conditions for accessory use enumerated.

Any use which complies with all of the following conditions may be operated as an accessory use:

- A. Is clearly incidental and customary to and commonly associated with the operation of the permitted uses.
- B. Is operated and maintained under the same ownership and on the same lot or contiguous lot to the permitted uses.
- C. Does not include structures or structural features inconsistent with permitted uses.
- D. Does not include residential occupancy, except for living quarters for farm, domestic or other employees having employment on the premises.

- E. Accessory buildings, other than farm buildings, shall be located only in the rear yard.
- F. If an accessory use is carried on within the structure containing the permitted uses, the gross floor area within such structure utilized by accessory uses, except garages and off-street loading facilities, shall be not greater than 20% of the gross floor area, but not to exceed 300 square feet, of a single unit dwelling or 10% of the gross floor area of a structure containing any permitted uses other than a single unit dwelling.
- G. Fallout shelters are permitted as accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately and, in addition to shelter use, may be used for any accessory use permitted in the district, subject to the district regulations on such use. Fallout shelters constructed completely below the ground level, except for a vent not exceeding 30 inches in height above ground level, may be contained within any yard area.

Article XXVI. Screening

§ 475-120. Materials; height; location; fences.

[Amended 6-17-1996 by Ord. No. 221]

- A. Commercial and industrial uses adjacent to residences and residential districts. Every commercial or industrial use occupying land immediately adjacent to a residence or residential district shall have a screening area visually separating the commercial or industrial use from the adjoining residence or residential districts. The screen shall be in the form of either a wall, fence, hedge, berm or compact evergreen planting, which is maintained in good condition at all times. Density of plantings shall be determined by the Planning Commission. The height of the screen shall not be less than eight feet, except where the screen would interfere with traffic or pedestrian clear vision and safety, in which case it shall be reduced in height to 30 inches or less. All fences shall be installed with the solid (good) side facing the residence or residential district.

- B. Residential districts.

[Amended 6-6-2016 by Ord. No. 280]

- (1) Fences in residential districts may be located within a side yard or rear yard, as those terms are defined in this chapter. Fences must be placed entirely in the confines of a residential lot. No fence shall be located within a required front yard, clear vision corner, or side yard on a corner lot where adjacent lot(s) have front yards facing the same street as the subject property side yard, without the approval as a special land use by the Planning Commission, who shall take into consideration the type of materials to be used, effect of the fence on neighboring properties, traffic and pedestrian vision and safety, and any other factor deemed relevant by the Commission. All fences shall be installed with the solid (good) side facing away from the parcel with any bracing installed on the inside of the fence toward the parcel. Hedges and fences must be placed entirely within the confines of a residential lot. No hedge, planting, fence, berm or wall shall extend at a height greater than 30 inches along a drive, street, alley, sidewalk, or other vehicular or pedestrian travelway within 20 feet of an intersection of any two of the above, to create a clear vision corner at the intersection. All hedges or fences in residential districts, except in those areas where commercial and industrial uses occupy land immediately adjacent to a residence or residential district (Subsection **A** above), shall be installed at a maximum height of six feet and maintained in good appearance except as allowed in this section. No fence or wall shall be constructed of materials harmful to residents, such as protruding nails, barbs, spikes, nor electrically charged. All hedges and fences shall be installed and maintained with their good sides out away from the property on which they are installed. All hedges and fences which exist prior to the adoption of this section that require repairs and/or maintenance of 1/2 the installation cost shall comply with the conditions of this section.

- (2) Only decorative fences, which shall be 80% open uniformly along the length of the fence, shall be allowed to be installed in front yard areas at a height greater than 30 inches, but not greater than 49 inches. Decorative fences shall include fences with designs made of wood, plastic or metal, not including wire or poles.

Article XXVII. Home Occupations

§ 475-121. Conditions for operation.

