

PART TWELVE - PLANNING AND ZONING CODE

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CHAPTER 1220

Planning Commission

EDITOR'S NOTE: A schedule of fees for planning related activities is adopted from time to time by resolution of Council. Copies of the latest such schedule and of the latest relevant legislation may be obtained, at cost, from the Village Clerk.

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- 1220.02 Establishment.
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- 1220.06 Officers and committees.
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- 1220.14 Gifts.

CROSS REFERENCES

- Municipal planning commissions - see M.C.L.A. 125.31 et seq.
- Establishment - see CHTR. Ch. XIII, § 1
- Review expenses - see ADM. Ch. 210
- Review and recommendation of subdivision proposals and variance requests - see P. & Z.1225.06, 1225.12
- Authority re zoning amendments - see P. & Z.1246.01
- Recommendations re Single-Family Planned Residential Development Option - see P. & Z.1252.10

1220.01 SCOPE, PURPOSE AND INTENT.

This chapter is adopted pursuant to the authority granted the Franklin Village Council under the Michigan Planning Enabling Act, Public Act 33 of 2008 (M.C.L.A. 125.3801 et seq.) and the Michigan Zoning Enabling Act, Public Act 110 of 2006 (M.C.L.A. 125.3101 et seq.), to establish a Planning Commission with the powers, duties and limitations provided by those Acts and conditions of this chapter and any future amendments to this chapter.

The purpose of this chapter is to provide that the Franklin Village Council shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008 (M.C.L.A. 125.3801 et seq.) of the Franklin Planning Commission formerly established under the Municipal Planning Act, Public Act 285 of 1931 (M.C.L.A. 125.31 et seq.); to establish the appointments, terms, and membership of the Commission; to identify the officers and the minimum number of meetings per year of the Planning Commission; and to prescribe the authority, powers and duties of the Planning Commission.

(Ord. 2011-06. Passed 6-13-11.)

1220.02 ESTABLISHMENT.

The Village Council hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008 (M.C.L.A. 125.3801 et seq.) of the Franklin Planning Commission formerly established under the Municipal Planning Act, Public Act 285 of 1931 (M.C.L.A. 125.31 et seq.). The Franklin Planning Commission shall have seven members. As of the effective date of this chapter, members of the Planning Commission shall continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth in the Michigan Planning Enabling Act, Public Act 33 of 2008 (M.C.L.A. 125.3815 et seq.).

(Ord. 2011-06. Passed 6-13-11; Ord. 2016-01. Passed 1-11-16.)

1220.03 APPOINTMENT AND TERM.

The Village President, with the approval of the Village Council by a majority vote of the members elected and serving, shall appoint all Planning Commission members. The Planning Commission shall serve for terms of three (3) years each. A Planning Commission member shall hold office until the member's successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning Commission members shall be qualified electors of the Village. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the Village, in accordance with the major interests as they exist in the Village, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Village to the extent practicable.

If a member misses four (4) consecutive meetings of the Commission, or twenty-five percent (25%) of the Commission meetings in any twelve (12) month consecutive term, unless such absences are excused by the Commission for reasons entered into the proceedings of the Commission at the time of each absence, then said position may be declared vacant by the Village Council.

(Ord. 2011-06. Passed 6-13-11.)

1220.04 REMOVAL OF MEMBERS.

The Village Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(Ord. 2011-06. Passed 6-13-11.)

1220.05 CONFLICT OF INTEREST.

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this section constitutes malfeasance in office.

For the purposes of this section, conflict of interest is defined as, and a Planning Commissioner shall declare a conflict of interest and abstain from participating in Planning Commission deliberations and voting on the request in the following circumstances:

- (a) An immediate family member is involved in a request for which the Planning Commission is asked to make a decision. An immediate family member shall include a spouse, mother, father, sister, brother, son, daughter, including an adopted child.
- (b) The Planning Commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency, or association.
- (c) The Planning Commission member owns or has a financial interest in neighboring property. For the purposes of this section, "neighboring property" shall include any property immediately adjoining the property involved in the request.
- (d) There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the Planning Commission.

(Ord. 2011-06. Passed 6-13-11.)

1220.06 OFFICERS AND COMMITTEES.

The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. The term of each office shall be one (1) year, with opportunity for reelection as specified in the Planning Commission bylaws.

(Ord. 2011-06. Passed 6-13-11.)

1220.07 BYLAWS, MEETINGS AND RECORDS.

- (a) The Planning Commission shall adopt bylaws for the transaction of business.
- (b) The Planning Commission shall hold at least four (4) regular meetings each year, and shall by resolution determine the time and place of the meetings.
- (c) Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or two (2) other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least forty-eight (48) hours before the meeting.
- (d) The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976 (M.C.L.A. 15.261 et seq.), as amended.
- (e) The Planning Commission shall keep a record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976 (M.C.L.A. 15.231 et seq.), as amended.

(Ord. 2011-06. Passed 6-13-11.)

1220.08 ANNUAL REPORT.

The Planning Commission shall make an annual written report to the Village Council concerning its operations and the status of the planning activities, including recommendations regarding actions by the Village Council related to planning and development.

(Ord. 2011-06. Passed 6-13-11.)

1220.09 MASTER PLAN.

Under the authority of Article III of the Michigan Planning Enabling Act, Public Act 33 of 2008 (M.C.L.A. 125.3801 et seq.), and other applicable planning statutes, the Planning Commission shall make and adopt a Master Plan as a guide for development within the Village's planning jurisdiction.

(Ord. 2011-06. Passed 6-13-11.)

1220.10 ZONING POWERS.

(a) The Village Council hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former City and Village Zoning Act, Public Act 207 of 1921 (M.C.L.A. 125.581 et seq.); the Michigan Zoning Enabling Act, Public Act 110 of 2006 (M.C.L.A. 125.3101 et seq.); or other zoning statutes applicable to the Planning Commission formerly established under the Municipal Planning Act, Public Act 285 of 1931 (M.C.L.A. 125.31 et seq.).

(b) Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the Village Council.

(Ord. 2011-06. Passed 6-13-11.)

1220.11 CAPITAL IMPROVEMENTS PROGRAM.

To further the desirable future development of the Village under the Master Plan, the Planning Commission, after the Master Plan is adopted, shall annually prepare a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following year.

(Ord. 2011-06. Passed 6-13-11.)

1220.12 SUBDIVISION AND LAND DIVISION RECOMMENDATIONS.

(a) The Planning Commission may recommend to the Village Council provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than fifteen (15) days before the hearing by publication in a newspaper of general circulation in the Village.

(b) The Planning Commission shall review and make a recommendation on a proposed plat before action thereon by the Village Council under the Land Division Act, Public Act 288 of 1967 (M.C.L.A. 560.101 et seq.), as amended. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to who notice of hearing has been sent. Not less than fifteen (15) days before the date of hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the Village. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

(Ord. 2011-06. Passed 6-13-11.)

1220.13 PERSONNEL; CONTRACT FOR SERVICES.

The Village may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the Village Council. This authority shall be exercised by the Village Council, unless a charter provision or ordinance delegates this authority to the Planning Commission or another body or official.

(Ord. 2011-06. Passed 6-13-11.)

1220.14 GIFTS.

The Planning Commission may accept gifts for the exercise of its functions. A gift of money shall be deposited with the Village Treasurer in a special nonreverting Planning Commission fund for expenditure by the Planning Commission for the purpose designated by the donor.

(Ord. 2011-06. Passed 6-13-11.)

CHAPTER 1222

Platting Regulations

EDITOR'S NOTE: Chapter 1222 was repealed in its entirety by Ordinance 95-47, passed March 20, 1995. See Chapter 1225.

CHAPTER 1224

Lot Splits

EDITOR'S NOTE: Chapter 1224 was repealed in its entirety by Ordinance 95-48, passed March 20, 1995. See Chapter 1225.

CHAPTER 1225

Subdivision Regulations

- 1225.01 Title.
- 1225.02 Purpose.
- 1225.03 Application; interpretation; authority.
- 1225.04 Definitions.
- 1225.05 Submission of preliminary plat for tentative approval.
- 1225.06 Review of preliminary plat for tentative approval.
- 1225.07 Submission of preliminary plat for final approval.
- 1225.08 Review of preliminary plat for final approval.
- 1225.09 Submission of final plat for final approval.
- 1225.10 Review of final plat for final approval.
- 1225.11 Land divisions not requiring platting.
- 1225.12 Variances.
- 1225.13 Lot split fees.
- 1225.14 Separability.
- 1225.99 Penalty.

CROSS REFERENCES

Approval of plats; street system - see M.C.L.A. 125.43

Regulations governing subdivision of land; bond to secure improvement;
publication of regulations - see M.C.L.A. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L.A. 125.45

Capital improvements program - see P. & Z.1220.11

Subdivision and land division recommendations - see P. & Z.1220.12

Engineering design standards - see P. & Z. Ch.1228

1225.01 TITLE.

This chapter shall be known as the "Village of Franklin Subdivision Control Ordinance" and shall be referred to herein as "these Subdivision Regulations" or just "these Regulations."

(Ord. 95-26. Passed 2-13-95.)

1225.02 PURPOSE.

The purpose of this chapter is to regulate and control the subdivision of land within the Village in order to promote the public safety, health and general welfare.

(Ord. 95-26. Passed 2-13-95.)

1225.03 APPLICATION; INTERPRETATION; AUTHORITY.

(a) These Subdivision Regulations shall apply to all divisions of land within the Village corporate limits, except those divisions of land undertaken in or as part of the formation of condominium projects, as defined in Section 1225.04.

(b) No building permit or certificate of occupancy shall be issued for any lot or parcel which was created by improper subdivision after the effective date of this chapter.

(c) No excavation of land or construction of any public or private improvements shall be permitted which does not conform to this chapter.

(d) This chapter shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations or with private restrictions placed upon property by deed, covenant or other private agreement. Where this chapter imposes a greater restriction on land than is imposed or required by such existing provision of any private restriction or other ordinance of the Village, the provisions of this chapter shall control.

(e) This chapter is enacted pursuant to the authority granted by the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended, which authorizes the Village to adopt an ordinance to regulate the subdivision of land within the Village and to secure the public health, safety and general welfare.

(Ord. 95-26. Passed 2-13-95.)

1225.04 DEFINITIONS.

For the purpose of this chapter, the following words, terms and phrases, wherever used in this chapter, shall have the meanings ascribed to them. All terms as defined in the Land Division Act, Act 288 of the Public Acts of 1967, as amended, shall control, unless the context clearly indicates a different meaning.

(a) For the purpose of these Subdivision Regulations, the numbers, abbreviations, terms and words which appear shall be used, interpreted and defined as indicated in this chapter.

(b) Unless the context clearly indicates otherwise, words used in the present tense include the future tense, words used in the singular include the plural and "these Regulations" or "this chapter" means the Subdivision Control Ordinance of the Village of Franklin, Michigan.

(c) A "person" includes a corporation, a partnership and an incorporated association of persons such as a club; "shall" and "will" are always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any of its parts and "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

(1) "Alley" means a strip of land not more than thirty feet in width, dedicated and improved for public use, which affords a secondary access to abutting property, but which is not intended for general traffic circulation or for parking, standing or loading.

(2) "Block" means a subdivided parcel of land surrounded on all sides by one or more of the following barriers: streets, public parks, cemeteries, railroad rights of way, shorelines of waterways, unsubdivided acreage, boundary lines of the Village, the exterior boundary of the subdivision or any other barriers to the continuity of development.

(3) "Buildable " means having sufficient upland area outside of wetlands, floodplains, required buffers or natural feature setbacks to conform to minimum structure setbacks, floor area, parking, sewage disposal and accessory building and use requirements, unless, prior to a subdivision or land division application, any necessary permit or approval is obtained to allow construction in the wetland, floodplain, required buffer or natural feature setback.

(4) "Building line" means a line within a platted lot which is parallel to the front lot line at the minimum required front setback line pursuant to the Zoning Code of the Village.

(5) "Caption" means the name by which a plat is legally and commonly known.

(6) "Condominium project" means a project consisting of not less than two condominium units established in conformity with the Condominium Act, Act 59 of the Public Acts of 1978, being M.C.L.A. 559.101 et seq.; M.S.A. 26.50(101) et seq.

(7) "County Drain Commissioner" means the Oakland County Drain Commissioner.

(8) "County Health Department" means the Oakland County Health Department.

(9) "County Plat Board" means the Oakland County Plat Board.

(10) "County Road Commission" means the Road Commission for Oakland County.

(11) "Easement" means a grant by the property owner of the use of a strip of land by the public, a corporation or a private person for specific uses or purposes, which shall be designated as a public or private easement depending on the nature of the use.

(12) "Floodplain" means that area of land which is typically adjacent to a river, stream, or other body of water, and which is designated as subject to flooding from the 100-year base flood indicated on the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency.

(13) "Improvements" means grading, street surfacing, curb and gutter, pedestrian/bicycle paths, water mains and lines, storm and sanitary sewers, utilities, bridges, drainage, street trees and other additions to the natural state of land which increases the land's value, utility and habitability.

(14) "Lot" means a measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

A. "Corner lot" means a lot having two adjacent sides, both of which abut their full length upon a street, provided that such two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than 135 degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

B. "Double frontage lot" means a lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, one street shall be designated as the front street for all lots in the plat and in a request for a zoning compliance permit or building permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

(15) "Lot area." See Section 1240.08 of the Zoning Code.

(16) "Lot depth." See Section 1240.08 of the Zoning Code.

(17) "Lot frontage." See Section 1240.08 of the Zoning Code.

(18) "Lot line." See Section 1240.08 of the Zoning Code.

(19) "Lot width." See Section 1240.08 of the Zoning Code.

(20) "Nonresidential subdivision" means a subdivision whose intended use is other than residential, such as commercial or office.

(21) "Parcel" or "tract" means a continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.

(22) "Parcel of record" means any of the following:

A. A lot;

B. A portion of a lot;

1. A combination of complete lots, or parts thereof; or

2. A parcel which has been described in a survey by metes and bounds, the accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan), and which has been recorded with the Oakland County Register of Deeds.