Any home occupation operated in a single dwelling unit may be operated only if it complies with all of the following conditions:

- A. Is operated in its entirety within the single dwelling and not in a garage or accessory building, and only by the person maintaining the dwelling.
- B. Does not have any employees or regular assistants not residing in the dwelling, except for offices of doctors, dentists or other similar practitioners.
- C. The dwelling does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling.
- D. The occupation conducted is clearly incidental and secondary to the residential use of the building.
- E. No goods or services are sold which are not produced by the immediate members of the family therein.
- F. Dancing or musical instrument instruction, restaurants, beauty and barber shops, and business or trade shall not be considered home occupations.
- G. Noise or other objectionable characteristics incident thereto shall not be discernible beyond the boundaries of the lot.
- H. Does not utilize more than 20% of the gross floor area, but the floor area shall not exceed 300 square feet, in the single unit dwelling.

Part 9. Off-Street Parking

§ 475-122. Property owner's responsibilities.

In each district every property owner shall provide and maintain at all times an adequate number of off-street parking spaces and the necessary loading and unloading facilities for all the occupants, employees and patrons of such property.

- [1] *Editor's Note: A section which preceded this section and titled "Residentially zoned area," was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see now § 475-114 for provisions for parking in residential areas.*

§ 475-123. Building permit application parking plan.

A plan showing the required parking and loading spaces, including the means of access and interior circulation, except for one-family and two-family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.

§ 475-124. Provision of parking space; manner and location.

Parking space shall be provided in the manner and location specified in this section:

- A. No parking area, parking space or loading space which exists at the time this article becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this article shall thereafter be relinquished or reduced in any manner below the requirements established by this article, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this article within 300 feet of the proposed or existing uses for which such parking will be available.
- B. Parking of motor vehicles in residential zones shall be limited to passenger vehicles and not more than one commercial vehicle. The parking of any other type of commercial vehicle or buses, except for those parked on school property, is prohibited in a residential zone.

§ 475-125. Parking areas, spaces and lots.

Requirements for all parking areas, parking spaces and parking lots are as follows:

- A. Each automobile parking space shall be not less than 180 square feet nor less than nine feet wide, exclusive of driveway and aisle space.
- B. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have a dust-free surface resistant to erosion.
- C. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lots.
- D. No parking space shall be closer than five feet from the property line.
- E. Off-street parking facilities in nonresidential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence or compact planting not less than four feet or more than eight feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.
- F. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one- or two-family dwellings.
- G. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
- H. Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements; and provided, further, that the specifications in regard to location, plan, etc., are complied with.
- I. The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use.

§ 475-126. Minimum required parking spaces.

The minimum required parking spaces for the following areas must be provided:

- A. Apartment houses. Apartment houses shall provide 1 1/4 parking space per family unit.
- B. Office buildings. Office buildings shall provide one parking space for each 200 square feet of floor space utilized for work space of employees.
- C. Retail stores, super markets, department stores, personnel service shops, and shopping centers. Retail operations in retail stores, supermarkets, department stores, personnel service shops and shopping centers shall provide: One parking space for each 100 square feet area in the basement and on the first floor used for retail sales; one space for each 150 square feet of floor area on the second floor used for retail sales; one space for each 300 square feet of floor area on the third floor used for retail sales; and one space for each 400 square feet on any additional floor used for retail sales.
- D. Manufacturing buildings. Manufacturing buildings shall provide one parking space for each three employees on the maximum shift.
- E. Libraries, museums and post offices. Libraries, museums and post offices shall provide one parking space for each 100 square feet of floor area.
- F. Bowling alleys. Bowling alleys shall provide three parking spaces for each alley.
- G. Motels and tourist homes. Motels and tourist homes shall provide one parking space for each separate unit.
- H. Theaters, auditoriums, stadiums and churches. Theaters, auditoriums, stadiums and churches shall provide one parking space for each four seats.
- I. Dance halls, assembly halls and convention halls without fixed seats. Dance halls, assembly halls and convention halls, without fixed seats, shall provide one parking space for each 100 square feet of floor area if to be used for dancing or assembly.
- J. Restaurants and nightclubs. Restaurants and nightclubs shall provide one parking space for each 100 square feet of floor area.
- K. Schools; private or public elementary and junior high schools. Private or public elementary and junior high schools shall provide one parking space for each employee normally engaged in or about the building or grounds.
- L. Senior high schools and institutions of higher learning. Senior high schools and institutions of higher learning shall provide one parking space for each employee normally engaged in or about the building or grounds and one additional space for each five students enrolled in the institution.
- M. Dwelling; single- and two-family. A minimum of one space for each dwelling unit on the property.
[Add 6-4-2018 by Ord. No. 283]
- N. Mixed-use. The minimum number of spaces as required for the cumulative total of uses on the property. Any mixed-use existing as of the adoption of this chapter is not subject to this provision unless additional dwelling units are added. Failure to maintain any of the following conditions after the issuance of a certificate of occupancy for any residential dwelling in a mixed-use structure shall be considered a violation of this chapter. Any mixed-use in the C-2 Zone which permits any new dwelling unit must provide parking in compliance with one of the following options.
[Add 6-4-2018 by Ord. No. 283]
 - (1) Provide the minimum required parking as outlined in § **475-126** of this chapter on premises where the dwelling unit is located.
 - (2) Provide parking off premises on private property within 300 feet of the property where the dwelling unit is located. A document providing proof of allowance for parking, signed by the property owner, must be provided in order to satisfy this requirement, and the Village may

require such document to be recorded with the property through the County Register of Deeds.

- (3) Obtain approval from the Village of Vicksburg to utilize parking area on a public parking lot within 300 feet.

Part 10. Adult Regulated Uses

[Added 3-6-2006 by Ord. No. 252]

§ 475-127. Purpose and findings.

A. Purpose.

- (1) In the development and execution of this part, it is recognized that there are some uses, commonly known as adult uses or sexually oriented businesses, which because of their very nature have serious objectionable operational characteristics. The impacts of these objectionable characteristics are exacerbated when several adult uses are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential use or zone, church, or house of religious worship, school, park, playground or public recreational area, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to prevent these adverse effects and to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls contained within this chapter are for the purpose of preventing the negative secondary effects associated with adult uses and to prevent a concentration of these uses within any one area or to prevent deterioration or blighting of a nearby residential neighborhood.
- (2) It is the purpose of this part to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually-oriented businesses within the Village. The provisions of this part have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this part to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this part to condone or legitimize the distribution of obscene material.

B. Findings.

- (1) This part is based on evidence of the adverse secondary effects of adult uses that are within the common knowledge of municipalities and is widely reported in judicial opinions, media reports, land use studies, and crime impact reports made available to the Village Council, several of which are set forth herein. Additionally, the Village Council relies on repeated judicial findings of municipalities' reasonable reliance on this body of secondary effects evidence to support time, place, and manner regulations of sexually-oriented businesses. The Village Council relies upon and incorporates the findings of secondary effects discussed in the following nonexhaustive list of cases from the U.S. Supreme Court: *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *California v. LaRue*, 409 U.S. 109 (1972).
- (2) The Village Council also relies on relevant decisions of federal appellate and trial courts: *DLS, Inc. v. City of Chattanooga*, 107 F 3d 403 (6th Cir. 1997); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986);