A parcel of record shall be at least sufficient in size to meet the minimum Village requirements for use, coverage, area, setbacks and open space, and shall have frontage on a dedicated roadway, or, if permitted by this chapter, on a private road.

(23) "Planning Commission" means the Planning Commission of the Village of Franklin.

(24) "Plat" means a map or chart of a subdivision of land.

A. "Preliminary plat" means a map showing the salient features of a proposed subdivision submitted to the Village for purposes of preliminary consideration prepared in conformity with the Subdivision Control Act and this chapter.

B. "Final plat" means a map of all or part of a subdivision prepared and certified by a registered engineer or land surveyor substantially conforming to the preliminary plat and prepared in conformity with the Subdivision Control Act and this chapter, and suitable for recording by the County Register of Deeds. Such map must meet the requirements of this chapter and of the Subdivision Control Act.

(25) "Public reservation" means a portion of a subdivision set aside for eventual public use and made available for public acquisition.

(26) "Public utility" means all persons, firms, corporations, co-partnerships or municipal or other public authorities providing gas, electricity, water, steam, telephone, sewer or other services of a similar nature.

(27) "Reserve strip" means a strip of land in a subdivision which extends across the end of a street proposed to be extended by future platting, or a strip which extends along the lengths of a partial-width street proposed to be widened by future platting.

(28) "Right of way" means a strip of land occupied or intended to be occupied by a street, walkway, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or another use. Every right-of-way strip established and shown on a final plat is to be distinct from the lots or parcels adjoining it. Rights of way intended to be maintained by a public agency shall be dedicated to public use.

(29) "Street" means any avenue, boulevard, road, lane, parkway, viaduct or other way which is an existing State, County or Municipal roadway, or any road or way shown in a plat heretofore approved pursuant to law. A street, as defined herein, includes the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, parking areas and lawns.

A. "Boulevard street" means a street with two one-way pavements separated by a median.

B. "Collector street" means a street intended to serve as a major means of access from local streets to major streets and county primaries. Collector streets may serve abutting properties and may also carry traffic generated by other local streets.

C. "Cul-de-sac" means a short minor street with one end open to vehicular traffic and the other end permanently terminated by a vehicular turn-around.

D. "Dead-end" or "stub street" means a street with one end open to vehicular traffic and no vehicle turn-around at the other end, which provides for eventual extension of the street onto unplatted land.

E. "Half street" means a street containing less than the required right-of-way width.

F. "Local street" means a street of limited continuity used primarily to provide access to abutting residential properties.

G. "Major street" or "thoroughfare" means an arterial street of great continuity which is intended to serve as a large volume trafficway for both the immediate Municipal area and the region beyond and which may be designated in the Village Master Plan as a major thoroughfare, parkway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan.

H. "Marginal access street" or "minor street" means a local street which is parallel to and adjacent to a major street and which provides access to abutting properties and protection from through traffic and which does not carry through traffic.

(30) "Street width" means the shortest distance between the lines delineating the right of way of a street.

(31) "Subdivider" or "proprietor" means a person who may hold any ownership interest in land, whether recorded or not.

(32) "Subdivision Control Act" (a/k/a "Land Division Act") means Act 288 of the Public Acts of 1967, as amended.

(33) "Village Planner" means the person or professional planning consulting company designated as the Village Planner by the Planning Commission.

(34) "Zoning Code" means the Zoning Code of the Village of Franklin, Michigan, as amended.

1225.05 SUBMISSION OF PRELIMINARY PLAT FOR TENTATIVE APPROVAL.

(a) Every person who shall hereafter submit a proposed preliminary plat to the Village for tentative approval shall submit ten legible copies of the proposed preliminary plat. Such plat must contain, as a minimum, the following information:

- (1) The topography of the area proposed to be platted with not more than two-foot contour intervals;
- (2) The street and road layout;
- (3) The lot layout, showing the size and shape of the proposed lots;
- (4) The location of sanitary sewer and water lines that will be accessed to provide service for the subdivision;
- (5) The general location and size of any floodplain located within the area to be platted;
- (6) In general, the methods proposed for storm water disposal;
- (7) Wetlands found on the site and methods to be employed to preserve and protect the wetlands, consistent with the provisions of Chapter 1226;
- (8) Natural features and buffer zones for those natural features, consistent with the provisions of Chapter 1266; and
- (9) The general methods to be employed to prevent soil erosion and sedimentation on the site.

(b) When a proprietor owns or plans to acquire and anticipates platting, adjoining land, he or she shall submit, with the preliminary plat for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.

(c) A fee shall accompany the plat, in an amount established by resolution of the Village Council, which shall be adequate to pay the cost of reviewing the proposed plat.

(Ord. 95-26. Passed 2-13-95.)

1225.06 REVIEW OF PRELIMINARY PLAT FOR TENTATIVE APPROVAL.

Upon receipt of copies of the proposed plat for tentative approval, the Village Clerk, on behalf of the Village Council, shall forward copies to the Village Planning Commission, the local Soil Conservation District and the County Road Commission (or the State Highway Department, as may be applicable) for recommendation. The Village Planning Commission shall examine said proposed preliminary plat with such assistance and review by the Village Planner, the Village Engineer and the Village Attorney as the Planning Commission and Village Council shall require. Upon recommendation by the Planning Commission, the Village Council shall determine whether said proposed preliminary plat complies with all Village ordinances and State statutes and makes adequate provision for the following:

(a) Streets.

- (1) All proposed streets shall comply with the major street thoroughfare plan adopted by the Village.
- (2) The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new subdivision.
- (3) Where adjoining areas are not subdivided, the arrangement of streets in the proposed subdivision shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjoining areas, provided, however, that minor streets within the subdivision shall be so laid out that their use by through traffic will be discouraged.
- (4) Where the proposed subdivision abuts or contains a county primary road or major thoroughfare as defined in the Village Master Plan or the Village Major Thoroughfare Plan, the Village Council may require marginal access streets approximately parallel to the right of way of the primary road or major thoroughfare and may require such other improvements as are deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
- (5) Private streets may be permitted by the Village Council if the Village Council finds that private streets within the plat will not adversely affect the public health, safety or welfare.
- (6) All new streets shall be named as follows: Streets with a predominant north-south direction shall be named "Street"; streets with a predominant east-west direction shall be named "Avenue"; meandering streets shall be named "Drive", "Lane", "Path", "Road" or "Trail", etc.; and cul-de-sacs shall be named "Circle", "Court", "Way" or "Place", etc.
- (7) Streets should intersect at a ninety-degree angle or closely thereto and in no case less than eighty degrees.
- (8) Where the proposed continuation of a street at an intersection is not in alignment with an existing street, it must not intersect with the cross street closer than 175 feet from the opposite existing street, as measured from the centerline of said street.
- (9) The maximum length allowed for residential blocks shall be 1,000 feet.
- (10) All primary road rights of way, as designated by the Village Council, within or abutting plats hereafter recorded, shall provide a fifty-foot half-width. All other rights of way within or abutting such plats shall be not less than sixty-six feet in width. Permanent dead-end streets in excess of 660 feet in length shall be prohibited except upon prior approval of the Village Council, to be granted only where the topography of the area, rivers, streams, other natural conditions or the prior development of the area prevents a through street from being constructed.
- (11) A subdivision or extension of an existing subdivision which creates a total of thirty or more lots must be developed so as to provide two or more access streets.

(b) Lots.

(1) All lots shall be created so as to be consistent with the dimensional and area requirements of the Village Zoning Code and shall be buildable sites.

(2) Corner lots shall be created with additional width so as to permit front yard setback requirements to be attained from both streets.

(c) General Provisions.

(1) Privately held reserve strips controlling access to streets shall be prohibited.

(2) Existing natural features which add value to residential development and that enhance the attractiveness of the community (such as streams, watercourses, historic spots and similar irreplaceable assets) shall be preserved insofar as possible in the design of the subdivision. The requirements of Chapter 1226 regarding wetlands development regulations and Chapter 1464 regarding floodplain development regulations shall be complied with in the creation of subdivisions under these Regulations.

(3) Lands subject to flooding or otherwise determined by the Village to be uninhabitable shall not be platted for residential, commercial or industrial

purposes. Such lands within a subdivision may be set aside for other purposes, such as parks and open space.

(4) If the Village Council determines that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth in this section, it shall grant tentative approval of the preliminary plat. Approval shall confer upon the proprietor, for a period of one year from the date of the approval, approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended in the discretion of the Village Council upon application of the proprietor.

(Ord. 95-26. Passed 2-13-95. Ord. 2003-08. Passed 12-8-03.)

1225.07 SUBMISSION OF PRELIMINARY PLAT FOR FINAL APPROVAL.

(a) Every person who shall hereafter submit copies of a proposed preliminary plat to the Village Council for final approval shall submit the following relevant data:

(1) Evidence that all requirements imposed by the Village Council at the time of granting tentative approval have been incorporated into the proposed plan.

(2) Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining the plat. Prior to submitting copies of the preliminary plat to the Village Council for final approval, the developer shall document consultation with all public utilities which will be servicing the subdivision to resolve any conflicts in location between public utility facilities and other improvements.

(b) A fee shall accompany the plat, in an amount established by resolution of the Village Council, which shall be adequate to pay the cost of reviewing the proposed plat.

(Ord. 95-26. Passed 2-13-95.)

1225.08 REVIEW OF PRELIMINARY PLAT FOR FINAL APPROVAL.

(a) Upon receipt of all required copies of the preliminary plat for final approval, the Village Council shall examine the same with such assistance and review by the Village Planning Commission, the Village Planner, the Village Engineer and the Village Attorney, and with such advice from other experts, as the Village Council may request. Upon completing its review, the Village Council shall determine whether said proposed preliminary plat complies with the requirements imposed by the Village Council at the time of the tentative approval, whether the proprietor has obtained the required statutory approval of other governmental agencies and, in addition, whether the plat meets the following requirements:

(1) No road grade shall exceed a seven percent grade or be less than a 0.5 percent grade, except upon approval by the Village Engineer.

(2) All grades in excess of three percent shall require the installation of curb and gutter. Said curb and gutter shall be set apart not less than thirty-five feet, as measured from back to back, and shall be fully paved between the lip of the gutters.

(3) All road rights of way within or abutting such plat shall be constructed with not less than six-inch compacted gravel base, twenty-two feet wide and covered with not less than two inches of bituminous aggregate pavement, twenty-feet wide.

(4) All rights of way shall be graded to the full width thereof for proper drainage and prospective future widening and improving. Road grading shall be accomplished so as to establish a one-half foot higher elevation at the boundary of the right of way than at the crown of the traveled roadway. All trees or other obstructions within the right of way which interfere with the grading and/or drainage shall be removed. The foregoing one-half foot elevation and tree and obstruction removal may be varied or adjusted by the Village Council upon recommendation of the Village Engineer, where valuable trees or obstacles are involved and as long as drainage and safety will not be impaired.

(5) Permanent dead-end streets shall be provided at the closed end with a turn-around having an outside improved roadway diameter of at least 100 feet, as measured from the centerline of the gutter or the back of the curb, and a street right-of-way diameter of at least 120 feet. Temporary dead-end streets shall be provided at the closed end with a turn-around constructed the full width of the right of way.

(6) All surface waters shall be adequately drained within each plat by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. Where storm sewers are used, inlet basins must not be spaced farther apart than 300 feet except upon express approval of the Village Council, upon recommendation of the Village Engineer, to be granted only where other equivalent and sufficient drainage inlets are provided. Where such outlets are not thus available, such drainage structures may consist of leaching basins so spaced that water shall not be required to run on the surface of the road farther than 250 feet to such basin, or so spaced as to afford equivalent and sufficient drainage. The determination of what is equivalent and sufficient drainage shall be left to the Village Council, upon the recommendation of the Village Engineer.

(7) Connection to sanitary sewers and/or water mains may be required by the Village Council when it determines, in its discretion, that said sewers and/or water mains are reasonably available to the proposed subdivision.

(8) In the discretion of the Village Council, the proprietor shall make arrangements for all distribution lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely through the residential subdivided area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the Michigan Public Service Commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plat.

(9) Storm water disposal methods proposed for the subdivision must be adequate to insure that each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.

(10) No land within the subdivision may be isolated from a public highway nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare, thereby creating land-locked parcels.

(11) Street lighting may be required by the Village Council if it determines that street lighting is necessary for the public health, safety and welfare.

(12) Pedestrian and bicycle paths may be required by the Village Council when the Village Council determines, in its opinion, that paths are necessary for pedestrian safety, public health and welfare. When required, paths shall be constructed of concrete or asphalt, four feet in width and four inches in depth, upon a two-inch minimum sand base.

(b) The Village Council shall complete the review and consideration of the proposed preliminary plat submitted for final approval at the next regular meeting of the Council or within twenty days after the date of submittal of the proposed preliminary plat. If the Village Council determines that the preliminary plat has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth in this chapter, the Village Council shall grant final approval of the preliminary plat, which shall confer upon the proprietor, for a period of two years from the date of approval, the conditional right that the general terms and conditions under which said approval was granted will not be changed. Said two-year period may be extended in the discretion of the Village Council upon application by the proprietor.

(Ord. 95-26. Passed 2-13-95.)

1225.09 SUBMISSION OF FINAL PLAT FOR FINAL APPROVAL.

(a) Every person who shall hereafter submit a proposed final plat to the Village Council for final approval shall also submit an abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision.

(b) A fee shall accompany the final plat, in an amount established by resolution of the Village Council, which shall be adequate to pay the cost of reviewing the proposed plat.

(Ord. 95-26. Passed 2-13-95.)

1225.10 REVIEW OF FINAL PLAT FOR FINAL APPROVAL.

(a) The Village Council shall review the proposed final plat and determine that:

(1) All monuments required to be placed in the subdivision have been placed or a cash or equivalent deposit has been made with the Village and a deposit agreement executed by the proprietors.

(2) All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the Village and a deposit agreement executed by the proprietors.

(b) If the subdivision has any county drains or other waterways, as set forth in Section 188 of the Michigan Subdivision Control Act, all such county drains and waterways shall be installed or a cash or equivalent deposit made to the Village and a deposit agreement executed by the proprietors.