- Bright Lights, Inc. v. City of Newport, 830 F. Supp. 378 (E.D. Ky. 1993); Richland Bookmart v. Nichols, 137 F 3d 435 (6th Cir. 1998); Deja Vu v. Metro Government, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); Bamon Corp. v. City of Dayton, 7923 F 2d 470 (6th Cir. 1991); Triplett Grille, Inc. v. City of Akron, 40 F 3d 129 (6th Cir. 1994); O'Connor v. City and County of Denver, 894 F 2d 1210 (10th Cir. 1990); Deja Vu of Nashville, Inc., et al v. Metropolitan Government of Nashville and Davidson County, 274 F 3d 377 (6th Cir. 2001); Z.J. Gifts D-2, LLC v. City of Aurora, 136 F 3d 683 (10th Cir. 1998); ILQ Investments, Inc. v. City of Rochester, 225 F 3d 1413 (8th Cir. 1994); World Wide Video of Spokane, Inc. v. City of Spokane, 227 F 3d 1143 (E.D. Wash. 2002); Threesome Entertainment v. Strittmather, 4 F. Supp. 2d 710 (N.D. Ohio 1998); Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County, 209 F. Supp. 2d 672 (W.D. Ky. 2002).
- (3) Additionally, the Village Council expressly relies upon Michigan cases relating to adult businesses, municipal regulatory authority, and public nuisances, including, but not limited to, the following cases: Rental Property Owners Association of Kent County v. City of Grand Rapids, 455 Mich 246, 566 NW2d 514 (1996); Michigan ex rel Wayne County Prosecutor v. Dizzy Duck, 449 Mich 353, 535 NW 2d 178 (1995); City of Warren v. Executive Art Studio, 1998 Mich App LEXIS 2258 (1998); Tally v. City of Detroit, 54 Mich App 328 (1974); Jott, Inc. v. Clinton Township, 224 Mich App 513 (1997).
 - (4) The Village Council notes that media reports document the harms associated with adult businesses as well: See e.g., Muskegon Man Convicted in Beating Death of Adult Bookstore Manager, Associated Press state and local wire, Sept. 9, 1999; Katie Merx, X-Rated Inkster Theater Razed: Officials, Cops, Residents Cheer Demolition of Melody, An Embarrassment for 22 Years, The Detroit News, August 19, 1999, at D3 (discussing documented sexual activity in and around adult business); Craig Garrett, Suburbs Declare War on Smut Shops, The Detroit News, June 30, 1999, at A1 (describing how adult theater patrons would solicit young people in the area for sex); Justin Hyde, Warren Leaders Want to Pursue Product Liability Against Porn Shop, Associated Press state and local wire, Feb. 4, 1999 (child rapist arrested in peep show establishment).
 - (5) The Village Council further relies on reports concerning secondary effects occurring in and around sexually-oriented businesses, including but not limited to Phoenix, Arizona - 1984; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Indianapolis, Indiana - 1984; Amarillo, Texas - 1977; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio - 1977; Dallas, Texas - 1997; McCleary Report, Alliance, Ohio - 2002; Tucson, Arizona - 1990; Testimony, Warner-Robins, Georgia - 2000; St. Croix County, Wisconsin - 1993; Bellevue, Washington - 1998; Newport News, Virginia - 1996; St. Cloud, Minnesota - 1994; New York Times Square Study - 1994; Phoenix, Arizona - 1995 - 1998; and also on findings of physical abuse from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota). Based on the cases and reports documenting the adverse impact of adult businesses, the Village Council finds:
 - (a) Sexually-oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, pornographic litter, and sexual assault and exploitation.
 - (b) Sexual acts, including masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semiprivate booths, rooms, or cubicles for viewing films, videos, or live sexually explicit shows.

(c) Each of the foregoing negative secondary effects constitutes a harm, which the Village has a substantial governmental interest in preventing and/or abating.

C. The following adult regulated uses are subject to these controls:

- (1) Adult arcade or mini motion-picture theaters;
- (2) Adult bookstores, adult novelty stores, or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion-picture theaters;
- (6) Adult outdoor motion-picture theaters;
- (7) Adult model studios;
- (8) Adult physical culture businesses;
- (9) Adult theaters; and
- (10) Adult personal service businesses.

§ 475-128. Definitions.