(c) If any floodplains are involved in the proposed subdivision, then such floodplains shall be restricted, as provided by the Michigan Subdivision Control Act and Chapter 1464 of the Building and Housing Code. Such restrictions shall be submitted to the Village Council for review and approval prior to recording and thereafter shall be recorded in the office of the Oakland County Register of Deeds contemporaneously with the recording of the plat.

(Ord. 95-26. Passed 2-13-95.)

1225.11 LAND DIVISIONS NOT REQUIRING PLATTING.

(a) No lot, outlot or other parcel in a recorded subdivision plat shall be further divided or changed without the written approval of the Village Council in accordance with the procedures set forth in this section. No division of unplatted land within the Village into more than four parcels of land of ten acres or less shall be permitted without the written approval of the Village Council in accordance with the procedures set forth in this section.

(b) Applicants for division of a lot, outlot or other parcel division shall submit a written application to the Village Clerk. The application shall be accompanied by a scaled drawing depicting the original parcel, the proposed division, existing buildings, utilities, easements, drainage, all pertinent dimensions, legal descriptions of the new parcels created by the division and such other pertinent data as the Clerk shall request. Accuracy shall be certified by a licensed and registered land surveyor.

(c) No lot, outlot or other parcel in a recorded subdivision plat or unplatted land shall be divided into more than four new lots of ten acres or less in size. The new lots shall be buildable sites and shall conform to the minimum standards for area, width and depth according to the zoning requirements for the district in which the lots are located, provided, however, that if existing lots which do not conform to these minimum standards are being realigned to create larger lots, this requirement may be waived by the Village Council.

(d) The Village Clerk shall deliver the application to the Planning Commission, which shall determine compliance herewith and with the Subdivision Control Act. Upon completion of the review, and provided that all taxes and special assessments on the original parcel have been paid, the Planning Commission shall recommend approval or rejection of the application to the Village Council.

(e) The Village Council shall act on the application at its next regularly scheduled meeting after receipt of the recommendation from the Planning Commission.

(f) In the case of an application for a parcel division of nonresidential property, the Planning Commission may require submittal of a site plan conforming to the standards of the Village Zoning Code. Such site plan shall indicate potential development of the parcel, either as an independent parcel or in conjunction with abutting land owned by the applicant.

(g) Upon approval by the Village of a land division pursuant to this section, the Clerk shall notify the Assessor and such division shall be noted upon the Village assessment roll and thereafter the divided portions of the lot, outlot or parcel shall be considered to be separate for tax assessment and all other purposes. If portions of the lot have been added to another lot, outlot or parcel, the enlarged area shall be considered to be a single lot for tax assessment and all other purposes.

(Ord. 95-26. Passed 2-13-95. Ord. 2003-08. Passed 12-8-03.)

1225.12 VARIANCES.

Proposed subdivisions shall comply with the requirements of this chapter and all other applicable requirements of the Village, the County and the State. In the event that unusual hardships or unique circumstances exist that make compliance with this chapter impractical or impossible, the applicant shall use the following procedure to request a variance from the strict enforcement of these Regulations:

(a) Prior to final approval of the preliminary plat, the applicant shall state his or her request for a variance in writing. The written request shall be submitted to the office of the Village Clerk not less than fourteen days prior to a scheduled meeting of the Planning Commission. The written request shall be accompanied by such reasonable fee as the Village Council may establish to defray the costs of review by Village representatives. The Village Clerk shall transmit a properly prepared variance request to the Planning Commission.

(b) After receipt of a variance request, the request shall be placed on the agenda of the Planning Commission for the next regularly scheduled meeting. The Commission shall schedule a public hearing on the request. Notice of the hearing shall be provided to all owners of record of real property located within 1,000 feet of the proposed subdivision site boundaries. The notices shall be delivered personally or by mail not less than five days before the date set for the hearing.

(c) The Planning Commission shall submit to the Village Council its findings on the existence of any extraordinary hardships, practical difficulties or unique circumstances that will result from the strict enforcement of these Subdivision Regulations. If the Planning Commission finds the requested variance will not compromise the public interest or the intent of this chapter, the Commission may recommend to the Village Council approval of a variance from these Regulations. The Planning Commission may recommend conditions to the variance consistent with the objectives of these Regulations.

(d) The Village Council may grant a variance if it finds that:

(1) The variance will not be detrimental to the public health, safety and general welfare, nor injurious to other property.

(2) The conditions underlying the variance request are unique to the property and are not generally applicable to other property.

(3) Due to particular physical characteristics, the shape or topographical conditions of the property, a particular hardship to the owner, as distinguished from inconvenience or monetary loss, will result if these Regulations are enforced.

(4) The variance will not violate the requirements of the Zoning Code, the Master Plan, the Subdivision Control Act or any other applicable law or regulation.

(e) In approving a variance, the Village Council may impose conditions to the variance consistent with the objectives of these Regulations.

(f) If the variance request is denied, any further appeal shall be in accordance with the procedures set forth in the Zoning Code.

(Ord. 95-26. Passed 2-13-95.)

1225.13 LOT SPLIT FEES.

The following fees are hereby established for lot splits:

(a) For each application: \$200.00 plus \$25.00 per resulting lot.

(b) For each application where a portion of a road is included: 300.00 plus \$25.00 per resulting lot.

(Ord. 95-154. Passed 7-10-95.)

1225.14 SEPARABILITY.

If any section, paragraph, clause, phrase or part of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

(Ord. 95-26. Passed 2-13-95.)

1225.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1226

Wetlands and Watercourses

1226.01 Purposes and policies.

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1226.14 Protection of wetlands and watercourses during and after construction.

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1226.16 Emergency remedy.

1226.17 Minimum requirement; conflicts of laws.

1226.18 Declaration of nuisance; abatement; equitable remedy.

CROSS REFERENCES

Ground waters - see S.U. & P.S. 1042.10(e)

Natural buffer zones - see P. & Z. Ch. 1266

Flood hazard areas - see B. & H. Ch. 1464

1226.01 PURPOSES AND POLICIES.

The wetlands and watercourses of the Village of Franklin are indispensable but sensitive natural resources, subject to flooding, erosion, soil bearing capacity limitations and other hazards. In their natural state, wetlands and watercourses serve multiple functions for flood control, storm water storage and release, pollution control, erosion control, wildlife habitat, aesthetics, open space and recreation. The continued destruction and loss of wetlands and watercourses constitute distinct and immediate dangers to the public health, safety and general welfare. These standards are intended to define wetlands and watercourses for the purpose of regulating uses within them, to develop use permit standards for the alteration of wetlands and watercourses, to develop regulations for the preservation and continued function of wetlands as a healthy ecological system, to establish an administrative procedure for review of development petitions involving wetlands and watercourses, to provide for the enforcement of this chapter and to prescribe penalties for violations thereof.

The Village finds that it is necessary to adopt this chapter in order to implement the goals and policies of the Village of Franklin General Development Plan for Land Use, dated December 14, 1977, in particular, Goal No. 8 and the policies which accompany it. It is, therefore, the policy of the Village of

Franklin:

- (a) To protect wetlands, watercourses and flood and natural retention basins, while taking into account varying economic, ecological, hydrologic, recreational and aesthetic values.
- (b) To provide for the protection, preservation, replacement, proper maintenance and use of wetlands, watercourses and flood and natural retention basins located in the Village of Franklin in order to minimize disturbance to them and to prevent damage from erosion, siltation and flooding.
- (c) To provide for the issuance of permits and approved activities.
- (d) To establish standards and procedures for the review of proposed activities in wetlands and watercourses.
- (e) To establish penalties for violations of this chapter.

(Ord. 190. Passed 5-9-94.)

1226.02 DEFINITIONS.

The following terms, phrases and words, and their derivatives, shall have the meanings given herein, unless the context otherwise requires:

- (a) "Activity" means any use, operation, development or action caused by any person, including, but not limited to, constructing or erecting buildings or other structures; depositing or removing material; dredging; ditching; draining or diverting water; pumping or discharging surface water; grading; land balancing; and excavation.
- (b) "Aquatic vegetation" means plants and plant life forms which naturally occur in, at, near, or predominantly near water.
- (c) "Bottomland" means all land area of a lake, stream or watercourse which lies below the ordinary high water mark and which may or may not be covered by water.
- (d) "Buffer area." No specific wetland buffer or construction setback from wetlands or watercourses is provided for under this chapter. Construction setbacks and setbacks from proposed structures and roadways are specified in the Zoning Code of the Village of Franklin.
- (e) "Channel" means the geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water under normal or average flow conditions.
- (f) "Contiguous wetland" means those wetlands adjacent to a stream, drain, lake or pond. A pond consists of one acre or more of permanent, open water.
- (g) "Drainageway" means any drain, pipe, stream, creek or swale which serves to transport water runoff to the primary watercourse system.
- (h) "Fill material" means any soil, sand, gravel, rocks, clay, peat, debris, refuse, waste or any other material which displaces soil or water or reduces water retention potential.
- (i) "Final wetland determination" means a formal, scientific inventory and analysis of a wetland or watercourse, by the Village consultants, to determine its boundaries, to describe its biotic and hydrogeologic setting and to suggest remedial measures or alternative designs to minimize disruption to the wetland resulting from proposed development.
- (j) "Minor projects" means a proposed activity that would contribute ten cubic yards or less of fill material in a defined wetland or watercourse, such as installation of a utility, driveway or accessory building on an existing lot of record.
- (k) "Ordinary high water" means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, in the configuration of the surface of the soil and in the vegetation. On an inland lake which has a level established by law, the term "ordinary high water mark" means the high establishing level. When water returns to its natural level as a result of the permanent removal or abandonment of a dam, the term means the natural ordinary high water mark.
- (l) "Owner" means any person who has dominion over, control of, title to and/or any other proprietary interest in wetland and watercourse areas, or title to an obstruction, natural or otherwise, to wetland and watercourse properties.
- (m) "Permit or use permit" means the Village approval required for any activity in a wetland or watercourse except those activities described in Section 1226.08.
- (n) "Person" means any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies conducting operations within the Village of Franklin.
- (o) "Preliminary wetland determination" means an in-office review of existing wetland and watercourse inventories by the Building Official or another duly authorized representative of the Village.
- (p) "Runoff" means surface discharge of precipitation to a watercourse or low area.
- (q) "Seasonal" means any intermittent or temporary activity which occurs annually and is subject to interruption from changes in weather, water level or time of year, and may involve annual removal and replacement of a device or structure.
- (r) "Structure" means any assembly of materials above or below the surface of the land or water, including, but not limited to, houses, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, towers and utility transmission devices.
- (s) "Temporary" means a time period as specified in the use permit or, if unspecified, an uninterruptible time period less than one year in duration.
- (t) "Upland" means the land area adjoining a lake, stream, watercourse or wetland above the ordinary high water mark, the uses of which are essentially nonaquatic.
- (u) "Watercourse" means any waterway, drainageway, drain, river, stream, lake, pond or any body of surface water having beds, banks and continuous or intermittent flow.
- (v) "Wetlands" means lands characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances do support, wetland vegetation or aquatic life and are commonly referred to as bogs, swamps or marshes.
- (w) "Wetlands Map" means the Wetlands Map of the Village of Franklin, as amended and updated from time to time, a copy of which shall be on file with the Village Clerk.

(Ord. 190. Passed 5-9-94.)

1226.03 APPLICATION OF CHAPTER.

Those wetlands subject to the regulatory terms of this chapter include:

- (a) An inland lake or pond, or river or stream, more than two acres in size.
- (b) An inland lake or pond, or river or stream, one acre or more in size, if the Village determines that protection of the area is essential to the preservation of the natural resources of the Village from pollution, impairment or destruction and the Village has so notified the owner.
- (c) All other wetlands which are one acre or more in size and are determined by the Village of Franklin to be essential to preservation of the natural resources of the Village. These wetlands must meet one or more of the following provisions:
 - (1) The site supports State or Federal endangered or threatened plants, fish or wildlife appearing on a list specified in Section 6 of the Endangered Species Act of 1974, Act 203 of the Public Acts of 1974, as amended, being M.C.L.A. 299.226.
 - (2) The site represents what is identified as a locally rare or unique ecosystem.
 - (3) The site supports plants or animals of an identified local importance.
 - (4) The site provides groundwater recharge documented by a public agency.
 - (5) The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.
 - (6) The site provides wildlife habitat by providing breeding, nesting or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened or endangered wildlife species.
 - (7) The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
 - (8) The site provides pollution treatment by serving as a biological and chemical oxidation basin.
 - (9) The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
 - (10) The site provides sources of nutrients in water cycles and nursery grounds and sanctuaries for fish.

(Ord. 190. Passed 5-9-94.)

1226.04 WETLANDS MAP.

(a) The wetlands are hereby established as shown on the Wetlands Map which accompanies original Ordinance 190, passed May 9, 1994, and which Map, with all notations, references and the information shown thereon, shall be as much a part of this chapter as if fully described herein. If, because of problems with scale or detail, there is any ambiguity as to whether a particular area is a part of a wetlands, that determination shall be made by the body or official reviewing the use or activity for that area. The Map shall include the location of designated lakes, streams, drains and vegetative wetlands. The purpose of such Map is to help identify major wetlands within the Village. The Wetlands Map does not create any legally enforceable presumptions regarding whether property that is or is not included on the Map is or is not in fact a wetland.

(b) The Village Council may revise the Wetlands Map at any time that new and substantial data for wetlands and watercourses are available. Where the Wetlands Map is amended and an individual property or several properties are affected, notice of the proposed amendment and hearing shall be given to all owners of such property or properties at least fifteen days before the hearing.

(Ord. 190. Passed 5-9-94.)

1226.05 NOTICE TO DEPARTMENT OF NATURAL RESOURCES.

The Village of Franklin shall notify the Department of Natural Resources of the State of Michigan of the adoption of this chapter. The Village shall enter into an agreement with the Department of Natural Resources providing for the exchange of information and for the coordination of the granting of permits, as required by the Goemaere-Anderson Wetland Protection Act, Act 203 of the Public Acts of Michigan of 1979, as amended, being M.C.L.A. 281.708 or M.S.A. 18.595 [58], as amended.

(Ord. 190. Passed 5-9-94.)

1226.06 PROPERTY INSPECTION.

The Village of Franklin and its officials, agents and employees may make reasonable entry upon any lands or waters within the Village for the purpose of enforcement of this chapter or the conduct of any investigation, survey or study contemplated by this chapter.

(Ord. 190. Passed 5-9-94.)

1226.07 PERMITS REQUIRED.

Except for those activities expressly permitted by Section 1226.08, no person shall conduct any activity within a wetlands area without first having obtained a permit therefor upon proper application. Unlawful activities include, but are not limited to, the following:

- (a) Depositing or permitting the depositing of any material, including, but not limited to, soil, hazardous chemicals, nonbiodegradable aquatic pesticides and herbicides, and harmful fertilizers into, within or upon any watercourse or wetland area.
- (b) Dredging, removing or permitting the dredging or removal of soil, material or minerals from a watercourse or wetland area.
- (c) Erecting or building any structure, including, but not limited to, houses, buildings, roadways, bridges of any type, tennis courts, other paving, utility or private poles, or towers within or upon any watercourse or wetland area.
- (d) Constructing, operating or maintaining any land use or development in a wetland or watercourse area.
- (e) Enlarging, diminishing or altering any lake, stream or other naturally occurring watercourse.
- (f) Creating, enlarging or diminishing any natural or artificially constructed canal, channel, ditch, lagoon, pond, lake or other waterway for navigation or any other purpose, whether or not connected to an existing lake, stream or watercourse.
- (g) Constructing, placing, enlarging, extending or removing any temporary, seasonal or permanent operation or structure upon bottomland or wetlands, except seasonal docks, rafts, diving platforms and other such water recreational devices customarily owned and used by individual households.
- (h) Constructing, extending, enlarging or connecting any conduit, pipe, culvert or open or closed drainage facility carrying storm water runoff from any site, or any other land use permitting discharge of silt, sediment, organic or inorganic material, chemicals, fertilizers, flammable liquids or other polluting substances, except in accordance with requirements of County, State or Federal agencies and the Village of Franklin.
- (i) Constructing, enlarging, extending or connecting any private or public sewage or waste treatment plant discharge to any lake, pond, stream, watercourse or wetland, except in accordance with requirements of County, State and Federal agencies and the Village of Franklin.
- (j) Pumping surface water for irrigation or sprinkling of private or public uses, other than for individually owned single-family residences, from lakes,

ponds, rivers, streams or waterways, except when the water body is wholly contained within the user's property.

(k) Draining, or causing to be drained, any water from a watershed.

(l) Removing any trees, if such removal would adversely affect the nutrient cycle, sediment trapping or hydrologic functions of wetlands. When tree removal is necessary, said trees shall be replaced with like species and equivalent amounts.

(m) Developments that increase the use or density upon a wetland or watercourse that would threaten the natural character of the resource or produce a recreational impact beyond the capacity of the land and/or stream to provide for the health and safety of existing users.

(Ord. 190. Passed 5-9-94.)

1226.08 PERMITTED ACTIVITIES.

(a) Notwithstanding the prohibitions of Section 1226.07, the following activities are permitted within wetland areas without a permit, unless otherwise prohibited by statute, ordinance or regulation:

(1) Fishing, trapping or hunting.

(2) Swimming or boating.

(3) Hiking, horseback riding, birdwatching or other similar recreational activities.

(4) Grazing of animals.

(5) Education, scientific research and nature study.

(6) Maintenance or operation of serviceable structures in existence on the effective date of this chapter or constructed pursuant to this chapter.

(7) Construction or maintenance of stock ponds.

(8) Maintenance or improvement of public streets, highways or roads within the right of way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes, increasing the right of way or deviating from the existing location of the street, highway or road.

(9) Maintenance, repair or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of six inches or less, if the pipelines are constructed, maintained or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

(10) Maintenance, repair or operation of electric transmission and distribution power lines and construction of distribution power lines, if the distribution power lines are constructed, maintained or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

(11) Actions taken in times of emergency, including the repair or restoration of public roads, electrical lines, natural gas lines and storm drainage systems, when immediate action is necessary to protect public health or safety or to prevent damage to property. A person taking such emergency action shall, within fourteen days thereof, provide a report to the Village of Franklin Planning Commission describing the action taken and the nature of the emergency necessitating the action. The matter shall be reviewed by the Planning Commission, which shall make a determination as to whether the resulting activity was reasonably necessitated by the emergency situation. To the extent the resulting damage exceeds that reasonably necessitated by the emergency situation, the person shall be subject to penalty.

(12) Installation on lakes or ponds, for noncommercial use, of any type of dock, boat hoist, ramp, raft or other recreational structure which is placed in a lake and removed at the end of the boating season.

(13) Improvement or maintenance of the Franklin River or its tributaries when such operations are organized or endorsed by the Village and specifically intended to preserve natural resources. Such permitted activities shall include, but not be limited to:

A. Removal of materials which may cause diverted flows and bank erosion, including the removal of trees, brush and debris;

B. Bank stabilization projects which require minimal disturbance of existing conditions; and

C. Wildlife and aquatic habitat improvement projects.

(b) Where a final subdivision plat or final site development plan containing work as defined in this chapter has been reviewed and approved by the Council in conformance with the requirements of this chapter, such approval, together with any additional terms and conditions attached hereto, shall be considered to have completed the requirements for a permit under this chapter, which permit shall then be issued by the Village of Franklin.

(c) After the effective date of this chapter, but immediately prior to the approval of a State program under Section 404 of Title 4 of the Clean Water Act of 1977, 33 U.S.C. 1344, where a project solely involves the discharge of fill material subject to the individual permit requirements of Section 404 of Title 4 of the Clean Water Act of 1977, 33 U.S.C. 1344, an additional permit shall not be required by this chapter.

(Ord. 190. Passed 5-9-94.)

1226.09 NONCONFORMING ACTIVITIES.

An activity that was lawful before the enactment of this chapter, but which is not in conformity with this chapter, may be continued subject to the following:

(a) No such activity shall be expanded, changed, enlarged or altered in a way that increases its nonconformity with this chapter.

(b) On a building or structure devoted in whole or in part to a nonconforming use or activity, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding fifty percent of the assessed value of the building or structure.

(c) If a nonconforming activity is discontinued for twelve consecutive months, any resumption of the activity shall conform to this chapter.

(d) If any nonconforming use or activity is destroyed, it shall not be resumed except in conformity with the provisions of this chapter.

(e) Activities that are or become nuisances shall not be entitled to continue as nonconforming activities.

(Ord. 190. Passed 5-9-94.)

1226.10 WETLANDS DETERMINATION.

Any person requesting a permit from the Village of Franklin for an activity, such as, but not limited to, a building permit, site plan, preliminary plat, lot split or special use permit, landfill permit or soil removal permit, must also make application for a preliminary wetland determination.

(a) Preliminary Wetland Determination. If the Building Official or another duly authorized representative of the Village determines, after reviewing the

official Wetlands Map, that the proposed activity may encroach into a wetland and is deemed not to be a minor project as defined herein, then a final wetland determination shall be required of the applicant before such a permit as referenced above can be accepted.

If the Building Official or other duly authorized representative determines that the proposed activity clearly would not encroach into a wetland or watercourse, then a permit shall be issued, provided that the requirements of all other applicable ordinances are met. If the proposed activity is initially deemed by the Building Official to be a minor project, as defined herein, then an application may be accepted without requiring a final wetland determination.

(b) Final Wetland Determination. After the Building Official or other duly authorized representative has determined that the proposed activity may encroach into a wetland or watercourse and is deemed not to be a minor project, then the applicant shall arrange to have a final wetland determination, completed by a Village wetland consultant chosen by the Village Planning Commission, to delineate the precise boundaries of the wetland or watercourse which may be affected by the proposed activity. This does not preempt any responsibility of the applicant to also make application to the Michigan Department of Natural Resources for a required wetland permit. (Ord. 190. Passed 5-9-94.)

1226.11 PERMIT APPLICATION REQUIREMENTS.

A permit applicant shall submit the following materials to the Village Clerk:

- (a) A completed permit application which includes the following information:
 - (1) The name, address and telephone number of the applicant and of the applicant's agent;
 - (2) The name, address and telephone number of the owner(s) of the property, if different from the applicant;
 - (3) The name, address and telephone number of the Village wetland consultant who provided the information required by this chapter;
 - (4) Signatures of the applicant(s) and the owner(s);
 - (5) The project location, including, as applicable, the street, road or highway, section number, and the name of any wetlands or watercourses which will or may be affected;
 - (6) A detailed description and statement of the purpose of the proposed activity;
 - (7) The location and number of trees of three-inch caliper or greater to be removed. (The caliper of a tree is its diameter at four and one-half feet above the ground.)
 - (8) Where the removal of material, placement of fill material or grading is proposed; and
 - (9) The amount and type of material to be removed or deposited;
- (b) A permit application fee in an amount as set by resolution of the Village Council.
- (c) A written authorization from the owner permitting the proposed activity if the applicant is not the owner of the property.
- (d) Ten copies of a site plan, including a topographical survey, sealed by a registered engineer or registered surveyor, which includes the following information:
 - (1) The applicant's name, a legal description of the land where the activity is proposed, north arrow, scale of drawing, the date that the drawing was prepared, and the name and professional credentials of the person or firm preparing the site drawing;
 - (2) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any;
 - (3) The location and extent of wetlands and watercourses as identified through field investigation and presented on a topographic map. The topographic map shall be at a scale of one inch equals 100 feet or larger and shall employ, at a minimum, a contour interval of two feet.
 - (4) The types of wetlands on the site, e.g. forested, shrub, emergent marsh, wet meadow and aquatic bed, identified by using methods approved by the Michigan Department of Natural Resources (MDNR) as set forth in the Michigan Wetland Determination Manual Draft for Field Testing and/or other official publications;
 - (5) Specification of the extent of all areas to be disturbed, the depths at which removal or deposition activities are proposed, and the angle of repose of all slopes of deposition material and/or sides of channels or excavation resulting from removal operations;
 - (6) Existing general soil conditions throughout the parcel as indicated on the Oakland County soil survey;
 - (7) Typical cross sections of proposed structures, dredge cuts, fills, bridges or culverts, including dimensions and elevations and location of wetlands and watercourses;
 - (8) Identification of type, volume and area for proposed construction materials, dredge material and fill material;
 - (9) The identification of type and location of soil erosion control measures to be used during construction, including measures which will be used to trap sediment which might otherwise run off into wetlands and watercourses;
 - (10) Location and dimensions of all setback easements and existing and proposed public and private utilities; and
 - (11) Statements as to grade changes proposed and proposed drainage pattern changes for the lot or parcel and how such changes will affect these regulations; existing contour data for the entire property with a vertical contour interval of no more than two feet, and vertical contour data at an interval of no more than one foot for all areas to be disturbed by proposed operations, extending for a distance of at least fifty feet beyond the limits of such areas. Indicated elevations shall be based on United States Geological Survey datum.
- (e) Minor projects, as defined by this chapter, shall be required to provide only the information set forth in paragraphs (a)(1), (2), (3), (4), (7), (8) and (9) and subsections (b) and (c) hereof, as well as a site plan, subdivision plat or planning map which overlays existing and proposed development or activity onto wetlands and watercourses. Existing and proposed structures shall be clearly identified in relation to existing wetland and watercourse features and topography.

(Ord. 190. Passed 5-9-94.)

1226.12 REVIEW OF PERMIT APPLICATIONS.

- (a) Upon receipt of a completed application and fee for a wetland permit, the Village of Franklin shall modify, approve or deny the application within ninety days after its receipt.
- (b) Upon receipt of a completed application and fee for a wetland permit, the Village Clerk shall immediately refer the application to the Village Planning Commission.
- (c) The Village Planning Commission shall review the submitted permit application to insure that all required information has been provided. The

Village Planning Commission and/or its consulting engineers shall, after review of the proposed activity, submit a report and recommendations as to the propriety of the proposed use to the Village Council.

(d) If the Planning Commission determines that the project is a minor project, then the Planning Commission shall not hold a public hearing and shall make a report and recommendation to the Council within thirty days from the first date the Planning Commission reviewed the project.

(e) In addition, the Planning Commission will review the determination of the Building Official of all minor projects. If the Planning Commission determines that the project is not a minor project, then a final wetland determination will be required.

(f) The Planning Commission shall hold a public hearing within thirty-five days from the date the Planning Commission, by resolution, determines that the application is complete. Notice of such hearing shall be mailed by first-class mail to property owners within 1,000 feet of the boundary of the property upon which the activity is proposed, which notice shall be sent at least ten days prior to the public hearing. A legal notice of the public hearing shall be published in a local newspaper not less than five nor more than fifteen days prior to the public hearing. The Planning Commission, within thirty-five days of the public hearing, shall make a report and recommendation to the Village Council.

(g) In the event the Planning Commission shall take no action within thirty-five days of the conclusion of the public hearing, then the application shall proceed to the Village Council, which shall make a decision at its next regular meeting, or a permit shall be deemed granted.

(h) Whenever a permit is under consideration, the Village Council may approve the permit, approve the permit subject to conditions, or deny the permit based upon findings of fact and may:

(1) Impose such conditions on the manner and extent of the proposed activity or use as are necessary to ensure that the intent of this chapter is carried out and that the activity or use will be conducted in such a manner as will cause the least possible damage, encroachment or interference with natural resources and natural processes within the watercourse and/or wetland area;

(2) Fix a reasonable time within which any wetland operation must be completed;

(3) Require the filing with the Village Clerk of a cash bond or irrevocable letter of credit, in such form and amount as determined necessary by the Village to ensure compliance with the approved permit; and

(4) When the permit is granted by the Council, send written notice of the granting of the permit to all persons who have submitted written comments on the application to the Village.

(i) Whenever a permit application is denied, the reasons for denial shall be transmitted in writing to the applicant. The failure to supply complete information with a permit application may be reason for the denial of a permit.