As used in this part, the following terms shall have the indicated meanings:

ADULT ARCADE or MINI MOTION-PICTURE THEATER

Any place to which the public is permitted or invited wherein coin-operated or slug-operated, or electronically, electrically, or mechanically controlled still- or motion-picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images regularly displayed are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined herein).

ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE

A commercial establishment which has significant or substantial portions of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, DVDs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;
- B. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

ADULT BOOTH

- A. A partitioned area inside an adult regulated use, which is:
 - (1) Designed or regularly used for the viewing of books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations, recordings, and novelties or devices which are distinguished or

characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas by one or more persons; and

(2) Is accessible to any person, regardless of whether a fee is charged for access.

B. Adult booth does not include a foyer through which any person can enter or exit the establishment or a restroom.

ADULT CABARET

A nightclub, cafe, restaurant, lounge, bar or similar establishment, (which may or may not include the service of food or beverages), which regularly features persons who appear nude or seminude or which regularly features performances distinguished or characterized by an emphasis on the display of any specified anatomical areas or specified sexual activities.

ADULT MODEL STUDIO

Any place where a person who displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Such an establishment includes, but is not limited to, the following activities and services: modeling studios, body painting studios, wrestling studios, individual theatrical performance or dance performances, barbershops or hair salons, car washes, and/or convenience stores. An adult model studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college, or university supported entirely or in part by public taxation, a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation, or in a structure:

- A. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
- B. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- C. Where no more than one nude or seminude model is on the premises at any one time.

ADULT MOTEL

A hotel, motel or similar commercial establishment, which:

- A. Offers accommodations to the public for any form of consideration; and
- B. Provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and
- C. Has a sign visible from the public right-of-way, which:
 - (1) Advertises the availability of this adult type of photographic reproductions; or
 - (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
 - (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, videos, DVDs, slides or other photographic reproductions are regularly shown in which a substantial portion of the total presentation is devoted to the showing of materials which are distinguished or characterized by their emphasis on the depiction, description, or relation to specified sexual activities or specified anatomical areas for observation or entertainment of patrons, guests, and/or members.

ADULT OUTDOOR MOTION-PICTURE THEATER

A commercial establishment having an open lot or part thereof with appurtenant facilities devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions for any form of consideration to persons in motor vehicles or in outdoor seats, and regularly presenting material distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation or entertainment of patrons, guests, and/or members.

ADULT PERSONAL SERVICE BUSINESS

A commercial business having as a principal activity a person, while nude or seminude, providing personal services for another person on an individual basis. Such a business includes, but is not limited to, the following activities and services: modeling studios, body painting studios, wrestling studios, individual theatrical performances or dance performances, barbershops or hair salons, car washes, convenience stores or other commercial business establishments where food or goods and services are sold, and tattoo parlors where services are being performed by a person who is nude or partially nude. "Nude" or "seminude" is defined as having attire which reveals specified anatomical areas, as defined in this section.

ADULT PHYSICAL CULTURE BUSINESS

Any commercial establishment, club or business by whatever name designated, which regularly offers or advertises or is equipped or arranged to provide massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical cultural business may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths.

ADULT REGULATED USE

Adult physical culture business, adult bookstore, adult novelty store, adult video store, adult theater, adult cabaret, adult motion-picture theater, adult outdoor motion-picture theater, adult arcade or mini motion-picture theater, adult motel, adult booth, or adult personal service business.

ADULT THEATER

A commercial establishment which is a theater, concert hall, auditorium, or similar commercial establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances which are distinguished or characterized by their emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by guests, patrons, and/or members. An adult theater does not include a theater, concert hall, auditorium, or similar establishment which, for any fee or consideration, regularly features live performances which are not distinguished or characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas, in that any such depiction or description is only incidental to the primary purpose of the performance.

COMMERCIAL ESTABLISHMENT

Any business, location, or place which conducts or allows to be conducted on its premises any activity for commercial gain.

DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON

The dominant or principal theme of the object so described. For example, "films which are distinguished or characterized by an emphasis upon the exhibition or description of specified sexually activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities.

EMPLOYEE

A person who performs any service for any consideration on the premises of an adult regulated use on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult regulated use. "Employee" does

not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

ESTABLISHMENT

The site or premises on which an adult regulated use is located, including the interior of the establishment or portions thereof, upon which certain activities or operations are being conducted for commercial gain.

NUDITY or STATE OF NUDITY

The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this chapter, does not include a woman's breast-feeding of a baby, regardless of whether the nipple or areola is exposed during or incidental to the feeding.

REGULARLY

In the context of "regularly" features, "regularly" shown or similar contexts in this chapter: A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually-oriented business.

SEMINUDE or STATE OF SEMINUDITY

A state of dress in which opaque covering covers no more than the genitals or anus and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided that the areola and nipple are not exposed in whole or in part.

SPECIFIED ANATOMICAL AREAS

Portions of the human body, defined as follows:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, or the nipple or areola of the female breast;
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

The explicit display of one or more of the following:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse, or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

§ 475-129. Permitted uses.

- A. The adult regulated uses listed in § **475-120** are permitted as of right in Zone I-3, provided that they shall observe the required distances from specified uses detailed in Subsection **B(2)(a)** through **(g)** below.
- B. The following requirements and conditions shall apply to all adult regulated uses:
 - (1) The use must be located only within Zone I-3.
 - (2) No person or entity shall operate or maintain or cause to be operated or maintained an adult regulated use within 750 feet of:
 - (a) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

- (b) A public or private educational facility, including but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. School shall include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - (c) Residential care facility;
 - (d) An entertainment use which has as its principal use children or family entertainment as demonstrated by business activity which caters predominantly to on-site patronage by minors and is open for such business at least 25 hours per week;
 - (e) A lot or parcel of land in any zone primarily devoted to a residential use;
 - (f) Any other adult regulated use as defined in this chapter;
 - (g) A public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball, tennis court, wilderness areas, or other similar public land within the Village which is under the control, operation, or management of the Village or other unit of government;
 - (h) A zoning district boundary of a residential district as defined in this chapter.
- (3) For purposes of the uses listed in Subsection **B(2)(a)** through **(f)**, the distance limitations above shall be measured in a straight line without regard to intervening structures or objects from the lot occupied by the adult regulated use to the nearest point of the lot occupied by any of the uses so listed in Subsection **B(2)(a)** through **(f)**.
 - (4) For purposes of Subsection **B(2)(g)** and **(h)**, the distance limitations shall be measured in a straight line without regard to intervening structures or objects from the property line of the lot occupied by the adult regulated use to the nearest point of the property line occupied by the public park or other recreational areas so listed in Subsection **B(2)(g)** or the zoning district boundary of the residential district as provided in Subsection **B(2)(h)**.
 - (5) No building, premises, structure, or other facility that contains any adult regulated use shall contain any other kind of adult regulated use. The Zoning Board of Appeals may grant permission for more than one adult regulated use to operate in a single building, provided that an equal or greater number of adult regulated uses are removed from elsewhere in the Village. The location where an adult regulated use is removed pursuant to this section shall not be reused for any adult regulated use in the future. If the Zoning Board of Appeals grants permission for more than one adult regulated use to operate in a single building, it shall not be construed to be a violation of Subsection **B(2)(f)** of this section.
 - (6) Adult regulated uses shall comply with all sign requirements under this chapter. Where inconsistencies exist between the provisions of this chapter and the sign requirements in the chapter, the provisions herein shall control.
 - (7) No advertisement, display of product or entertainment on the premises, or other exhibits which display specified sexual activities and/or specified anatomical areas shall be displayed in window areas or other areas where the same can be viewed by pedestrians and motorists on any street, sidewalk or other public place.
 - (8) No person shall reside in, or permit any person to reside in, the premises of an adult regulated use.
 - (9) No person operating an adult regulated use shall knowingly permit any person under the age of 18 to be on the premises of said business, either as an employee or as a customer.