(j) A land owner may request a re-evaluation of affected property for assessment purposes to determine its fair market value under the use restriction if a permit is denied by the Village for a proposed wetland use. A land owner may protest and appeal that determination, action or inaction pursuant to the General Property Tax Act, Act 206 of the Public Acts of 1893, as amended, being M.C.L.A. 211.1 to 211.157, as amended. (Ord. 190. Passed 5-9-94.)

1226.13 STANDARDS RE GRANTING OR DENYING PERMIT APPLICATIONS.

The following standards shall govern the granting, modification or denial of permit applications:

(a) The proposed activity shall not threaten public health or safety by increasing flooding, erosion, siltation, pollution or storm water runoff volumes.

(b) The proposed activity shall not interfere with the natural functions of wetlands and watercourses, including the flow of waters and nutrients between wetlands and adjacent watercourses.

(c) The proposed activity shall not unnecessarily alter the natural grade or soils of any wetland or watercourse, or alter the flow of surface or subsurface water to or from the wetland at any season of the year.

(d) The proposed activity shall not result in the damage or destruction of natural wildlife, waterfowl habitat or aquatic resources, including habitat important for migratory waterfowl.

(e) The proposed activity shall not interfere with public rights to the enjoyment and use of public waters.

(f) The proposed activity shall not interfere with the scenic, aesthetic, recreational and educational benefits of wetlands and watercourses.

(g) There shall be no less harmful, feasible and prudent alternatives to the proposed activities.

(h) The proposed activity must be consistent with the promotion of the public health, safety and welfare in light of the paramount concern for the protection of its natural resources from pollution, impairment or destruction.

(i) The proposed activity shall be in compliance with all other applicable statutes and ordinances.

(j) Proposed activities shall not increase user density beyond the ability of the resource to provide for a safe and healthy environment.

(Ord. 190. Passed 5-9-94.)

1226.14 PROTECTION OF WETLANDS AND WATERCOURSES DURING AND AFTER CONSTRUCTION.

Any applicant who has received a permit under this chapter shall comply with the following in connection with any construction or other activity on the property for which the permit has been issued:

(a) Maintain soil erosion control structures and measures, including, but not limited to, silt fences, straw bale berms and sediment traps.

(b) Identify clearly, through staking or other means acceptable to the Village, the location of wetlands or watercourses on the subject site so that such locations are visible to all construction workers. The visible identification of wetlands or watercourses shall be in place prior to the grading of any land or issuance of any construction permit.

(c) Assure that there is no encroachment of equipment or earth moving activities into wetlands or watercourses.

(d) Prominently display at the site a copy of the use permit or other evidence that a permit has been obtained.

(e) The owner shall allow Village representatives to enter and inspect the premises periodically throughout the duration of the activity.

(Ord. 190. Passed 5-9-94.)

1226.15 PERFORMANCE GUARANTEES.

Prior to the issuance of the wetlands permit, the applicant shall provide the Village with a cash deposit, certified check, irrevocable letter of credit or performance bond in an amount equal to 100 percent of the value of the permitted work (as determined by the Village) to assure the Village that soil erosion and wetland preservation efforts will be undertaken in accordance with the approved plans. These assurances shall run to the Village and shall be forfeitable by its terms and conditions automatically fifteen days after the Village has provided notice to the applicant, either by personal delivery, certified

mail or first class mail, that the requirements of the plan have not been complied with and that failure to proceed poses harm to the protected wetlands. If the applicant fails to perform within the fifteen-day period, the value of the assurance shall be automatically transferred to the Village or otherwise be enforceable by the Village by any means available. Thereafter, the Village shall be authorized to go onto the property and complete the construction in accordance with the requirements of the approved plans. In the case of the deposit, certified check or irrevocable letter of credit, the amount on deposit may be reduced as the work progresses, provided that at all times the deposit or letter of credit amount is sufficient in the estimation of the Village to assure the completion of the approved work. If the assurance does not sufficiently cover the cost of implementing the necessary improvements as determined by the Village, the applicant will be responsible for reimbursing the Village for any and all costs incurred in completing the work. (Ord. 190. Passed 5-9-94.)

1226.16 EMERGENCY REMEDY.

If, during the course of construction under a wetlands permit, an applicant takes action or through a lack of action threatens the function of a wetland or watercourse area and fails to remedy the condition within a reasonable period of time, as determined by the Village, the Village shall be permitted to enter the property of the applicant to take remedial action to alleviate the threat. The applicant will be subject to reimbursing the Village for any and all expenses incurred by the Village in remedying the condition. A stop work order shall be issued and remain in effect until the time the Village is reimbursed for any remedial action.

(Ord. 190. Passed 5-9-94.)

1226.17 MINIMUM REQUIREMENTS; CONFLICTS OF LAWS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to activities within wetland areas, provided, however, that where this chapter imposes a greater restriction than is required by an existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control. (Ord. 190. Passed 5-9-94.)

1226.18 DECLARATION OF NUISANCE; ABATEMENT; EQUITABLE REMEDY.

(a) Any use or activity in violation of the terms of this chapter is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction. The Village Council, in addition to other remedies, including those provided in subsection (b) hereof, may institute any appropriate action or proceeding to prevent, abate or restrain the violation. All costs, fees and expenses in connection with such action shall be assessed as damages and charged to the violator.

(b) In the event of a violation, the Village of Franklin shall have the power to order complete restoration of the wetland area involved by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within the time specified in the order (not to exceed eighteen months), the Village shall have the authority to restore the affected wetlands to their prior condition wherever possible and the person or agent responsible for the original violation shall be held liable to the Village for the cost of restoration.

(Ord. 190. Passed 5-9-94.)

CHAPTER 1228

Engineering Design Standards

- 1228.01 Title.
- 1228.02 Purpose.
- 1228.03 General requirements.
- 1228.04 Sanitary sewers; pressure sewers.
- 1228.05 Storm sewers and storm water retention/detention.
- 1228.06 Water mains.
- 1228.07 Grading.
- 1228.08 Compliance required.
- 1228.09 Fees.
- 1228.10 Liability insurance; maintenance bonds.
- 1228.11 Variances.
- 1228.12 Minimum requirements; conflicts of law.

CROSS REFERENCES

- Maintenance of Village utilities - see CHTR. Ch.XIV
- Review expenses - see ADM. Ch.210
- Village Engineer - see ADM. Ch. 240
- Waste Water Management District - see S.U. & P.S. Ch.1040
- Sewer use and user charges - see S.U. & P.S. Ch.1042
- Planning Commission generally - see P. & Z. Ch.1220
- Subdivision regulations - see P. & Z. Ch.1225
- Board of Zoning Appeals - see P. & Z. Ch.1244

1228.01 TITLE.

This chapter shall be known and may be cited as the "Village of Franklin Engineering Design Standards."

(Ord. 96-87. Passed 5-13-96.)

1228.02 PURPOSE.

The purpose of this chapter is to provide a reasonable and proper basis for the design and construction of subdivision and other project site improvements, including sanitary sewer, storm sewer and water main improvements and site grading.

(Ord. 96-87. Passed 5-13-96.)

1228.03 GENERAL REQUIREMENTS.

(a) Plans submitted shall be on twenty-four inch by thirty-six inch white prints having blue or black lines and shall be neatly and accurately prepared. Judgment should be exercised in the design, layout and presentation of proposed improvements.

(b) For projects or subdivisions having more than one sheet of plans, a general plan having a scale of one inch equals 100 feet shall be provided showing the overall project or subdivision and indicating the location of all improvements shown in the detailed plans. Street names, lot lines and lot numbers shall be shown in all plans. Easements shall have a minimum width of twelve feet. Sewers in easements shall be kept at least two feet away from side or rear lot lines. Superimposed on this general plan shall be two-foot contours of the area, including the area at least 100 feet outside of the subdivision.

(c) All sewers shall be shown in plan and profile. Profiles of sewers shall indicate the size, invert and slope of the sewer and shall also indicate the existing ground along the route of the sewer and the proposed or existing top of the curb, edge of pavement grade or proposed ground.

(d) Two bench marks shall be provided. Elevations shall be on U.S.G.S. datum. Bench marks for the work shall be indicated on the plan.

(e) Finished grades of structures shall be indicated on the plan or profile for all structures.

(f) A copy of the computed plat shall be submitted where applicable.

(g) All plans submitted shall bear the seal of the registered professional engineer responsible for the design.

(h) One mylar copy of as-built plans for water, sanitary sewers, roads and the storm sewer system, and certification from a registered professional engineer that all surface grades, roads and structures are in conformance with the approved plan, shall be provided prior to acceptance of the subdivision improvements by the Village of Franklin.

(i) Complete subdivision improvement plans shall be submitted prior to review and approval of any portion thereof.

(Ord. 96-87. Passed 5-13-96.)

1228.04 SANITARY SEWERS; PRESSURE SEWERS.

(a) Submittal Procedures. For the Village of Franklin's approval of sanitary sewer systems, the applicant shall furnish to the Village a detailed estimate of cost and three sets of the sanitary sewer plans and specifications, including the general plan, for the system for which he or she desires approval. The Village Engineer shall review the estimate and the plans for conformity to the standards set forth herein and certify that they are consistent with the overall utility plans of the Village, after which the Village Engineer will return one of the three sets with appropriate comments. After making any changes requested on the set of plans returned to him or her, the applicant shall then submit eight sets of the revised plans to the Village for final approval. The Village Engineer shall then review these revised plans for conformity to the comments mentioned heretofore, and, if the changes have been properly made, will transmit six copies to the Oakland County Drain Commissioner's office (O.C.D.C.) for its review of the connection details. The O.C.D.C. will then transmit the plans to the Michigan Department of Natural Resources (M.D.N.R.) for a construction permit. An approved copy will be returned to the applicant via the M.D.N.R.

(b) Design Standards.

(1) The following notes pertaining to sanitary sewers shall appear on the plans:

A. All construction shall conform to the current standards and specifications of the local unit of government and the Oakland County Drain Commissioner (O.C.D.C.). All sanitary sewer construction shall have full-time inspection supervised by a professional engineer provided by or caused to be provided by the local unit of government.

B. At all connections to the Oakland County Drain Commissioner's sewers or extensions, and before the start of construction, the contractor must obtain a sewer inspection permit issued by the O.C.D.C. Gravity sewer permit charges are one hundred fifty dollars (\$150.00) for each connection, plus fifteen dollars (\$15.00) for each manhole constructed. Pressure sewer permit charges are two hundred fifty dollars (\$250.00) per 2,460 l.f. of force main, with a minimum permit fee of two hundred fifty dollars (\$250.00). Failure to pass any test segment will result in an additional charge to the contractor for each retest, in accordance with the above price schedule. The contractor shall also have posted with the O.C.D.C. a five thousand dollar (\$5,000) surety bond and a five hundred dollar (\$500.00) cash deposit. The contractor shall notify the local unit of government and the O.C.D.C. twenty-four hours prior to the beginning of any construction. Final air tests must be witnessed by County personnel and must be scheduled in advance.

C. No sewer installation shall have an infiltration exceeding 200 gallons per inch of diameter per mile of pipe in a twenty-four hour period, and no single run of sewer between manholes shall exceed 250 gallons per inch of diameter per mile. Air tests in lieu of infiltration tests shall be as specified in the O.C.D.P.W. "Acceptance Tests," dated September, 1972. Only pipe and pipe joints approved by the Oakland County Drain Commissioner may be used for sanitary sewer construction.

D. At all connections to an existing Oakland County Drain Commissioner sewer, or an extension thereto, a watertight bulkhead with a capped one-inch diameter pipe to permit measuring infiltration shall be provided. A temporary twelve-inch deep sump shall also be provided in the first manhole above the connection which will be filled in after successful completion of any infiltration test up to the standard fillet provided for the flow channel.

E. All building leads and risers shall be six-inch S.D.R. 23.5 ABS pipe with chemically fused joints, or an approved equal pipe and joint. Sewer pipe wye or tee openings shall contain factory installed premium joint material of an approved type compatible with that of the building lead pipe used. Building leads shall be furnished with removable airtight and watertight stoppers.

F. All rigid sewer pipe shall be installed in Class "B" bedding or better. All flexible, semi-flexible or composite sewer pipe shall be installed in conformity with Oakland County Drain Commissioner specifications.

G. All new manholes shall have Oakland County Drain Commissioner approved flexible, watertight seals where pipes pass through walls. Manholes shall be of precast sections with modified grooved tongue and rubber gasket-type joints. Precast manhole cone sections shall be Oakland County Drain Commissioner approved modified eccentric cone-type. All manholes shall be provided with bolted, watertight covers.

H. At all connections to manholes on Oakland County Drain Commissioner's sewers, or extensions thereto, drop connections will be required when the difference in invert elevations exceeds eighteen inches. Only outside drop connections will be approved.

I. Taps to existing manholes shall be made by coring. The contractor shall place a KOR-N-SEAL boot (or O.C.D.C.-approved equal) after coring is completed. Blind drilling will not be permitted in lieu of coring.

J. New manholes constructed directly on Oakland County Drain Commissioner's sewers shall be provided with covers reading "Oakland County - Sanitary" in raised letters. New manholes built over an existing sanitary sewer shall have monolithic poured bottoms.

K. No ground water, storm water, construction water, downspout drainage or weep tile drainage shall be allowed to enter any sanitary sewer installation.

L. Prior to any excavation, the contractor shall telephone MISS DIG (647-7344) for the location of underground pipeline and cable facilities, and shall also notify representatives of other facilities located in the vicinity of the work.

M. An eighteen-inch minimum vertical separation and a ten-foot minimum horizontal separation must be maintained between a sanitary sewer and a water main.

(2) Prior to starting any sanitary sewer design, the applicant may make use of maps and information available at the Village of Franklin offices. It shall be the responsibility of the applicant to verify utility locations provided by the Village of Franklin.

(3) The following table of minimum slopes for gravity sanitary sewers shall be adhered to:

Size (in.) and Minimum Slope

10"	0.28
12"	0.22
15"	0.15
18"	0.12
21"	0.10
24"	0.08

NOTE: In the Village of Franklin, for gravity sewers, the minimum allowable size of a sanitary lateral is ten inches in diameter.

(4) A note or detail shall show the type of bedding upon which the sewer pipe shall be installed.

(5) For gravity sewers, the house leads from the lateral sewer to serve the building shall be a minimum of six inches in diameter within the street right of way and shall be extended a minimum of ten feet past the property line. For pressure sewers, the minimum house lead size shall be one and one-quarter inches in diameter.

(6) Sanitary sewer manholes shall be spaced with the following recommended maximums:

Diameter of Sewer (in.) Maximum Manhole Spacing (ft.)

10	300 feet
12 to 21	350 feet
24 and larger	400 feet

Manholes shall be placed in the street right of way. In general, sanitary sewers will not be approved in any rear yard easement. Sanitary sewer manholes shall be of precast construction with modified grooved tongue with rubber gasket.

(7) Grinder pump stations on the pressure sewer system shall meet Village of Franklin and Oakland County standards.

(8) All gravity and pressure sewers shall be profiled. The sewer profile shall indicate the length of run between each manhole, the size and slope of the sewer between each manhole, the class of bedding, in the event that concrete bedding is required, the type of pipe material, invert elevations and the type of backfill. Top elevations of all manholes shall be indicated.

(9) A minimum depth, from the top of the curb (or road centerline) to the top of any sanitary sewer, of eight and one-half feet at local control points, or a minimum of nine feet at locations where the sewer grade is parallel to the road grade, shall be provided for gravity sewers. A minimum depth of cover of five feet shall be provided for pressure sewers. In all cases, gravity sewers shall be deep enough to serve, by gravity, a standard depth basement.

(10) Each wye or end of house connection shall have a plug with the same type of joint as the main sewer. The end of the house lead shall be marked with a wooden two inch by two inch (or equal) stake up to eighteen inches of the ground surface.

(11) Allowable types of sewer pipe and joints shall conform to current Village of Franklin standards and shall be covered on the plans by a note or on the profile, where applicable.

(Ord. 96-87. Passed 5-13-96.)

1228.05 STORM SEWERS AND STORM WATER RETENTION/DETENTION.

(a) Submittal Procedures. For the Village of Franklin's approval of storm sewer systems, the applicant shall furnish to the Village of Franklin a detailed estimate of cost and three sets of plans and specifications. Detailed storm sewer design computations, retention/detention computations, and the drainage area map indicating the various areas going into the points of inlet, shall be provided. The Village Engineer shall review the estimate and the plans for conformity to standards set forth herein and certify that they are consistent with the overall utility plans of the Village of Franklin, after which the Village Engineer will return one of the three sets with appropriate comments. After making any changes requested on the set of plans returned to him or her, the applicant shall then submit three sets of revised plans to the Village of Franklin for final approval. The Village Engineer shall then review these revised plans for conformity to the comments mentioned heretofore, and, if the changes have been properly made, will retain two copies for the Village of Franklin's records and return one approved copy to the applicant. The applicant shall obtain approval of the Oakland County Road Commission and the Oakland County Drain Commissioner, where applicable.

(b) Design Standards for Storm Sewers.

(1) Storm drainage systems shall be designed for a ten-year storm. The rational method for arriving at storm water runoff shall be used.

The formula for rainfall intensity shall be equivalent to the following:

$$I = 175/T + 25$$

in which T is the time of concentration. The consulting engineer shall use judgment in arriving at proper impervious factors.

The consulting engineer shall submit a map outlining the various areas, including off-site upstream areas, which drain to the points of inlet used for design, together with the storm sewer design computations. In general, sufficient capacity shall be provided in the storm sewer system to take fully developed (fully paved and sewered) upstream drainage into the system.

(2) Where the hydraulic gradient is above the top of the sewer pipe, the design elevation of the hydraulic gradient shall be indicated in the profile

view of the proposed storm sewer.

(3) Manhole spacing for storm sewers shall be as follows:

Diameter of Sewer (in.)	Maximum Manhole Spacing (ft.)
66 and larger	600

NOTE: Height of Lo-Head pipe shall be used as the criteria for manhole spacing. Catch basins shall not be constructed over a sewer line to replace manholes.

(4) The following information shall be indicated on the storm sewer profile:

- A. Length of run between manholes;
- B. Size and slope of sewer between manholes;
- C. Class of bedding, where concrete is required;
- D. Top elevation of all manholes;
- E. Type of pipe material; and
- F. Backfill material.

Where possible, the slope of the sewers shall provide a minimum velocity of 2.5 feet per second.

(5) A note or detail shall show the type of bedding upon which the sewer pipe shall be installed.

(6) Where possible, a minimum of three feet of cover from the top of the curb (or road centerline) to the top of any storm sewer shall be provided. If the depth of cover to the top of the pipe is less than one foot, C-76 - CL-5 pipe shall be used. If the cover is between one foot and three feet from the top of the curb to the top of the pipe, C-76 - CL-4 pipe shall be used. All catch basin leads within a street shall be C-76 - CL-4 pipe, including the leads to the manholes.

(7) In general, catch basins shall be located as follows:

- A. At the radius return of street intersections. A 150- foot maximum distance along the street, between a high point and a corner catch basin, is allowed when drainage is required to go around the corner.
- B. At all low points in streets.
- C. At intermediate points along the street such that there is a maximum of 600 feet of drainage draining from a high point to a catch basin or from a previous intercepting catch basin to this catch basin.

A maximum of 900 feet of drainage is allowed from two directions.

(8) Field catch basins shall be provided at all low points in easements. Intercepting field catch basins shall be located such that not more than 600 feet of drainage runs into any one catch basin other than at a low point of such catch basin. One thousand, two hundred feet of drainage is allowed to run into a low point of a catch basin. Field catch basins shall be located in rear lot easement swales when such swales changes direction by more than forty-five degrees.

(9) Finished easement grades shall be indicated on the plans.

(10) Improved open drains may be permitted under special circumstances, in accordance with Section 1228.11.

(11) Headwalls and inlet structures shall be placed as required. Bar screens are to be provided on all end sections and pipe ends where the pipe size exceeds fifteen inches in diameter.

(12) Allowable types of sewer pipe and joints shall conform to current Village of Franklin standards and shall be covered on the plan by a note or on the profile, where applicable.

(13) For new subdivisions, lateral storm sewers shall be constructed to provide an outlet for the footing drain discharge house leads. Extensions of storm sewer laterals to provide for footing drain discharge only shall be a minimum of eight inches in diameter on a minimum 0.4 percent grade with manholes spaced a maximum of 300 feet apart.

(14) Wherever sufficient grade is available, storm sewers shall be constructed at a depth adequate to allow for gravity drainage of the building footing drains. Where grading is not available to allow for gravity drainage of the footing drains, a sump pump shall be provided with the sump pump discharge connected to the enclosed storm sewer system. The plans shall clearly state which units require pumped sump outlets.

(15) A minimum four inches diameter storm sewer lead shall be constructed from the lateral storm sewer to the property line to provide an outlet for the footing drain discharge. The lead shall be constructed at a minimum depth of three and one-half feet on a minimum of 1.0 percent grade. The materials and methods of construction shall be in accordance with current Village of Franklin standards.

(c) Design Standards for Retention and Detention Basins. Any new development or addition to an existing development must retain/detain the increased runoff on-site unless otherwise directed by the Village Engineer. Acceptable means of retention/detention can be achieved through standing water in parking areas (to a maximum depth of six inches) or a separate retention/detention basin.

The County method of retention basin design, as available from the County Drain Commissioner's Office, shall be utilized in determining the volume of retention required. Basins with orifice outlets will be required to hold the volume of a ten-year storm, while basins with no outlets will be required to hold two consecutive 100-year storms. Discharge through an orifice outlet shall not exceed 0.2 cfs/acre.

(1) Minimum specifications.

- A. All man-made open storm water retention/detention basins shall have side slopes no steeper than one vertical to five horizontal.
- B. The basin must be constructed to drain entirely, unless it is designed to retain a permanent water level that conforms to the aesthetics of a landscape plan relating to the surrounding landscape.
- C. The bottom of the basin must have stable vegetative cover or some other approved method of stabilization.
- D. A minimum of twelve inches of freeboard must be maintained with a positive, nonerodible overflow capable of handling the capacity of a 100-year storm.
- E. The minimum grade on the bottom of the basin shall be 1.0 percent, where feasible.

(2) Maintenance agreement. A maintenance agreement shall be required for all storm water retention/detention basins.

(Ord. 96-87. Passed 5-13-96.)

1228.06 WATER MAINS.

(a) Submittal procedures. For the Village of Franklin's approval of water main systems, the applicant shall furnish to the Village of Franklin a detailed estimate of cost and three sets of water main plans and specifications for the system for which the applicant desires approval. The Village Engineer shall review the estimate and the plans for conformity to the standards set forth herein and certify that they are consistent with the overall utility plans of the Village, after which the Village Engineer will return one of the three sets with appropriate comments. After making any changes requested on the set of plans returned to him or her, the applicant shall then submit nine sets of revised plans to the Village for final approval. The Village Engineer shall then review these revised plans for conformity to the comments mentioned heretofore, and, if the changes have been properly made, will transmit nine copies to the City of Detroit for approval (when applicable). After City of Detroit approval has been obtained (when applicable), the copies will be forwarded to the Michigan State Health Department for a construction permit.

(b) Design Standards.

- (1) The type of pipe and joint shall be in accordance with current Village of Franklin standards.
- (2) All water mains shall be installed with a minimum cover of five feet below finished grade. Where water mains must dip to pass under a storm sewer or sanitary sewer, the sections which are deeper than normal shall be kept to a minimum length by the use of vertical eleven and one-quarter degree bends, properly anchored.
- (3) The minimum size for Village of Franklin water mains shall be eight inches in diameter. Gate valves shall be located in the system such that not more than four valves need be turned off to isolate any section of water main. Moreover, sufficient valves shall be placed such that not more than thirty lots shall be serviced within such section of water main which can be so isolated. Also, valves shall be placed so that no more than two hydrants are out of service at any one time. Where possible, gate valves shall be located at street intersections five feet from the intersecting street right-of-way line.
- (4) Hydrants shall be installed along the water main at least every 600 feet. In no case shall a house be more than 350 feet from a hydrant. In commercial or industrial districts, additional hydrants may be required. Hydrants shall be installed at the ends of all dead-end water mains. When near a street intersection, hydrants shall be located fifteen feet from the intersecting street right of way. Hydrants shall conform to current Village of Franklin standards.
- (5) The plans shall indicate the finished grades of all hydrants and gate wells. (Ord. 96-87. Passed 5-13-96.)

1228.07 GRADING.

(a) Submittal Procedures. For the Village of Franklin's approval of a grading plan for erosion and sediment control, the applicant shall furnish a detailed estimate of cost and three sets of the subdivision and/or site grading plans. The Village Engineer shall review the estimate and plans for conformity to the principles set forth herein, after which the Village Engineer will return one of the three sets with appropriate comments. After making any changes requested on the set of plans returned to him or her, the applicant shall then submit four sets of revised plans to the Village for final approval. The Village Engineer shall then review these revised plans for conformity to the comments mentioned heretofore, and, if the changes have been properly made, will retain three copies for the Village records and return one approved copy to the applicant.

(b) Design Standards. In order to provide effective erosion and sediment control, practical combinations of the following technical principles shall be applied to the erosion control aspects of the grading plan. All soil erosion control measures shall be in accordance with Oakland County Drain Commissioner standards and will require permission from the County, where applicable:

- (1) The smallest practical area of land should be exposed at any one time during development.
- (2) When land is exposed during development, the exposure should be kept to the shortest practical period of time.
- (3) Temporary vegetation and/or mulching should be used to protect critical areas exposed during development.
- (4) Sediment basins (debris basins or silt traps) should be installed and maintained to remove sediment from runoff waters from land undergoing development.
- (5) Provisions should be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
- (6) The permanent final vegetation and any structures should be installed as soon as practical in the development.
- (7) The development plan should be fitted to the topography and soil so as to create the least erosion potential.
- (8) Wherever feasible, natural vegetation should be retained and protected.

(Ord. 96-87. Passed 5-13-96.)

1228.08 COMPLIANCE REQUIRED.

The approvals required under the provisions of this chapter shall be obtained prior to the installation of any subdivision or project improvement within the Village of Franklin, in public streets, public alleys, public rights of way and public easements, and/or under the ultimate jurisdiction of the Village, and such subdivision or project improvement shall comply with all of the provisions and requirements of this chapter or any other related ordinance.

(Ord. 96-87. Passed 5-13-96.)

1228.09 FEES.

(a) At the time of submittal of plans, specifications and detailed estimates of the cost of proposed subdivision and project improvements, the proprietor shall pay the Clerk a fee for review of the same equal to 1.3 percent of the estimate of the cost of such improvements.

(b) Prior to the construction of subdivision and project improvements, the proprietor shall deposit with the Clerk, at least twenty-four hours prior to the start of construction, a percentage of the total contract price for inspection, as follows:

<u>Contract Amount</u>	<u>Percentage or Amount on Deposit</u>
\$0-\$10,000	\$1,000
10,000 - 50,000	11%
50,000 - 100,000	9%, or not less than \$5,500
100,000 - 200,000	8%, or not less than \$9,000
200,000 - 300,000	7%, or not less than \$16,000

300,000 - 500,000	5.5%, or not less than \$17,000
More than 500,000	4.5%

(c) The actual fee for inspection, which will be supplied on a full-time basis and shall be borne by the proprietor, will be on a payroll cost, plus 100 percent.

(d) The fees and charges herein contained shall be in addition to those charged for debt service charges, connection charges and other charges or fees imposed for sanitary sewers and water supply. (Ord. 96-87. Passed 5-13-96.)

1228.10 LIABILITY INSURANCE; MAINTENANCE BONDS.

Prior to the construction of subdivision and project improvements, the contractor shall procure and maintain, during the life of any contract or agreement for such construction, insurance protecting the Village of Franklin and its consultants from any claim for damages, real, personal or otherwise, in such amounts as established by resolution of the Village of Franklin.

Prior to the acceptance of improvements by the Village of Franklin, a one-year maintenance bond equal to 100 percent of the cost of installed utilities (sanitary and storm sewers and water mains) shall be posted by the proprietor.

(Ord. 96-87. Passed 5-13-96.)