- (10) No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult regulated use without the express written permission of the owner of the property for such use and appropriate approvals from the Village.
- (11) The building and site, including building openings, entries, exits and windows, shall be designed, constructed, and maintained so that material, entertainment, and/or performances which display specified sexual activities and/or specified anatomical areas cannot be observed by pedestrians and motorists on any street, sidewalk, or public right-of-way, or from an adjacent land use.
- (12) The adult regulated use shall satisfy all requirements for a full site plan and all landscaping requirements of the chapter. The adult regulated use shall also demonstrate that the site meets all of the traffic and access management standards of the Village. The site plan shall include a diagram that shows all land use zoning districts and any of the uses described in Subsection **B(2)** above which are located within 750 feet of the proposed adult regulated use.
- (13) No adult regulated use shall operate until it has satisfied all provisions of this part, all other applicable provisions of the chapter, and any of the federal, state or local regulations.

§ 475-130. Change of use by lessee or sublessee.

No lessee or sublessee of any property shall convert that property from any other use to an adult regulated use unless the location of the property conforms to standards in § **475-129**.

§ 475-131. Certain uses exempt from provisions.

The following uses are exempt from the provisions of the terms and conditions of this part and are subject to the other provisions of the chapter, and the following uses shall not be construed to be included in any of the definitions of this part:

- A. Accredited hospitals, nursing homes, sanitariums or other licensed health care facilities, physicians, surgeons, chiropractors, osteopaths, physical therapists, registered nurses, and other establishments or professionals duly licensed under the laws of the state while engaged in the activities for which they are so licensed.
- B. Barbers, beauticians, barbershops, and beauty parlors licensed under the laws of the state which also offer massages, provided that massages therein involved are limited to the head, shoulders, scalp, neck, hands, and feet. Such establishments which also provide activities which fall under the definition of "adult personal service business" in this chapter shall, however, be governed by the provisions, terms, and conditions of this chapter.
- C. Public and parochial school and college or professional athletic coaches and trainers while acting within the scope of their school employment.
- D. Professional massage therapy enterprises, where each massage therapist has met the following criteria:
 - (1) Proof of graduation from a school of massage licensed by the State of Michigan or another state with equivalent standards, consisting of at least 500 classroom hours of instruction and practical training, which include 300 hours of theory and practice of massage therapy, 100 hours of anatomy and physiology, and 100 hours of elective subjects; or proof of completion of a comprehensive course of study in a massage training program at an American community college or university which requires at a minimum the training and curriculum above; and
 - (2) Proof of current professional membership in the American Massage Therapy Association, International Myomassethics Federation, Associated Bodywork and Massage Professionals,

or other national massage therapy organization with comparable prerequisites for certification, including liability insurance and testing.

- E. Nonprofit organizations operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, or athletic facilities which are used primarily for the welfare of the residents of the area.

§ 475-132. Violations and penalties.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Any person, business or entity violating or refusing to comply with any provision of this part is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in § 55-8. Repeat offenses under this part shall be subject to increased fines as set forth in § 55-8. Further, any premises, building, dwelling, or other structure in which an adult regulated use as defined in this part is repeatedly operated or maintained in violation of the provisions of this part shall constitute a public nuisance and shall be subject to nuisance abatement proceedings initiated by the Village in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

§ 475-133. Unlawful activities.

Nothing contained in this part is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or Village ordinance.

§ 475-134. Scierter required to prove violation or liability.

Notwithstanding anything to the contrary, for the purposes of this part, an act by an employee shall be imputed to the adult regulated use for the purpose of establishing a violation of this part only if an employee or operator of the adult regulated use knowingly allowed a violation of this part to occur. It shall be a defense to liability that the employee or operator was powerless to prevent the violation.