1228.11 VARIANCES.

(a) The Village of Franklin may authorize a variance from these engineering design standards when it determines that undue hardship may result from strict compliance. In granting any variance, the Board of Zoning Appeals shall prescribe other conditions that it deems necessary or desirable for the public interest. No variance shall be granted unless the Village of Franklin finds that:

(1) There are special circumstances or conditions affecting the subdivision or project improvement such that a strict application of the provisions of this chapter would deprive the applicant of reasonable use of his property.

(2) The variance is necessary for the preservation and enjoyment of the substantial property right of the applicant.

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

(b) An application for any such variance shall be submitted in writing by the proprietor at the time the preliminary plans are submitted, stating fully and clearly all facts relied upon by the proprietor, and shall be supplemented with maps, plans or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions as are necessary to guarantee the full achievement of the plans.

(Ord. 96-87. Passed 5-13-96.)

1228.12 MINIMUM REQUIREMENTS; CONFLICTS OF LAW.

The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion and preservation of the public health, safety and general welfare of the Village of Franklin. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Village of Franklin, nor conflict with any statutes of the State of Michigan or Oakland County, except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

(Ord. 96-87. Passed 5-13-96.)

CHAPTER 1229

Stormwater Management

1229.01 Purpose.

1229.02 Definitions.

1229.03 Applicability.

1229.04 Stormwater drainage/erosion control.

1229.05 Stormwater management plan.

1229.06 Long-term maintenance of stormwater facilities.

1229.07 Maintenance and guarantee bond.

1229.08 Easements.

1229.09 Violations.

1229.10 Exemptions.

1229.11 Waivers.

1229.12 Disclaimer of liability.

CROSS REFERENCES

Water quality - see Mich. Const. Art. 4, §§ 22, 52; M.C.L.A. 67.38, 323.1 et seq.

Water supply generally - see Mich. Const. Art. 7 § 24; M.C.L.A. 46.171 et seq., 123.11 et seq., 325.201 et seq., 486.51 et seq., 486.101 et seq.

Culverts, laterals, catch basins and driveways - see S.U. & P.S. Ch.1022

Ground waters - see S.U. & P.S. 1041.10(e)

Wetlands and watercourses - see P. & Z. Ch.1226

Natural buffer zones - see P. & Z. Ch.1266

Flood hazard areas - see B. & H. Ch.1464

1229.01 PURPOSE.

The purpose of this chapter is to:

- (a) Protect and enhance the water quality of local watercourses, water bodies, and groundwater pursuant to and consistent with the Clean Water Act, 33 USC 1251 et seq., as amended.
- (b) Control non-stormwater discharges to stormwater conveyances and reduce pollutants in stormwater discharges.
- (c) Provide standards for the design, construction, operation and maintenance of stormwater Best Management Practices (BMPs) for water quality treatment, channel erosion protection, and flood prevention.

(Ord. 2010-10. Passed 12-13-10.)

1229.02 DEFINITIONS.

(a) "Best Management Practices (BMPs)" refers to a broad range of physical structures, plantings, or management practices. The common denominator that makes them BMPs is that they either reduce stormwater runoff, reduce pollutants that could reach surface waters, or treat stormwater before it enters a natural water body. Examples of structural BMPs include sedimentation basins and wet ponds (or manufactured wetlands). Vegetated BMPs could include vegetated swales or rain gardens. Management practice BMPs include washing vehicles in commercial car washes (versus in an area where the soapy water could wash into a storm drain), and soil testing before applying fertilizers.

(b) "Owner" means the property owner or operator of any stormwater management system or activity subject to this chapter.

(c) "Stormwater management plan" means drawings and written information prepared by a registered engineer or other certified professional which describe the ways in which stormwater runoff is proposed to be controlled, having as its purpose to ensure that the objectives of this chapter are met.

(Ord. 2010-10. Passed 12-13-10.)

1229.03 APPLICABILITY.

(a) The Oakland County "Engineering Design Standards for Storm Water Facilities" are hereby adopted by reference by the Village of Franklin for the control and treatment of stormwater runoff with the exception that all developments subject to this chapter shall provide acceptable water quality treatment BMPs designed to achieve eighty percent removal efficiency of total suspended solids from the runoff produced by a water quality storm.

(b) These Standards are established in addition to the existing Engineering Design Standards in Chapter 1228 of the Codified Ordinances.

(c) These Standards shall apply to all new construction, redevelopment, infill, or site expansions in the Village that include an area of disturbance of one acre or more, including projects less than one acre that are part of a larger plan of development or sale that would disturb one acre or more.

(d) All permanent and temporary stormwater management BMPs constructed as part of the requirements of this section are subject to this chapter.

(e) These Standards may include the use of stormwater credits where low impact development, open space preservation, or other site design practices have been used to maintain the predevelopment site hydrology.

(f) This chapter also applies to any activities which may affect the quantity or quality of a private or stormwater conveyance system or any waterway within the Village. Any person(s) engaged in activities that may result in excessive quantities of pollutants entering any stormwater conveyance systems or waterways may be subject to the remedies for violation of this section. Examples of such pollutants may include, but are not limited to, debris, concrete washings, de-icing materials, fertilizers, heavy metals, automobile fluids, topsoil, yard wastes, and commercial or light industrial wastes.

(g) Natural swales and channels should be preserved, whenever possible. If channel modification must occur, the physical characteristics of the modified channel will meet the existing channel in length, cross-section, slope, sinuosity, and carrying capacity. Streams and channels will be expected to withstand all events up to the two- year storm without increased erosion.

(Ord. 2010-10. Passed 12-13-10.)

1229.04 STORMWATER DRAINAGE/EROSION CONTROL.

All stormwater drainage and erosion control plans shall meet the standards adopted by the Village and Oakland County for design and construction and shall, to the maximum extent feasible, utilize nonstructural control techniques, including, but not limited to:

- (a) Limitation of land disturbance and grading;
- (b) Installation and maintenance of vegetated buffers and natural vegetation;
- (c) Minimization of impervious surfaces;
- (d) Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined swales; and
- (e) Use of infiltration devices.

(Ord. 2010-10. Passed 12-13-10.)

1229.05 STORMWATER MANAGEMENT PLAN.

(a) As part of the site plan submittals, three copies of a stormwater management plan shall be submitted to the Village for every development subject to this chapter. The contents of the stormwater management plan shall include the information requirements as outlined in the Oakland County "Engineering Design Standards for Storm Water Facilities, Procedures for Submittal and Review, Part 1 through 5," as applicable.

(b) The Village Council shall establish certain fees and escrow requirements by resolution. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the Village including the costs of on-site inspections.

(c) An as-built certification for stormwater management BMPs must be provided to the Village prior to final approval of the development.

(d) For sites that store or use chemicals, a spill response plan is required which clearly defines the emergency steps to be taken in the event of an accidental release of harmful substances that may migrate to the storm water system. Plans shall be submitted and approved by the Village.

(Ord. 2010-10. Passed 12-13-10.)

1229.06 LONG-TERM MAINTENANCE OF STORMWATER FACILITIES.

(a) A long-term maintenance plan shall be submitted to the Village for approval. A maintenance agreement shall be signed by the owner or operator and shall be included as an obligation in the restrictive covenants, master deed, easement document, or in another recordable form and recorded with Oakland County.

(b) Stormwater facilities shall be maintained by the owner and shall be repaired and/or replaced by such person when such facilities are no longer functioning as designed. Disposal of waste from maintenance of facilities shall be conducted in accordance with applicable federal, state and local laws and regulations.

(c) Records of installation and maintenance and repair shall be retained by the owner and shall be made available to the Village upon request.

(Ord. 2010-10. Passed 12-13-10.)

1229.07 MAINTENANCE AND GUARANTEE BOND.

The owner shall provide a maintenance and guarantee bond to the Village for inspection and emergency maintenance of stormwater management BMPs for a period of at least five years following final acceptance. The bond amount shall be determined as ten percent of the total cost of construction of each stormwater management BMP and drainage facility listed or as determined by the Village. The Village reserves the right to periodically modify the bonding amounts and requirements by resolution.

(Ord. 2010-10. Passed 12-13-10.)

1229.08 EASEMENTS.

(a) Stormwater management easements shall be provided as necessary and recorded as directed by the Village to ensure access for inspections, maintenance, and preservation of primary and secondary drainageways needed to serve other properties.

(b) The location and purpose of easements for stormwater management and drainage shall be clearly described in development deed restrictions or condominium master deeds. Easements shall be recorded with the Oakland County Register of Deeds according to Oakland County requirements.

(Ord. 2010-10. Passed 12-13-10.)

1229.09 VIOLATIONS.

(a) If the stormwater management BMPs have not been adequately maintained, the Village may notify the owner(s) in writing and require the necessary maintenance or repairs within 90 days of the written notice. Should the owner fail to comply with the provisions of this chapter, the Village may, after giving reasonable notice and opportunity for compliance, have the necessary work done and the owner shall be obligated to promptly reimburse the Village for all such costs incurred. If the costs are not paid by the owner, the Village may pursue the collection of same through appropriate court actions or as lien on the property.

(b) When emergency measures are necessary to mediate a nuisance, to protect public safety, health, welfare, or to prevent loss of life, injury or damage to property, the Village is authorized to, but not require to, carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a violation of this chapter and shall promptly reimburse the Village for all such costs. If the costs are not paid by the owner, the Village may pursue the collection of same through appropriate court actions or as lien on the property.

(Ord. 2010-10. Passed 12-13-10.)

1229.10 EXEMPTIONS.

(a) Activities contained entirely within federal, state, or county lands and that do not impact adjacent property within the Village are exempt from the requirements of this chapter.

(b) Routine single family landscaping and/or gardening that does not alter the existing storm water management facilities or require a grading plan as determined by the Village.

(c) Any person performing construction work in the Village shall maintain compliance with the county and state requirements for soil erosion and sediment control.

(d) The prohibition of discharges shall not apply to any discharge regulated under a NPDES point source permit issued and administered by the State, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations. Compliance with an applicable NPDES permit governing discharges into a stormwater conveyance system shall be considered compliance with this chapter. NPDES permitted storm water discharges are still subject to the County design criteria.

(Ord. 2010-10. Passed 12-13-10.)

1229.11 WAIVERS.

The Village recognizes that, due to the specific requirements of any given development, inflexible application of the design standards may result in development with excessive paving, stormwater runoff, and a waste of space which could be left as an open space. The Village Engineer shall have the authority to grant waivers or variances from specific control provisions of the stormwater management standards due to site-specific conditions. All requests for waivers or variances must be provided in writing along with justifications. Alternatives that are consistent with the overall intent of stormwater quantity and quality management may be proposed, subject to the approval of both the Village and, if applicable, the County.

(Ord. 2010-10. Passed 12-13-10.)

1229.12 DISCLAIMER OF LIABILITY.

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and this chapter does not imply or guarantee that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This chapter shall not create liability on the part of the Village, any agent or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2010-10. Passed 12-13-10.)

CHAPTER 1230

Historic District

- 1230.01 Statement of purpose; definitions.
- 1230.02 Boundaries.
- 1230.03 Compliance required for construction, repair, demolition, etc.
- 1230.04 Historic District Commission.
- 1230.05 Procedure for review of plans to construct, repair, demolish, etc.
- 1230.06 Appeals.
- 1230.07 Demolition by neglect.
- 1230.08 Failure to obtain a permit.
- 1230.09 Establishment, modification or elimination of a Historic District.
- 1230.10 Fees for an historic review or demolition application.
- 1230.11 Proposed Historic Districts; powers of Village Council.
- 1230.12 Emergency moratoriums.
- 1230.13 Amendments.
- 1230.14 Acceptance of gifts, grants or bequests.
- 1230.99 Penalty.

CROSS REFERENCES

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

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

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

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

Off-street parking and loading - see P. & Z. Ch. 1262

Nonconforming uses and buildings - see P. & Z. Ch. 1264

Wireless telecommunication facilities in the Historic District - see P. & Z. 1265.06

Natural buffer zones - see P. & Z. Ch. 1266

Supplementary regulations - see P. & Z. Ch. 1268

Fences in the Historic District - see P. & Z. 1268.28(c)(4), (f)(2), (f)(4)

Authority re demolition and removal of structures - see B. & H. 1460.07

Review of signs and outdoor display structures - see B. & H. 1474.04

Historic markers - see B. & H. 1474.10

1230.01 STATEMENT OF PURPOSE; DEFINITIONS.

(a) The purpose of this chapter is to:

- (1) Safeguard the heritage of the Village of Franklin by preserving one or more Historic Districts in the Village which reflect elements of its cultural, social, economic, political or architectural history;
- (2) Stabilize and improve property values in such District and the surrounding areas;
- (3) Foster civic beauty;
- (4) Strengthen the local economy; and
- (5) Promote the use of Historic Districts for the education, pleasure and welfare of the citizens of the Village.

(b) As used in this chapter:

- (1) "Alter" and "alteration" mean work that changes the detail of a resource but does not change the basic size or shape.
- (2) "Certificate of appropriateness" means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.
- (3) "Commission" means the Franklin Historic District Commission.
- (4) "Committee" means a Historic District Study Committee appointed by the Village Council.
- (5) "Demolition" means the razing or destruction, whether entirely or in part, of a resource, and includes, but is not limited to, demolition by neglect.
- (6) "Demolition by neglect" means neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
- (7) "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
- (8) "Historic District" means an area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archeology, engineering or culture.
- (9) "Historic preservation" means the identification, evaluation, establishment and protection of resources significant in history, architecture, archeology, engineering or culture.
- (10) "Historic resource" means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archeology, engineering or culture of the State of Michigan, the Village of Franklin, or the United States.
- (11) "Notice to proceed" means the written permission issued by the Commission for work to be performed within a Historic District that is

inappropriate and that adversely affects a resource, pursuant to a finding under Section 1230.05(f)(1) to (4).

(12) "Open space" means undeveloped land, a naturally landscaped area or a formal or man-made landscape area that provides a connective link or a buffer between resources.

(13) "Ordinary maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. "Ordinary maintenance" does not change the external appearance of the resource, except through the elimination of the usual and expected effects of weathering, age and use. "Ordinary" maintenance does not constitute "work" for the purpose of this chapter.

(14) "Proposed Historic District" means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a Historic District or added to an established Historic District.

(15) "Repair" means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes "work" for the purposes of this chapter.

(16) "Resource" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features or open spaces located within a Historic District.

(17) "Work" means construction, addition, alteration, repair, moving, excavation or demolition.

(Ord. 99-53. Passed 5-10-99.)

1230.02 BOUNDARIES.

The Franklin Village Historic District shall be that area shown and bounded as such on the map attached to original Ordinance 99-53, passed May 10, 1999, as Appendix A. The map may be amended from time to time to reflect changes, if any, to the Historic District.

(Ord. 2000-65. Passed 7-10-00.)

1230.03 COMPLIANCE REQUIRED FOR CONSTRUCTION, REPAIR, DEMOLITION, ETC.

There shall be no construction, addition, alteration, repair, moving, excavation or demolition affecting the exterior appearance of a resource within any designated Historic Districts within Franklin Village, such as the Franklin Village Historic District, unless such action complies with the requirements set forth in this chapter.

(Ord. 99-53. Passed 5-10-99.)

1230.04 HISTORIC DISTRICT COMMISSION.

(a) Establishment. In order to execute the purposes declared in this chapter, there is hereby established a commission to be called the Franklin Historic District Commission.

(b) Membership; Terms; Appointments; Vacancies; Removals

(1) The Historic District Commission shall consist of seven members whose residence is located in the Village of Franklin. They shall be appointed by the Village Council for terms of office of three years. The Commission members currently in office on the date of the adoption of this chapter shall remain and continue as Commission members with their terms of office unchanged. Members of the Commission may be reappointed after their terms expire.

(2) At least one member of the Commission shall be appointed from a list of citizens submitted by a duly organized and existing preservation society or societies, and at least one member of the Commission shall be a graduate of an accredited school of architecture who has two years of architectural experience or who is an architect duly registered in this State, if such person resides in the Village and is available for appointment. A majority of the members of the Commission shall have a clearly demonstrated interest in or knowledge of historic preservation.

(3) A vacancy occurring in the membership of the Commission for any cause shall be filled within 60 calendar days by a person appointed by the Village Council for the unexpired term.

(4) The members of the Commission shall serve without compensation.

(5) Any member or members of the Commission may be removed by vote of the Village Council for inefficiency, neglect of duty, conflict of interest, misfeasance or malfeasance in office.

(6) Absence from three consecutive regular meetings of the Commission shall automatically operate to vacate the seat of a member of the Commission, unless the absence is excused by the Commission by resolution setting forth such excuse.

(c) Duties and Powers.

(1) It shall be the duty of the Commission to review all plans for the construction, addition, alteration, repair, moving, excavation or demolition of resources in the Historic District, and the Commission shall have the power to pass upon such plans before a permit for such activity can be granted. In reviewing the plans, the Commission shall follow the U.S. Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 CFR Part 67, or their equivalent as approved or established by the Michigan Department of History, Arts and Libraries, and shall also give consideration and significance to:

- A. The historical or architectural value and significance of the historic resource and its relationship to the historic value of the surrounding area;
- B. The relationship of the exterior architectural features of such historic resource to the rest of the resource and to the surrounding area;
- C. The general compatibility of the exterior design, arrangement, texture and materials proposed to be used; and
- D. Any other factor, including aesthetics, which it deems pertinent.

(2) The Commission shall review plans for proposed major changes to open spaces in a Historic District, such as the removal of large trees (over 12 inches in diameter as measured four feet above ground) or the making of major contour changes in terrain features. The Commission may use its discretion to decide if proposed changes are major in nature or not.

(3) The Commission shall review and act upon only exterior features of a resource, and shall not review and act upon interior arrangements, unless specifically authorized to do so by the Village Council, or unless interior work will cause visible changes to the exterior of the historic resource. The Commission shall not disapprove applications except in regard to considerations as set forth in the previous division.

(4) The Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the Building Official or to another delegated authority. The Commission shall provide to said delegated authorities specific written standards for issuing the certificates of appropriateness under this division. Said delegated authorities shall come before the next regularly scheduled Commission meeting and the Commission shall review the certificates of appropriateness so issued. These reviews are to serve the purpose of keeping the Commission informed as

to what certificates of appropriateness for minor work have been issued since the last Commission meeting.

(5) In case of an application for work affecting the appearance of a resource or for the alteration, moving or demolition of a resource which the Commission deems so valuable to the Village that the loss thereof will adversely affect the public purpose of the Village, the Commission shall endeavor to work out with the owner an economically feasible plan for preservation of the historic resource.

(6) If all efforts by the Commission to preserve a resource fail, or if it is determined by the Village Council that public ownership is most suitable, the Village Council, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. Such an acquisition shall be based upon the recommendation of the Commission or the committee. The Commission or the committee is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the Village Council. Upon recommendation of the Commission or the committee, the Village may sell resources acquired under this division with protective easements included in the property transfer documents, if appropriate.

(7) The Commission shall have no other powers, express or implied, beyond those listed in this section, except as may be otherwise expressly authorized by ordinance or resolution of the Council.

(d) Officers; Quorum; Notice of Meetings; Records and Reports

(1) The Historic District Commission shall elect from its membership a Chairperson and a Vice-Chairperson whose terms of office shall be fixed by the Commission. The Chairperson shall preside over the Commission and shall have the right to vote. The Vice-Chairperson shall, in the case of the absence or disability of the Chairperson, perform the duties of the Chairperson.

(2) One member of the Commission shall be Secretary. The Secretary shall keep a record of all resolutions, proceedings and actions of the Commission and report regularly to the Village Council.

(3) At least four members of the Commission shall constitute a quorum for the transaction of its business. The Commission shall adopt rules for the transaction of its business which shall provide for the time and place of holding regular meetings. The Commission shall provide for the calling of special meetings by the Chairperson or by at least two members of the Commission. All meetings of the Commission shall be open to the public, and any person or his or her duly constituted representative shall be entitled to appear and be heard on any matter before the Commission reaches its decision.

(4) Public notice of the time, date and place of meetings shall be given in the manner required by Act 267 of the Public Acts of 1976, as amended. Each notice shall contain the name, address and telephone number of the Commission. The notice must be posted at the principal office of the Commission, in addition to any other location deemed appropriate by the Village Council, and may also be given on cable television. A meeting agenda shall be a part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission. The requirements of the aforementioned Act include:

A. For regular meetings of a public body, there shall be posted within ten days of the first meeting of the Commission in each calendar or fiscal year a public notice stating the dates, times and places of its regular meetings;

B. For a rescheduled regular meeting or special meeting of the Commission, a public notice stating the date, time and place of the meeting shall be posted at least 18 hours before the meeting;

C. For a change in the schedule of regular meetings of the Commission, a notice shall be posted within three days after the meeting at which the change is made, stating the new dates, times and places of its regular meetings;

D. Nothing in this section shall bar the Commission from meeting in an emergency session should there occur a severe and imminent threat to the health, safety or welfare of the public when two-thirds of the Commission members decide that delay would be detrimental to efforts to lessen or respond to the threat.

(5) The Commission shall keep a record, which shall be open to public view, of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, being M.C.L.A. 15.231 et seq. The concurring affirmative vote of four members shall constitute approval of plans before it for review or for adoption of any resolution, motion or other action of the Commission.

(6) The Commission shall submit an annual report to the Council of the general activities of the Commission and shall submit such special reports as requested by the Village Council.

(Ord. 2000-65. Passed 7-10-00; Ord. 2003-01. Passed 4-14-03.)

1230.05 PROCEDURE FOR REVIEW OF PLANS TO CONSTRUCT, REPAIR, DEMOLISH, ETC.

(a) Filing of Application.

(1) Application for a building permit to construct, alter, repair, move, add to, excavate or demolish any resource in a Historic District, such as the Franklin Village Historic District, shall be made to the Building Department. The Building Official shall determine whether the property is in a Historic District such as the Franklin Village Historic District. Plans shall be submitted showing the structure in question and also showing its relation to adjacent structures.

(2) Upon the filing of such application, the Building Department shall immediately determine the zoning classification of the parcel, and if it is determined to be located within a residential zoning district and for work on a new or existing residence or a new or existing residential accessory structure, the Building Department shall immediately notify the Historic District Commission of the receipt of such application and shall transmit it together with accompanying plans and other information to the Commission. If the parcel is determined to be within any zoning classification other than residential or for consideration of any kind of request other than work on a new or existing residence or new or existing residential accessory structure, then processing requirements for site plan review, as set forth in Section 1268.30 of the Zoning Code, must be completed and approved prior to review by the Historic District Commission. The Planning Commission may, however, at any time during its review, refer such application to the Historic District Commission for the Historic District Commission's preliminary review. Upon approval of the required site plan in accordance with Section 1268.30 of the Zoning Code, the Building Department shall immediately notify the Historic District Commission of the application and shall transmit the application to the Historic District Commission for its review.

(3) The application shall include the applicant's certification that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or smoke alarm complying with the requirements of the Stille-Derossett-Hale Single State Construction Code Act, 1972 PA 230, M.C.L.A. 125.1501 to 125.1531.

(4) The Building Department shall not issue a permit and no proposed work shall proceed until the Commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed.

(b) Action Upon Application.

(1) The Historic District Commission shall meet within 35 days after a complete application has been received by the Building Department, and shall review the plans according to the duties and powers specified in this section and in Section 1230.04. In reviewing the plans the Commission must make every effort to confer with the applicant for the building or demolition permits. No fee shall be charged to process a permit application through the Commission beyond the existing Building Department fees, unless it is necessary for the Historic District Commission to review the application pursuant

to Section 1230.10.

(2) The failure of the Historic District Commission to approve or disapprove of such plans within 60 days from the date of a completed application for permit, unless otherwise mutually agreed upon by the applicant and the Commission, in writing, shall be deemed to constitute approval, and the Building Department shall proceed to process the application without regard to a certificate of appropriateness.

(c) Approval of Application.

(1) If the Commission approves the application, it shall issue a certificate of appropriateness which is to be signed by the Chairperson, attached to the application for a building permit and immediately transmitted to the Building Department. The Chairperson shall also stamp all prints submitted to the Commission signifying its approval.

(2) After the certificate of appropriateness has been issued and the building permit granted to the applicant, the Building Department shall, from time to time, inspect the work approved by such certificate and shall take such action as is necessary to enforce compliance with the approved plan.

(3) The Commission shall not issue a certificate of appropriateness unless the applicant has provided the fire or smoke alarm certification required by division (a)(3) above.

(4) Period of validity. Approval granted under this section shall be effective for a period of one year. If a building permit has been obtained pursuant to an approval granted under this section, then the effective period for such approval shall be automatically extended to coincide with the expiration of any such building permit. If a building permit issued pursuant to an approval granted under this section is cancelled, terminated or otherwise expires, then any corresponding site plan approval would otherwise have expired, it shall be deemed to have thus expired. Notwithstanding any provision of this division, the Historic District Commission may, on proper application, grant an extension or extensions of any approval granted under this section for good cause shown. No such extension shall be granted unless there is full compliance with all applicable Village of Franklin requirements which may be in effect at the time of the application for extension.

(d) Denial of Application.

(1) If the Commission disapproves of the application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor, in writing, to the Building Department and to the applicant. The Commission may advise what it thinks is proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to his or her application and shall have the right to resubmit the application at any time after so doing.

(2) A denial of a permit application shall be binding on the Building Department, Building Official or any such other relevant authority.

(3) The denial of the plan shall also include a notice to the applicant of his or her rights of appeal to the State Historic Preservation Review Board of the Michigan Historical Commission within the Michigan Department of History, Arts and Libraries and to the Circuit Court.

(e) Ordinary Maintenance and Prior Permit Work. Nothing in this chapter shall be construed to prevent ordinary maintenance of a resource within a Historic District, or to prevent work on any resource under a permit issued by the Building Official or another duly delegated authority before this chapter was enacted.

(f) Notice to Proceed. Work within a Historic District shall be permitted through the issuance of a notice to proceed by the Commission, if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following:

(1) The resource constitutes a hazard to the safety of the public or the occupants of a structure;

(2) The resource is a deterrent to a major improvement program which will be of substantial benefit to the community, and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing and environmental clearances;

(3) Retention of the resource would cause undue financial hardship to the owner when a governmental action, an act of God or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the Historic District, have been attempted and exhausted by the owner; or

(4) Retention of the resource would not be in the interests of the majority of the community.

(Ord. 99-53. Passed 5-10-99; Ord. 2003-01. Passed 4-14-03; Ord. 2010-06. Passed 5-10-10; Ord. 2017-05. Passed 7-10-17.)

1230.06 APPEALS.

(a) Any permit applicant aggrieved by a decision of the Franklin Historic District Commission may file an appeal with the State Historic Preservation Review Board of the Michigan Historical Commission within the Department of History, Arts and Libraries. The appeal shall be filed within 60 days after the decision is furnished to the applicant.

(b) A permit applicant aggrieved by a decision of the State Historic Preservation Review Board may appeal the decision to the Circuit Court. Said applicant may only appeal to the Circuit Court after appealing to the State Historic Preservation Review Board.

(c) In addition, any citizen or duly organized historic preservation organization in the Village, other than the resource property owner, jointly or severally aggrieved by a decision of the Commission, may appeal the decision to the Circuit Court.

(Ord. 99-53. Passed 5-10-99; Ord. 2003-01. Passed 4-14-03.)

1230.07 DEMOLITION BY NEGLECT.

(a) Upon a finding by the Franklin Historic District Commission that a historic resource, either in the Historic District or in a proposed Historic District, which is subject to Commission review pursuant to the terms under Section 1230.11, is threatened by demolition by neglect, the Commission may do either of the following:

(1) Require the owner of the resource to repair all conditions contributing to demolition by neglect; or

(2) If the owner does not make the repairs within a reasonable time, the Commission or its agents may, after approval by the Village Council, enter the property and make such repairs as are necessary to prevent demolition by neglect.

(b) The costs of the work under division (a)(2) hereof shall be charged to the owner and may be levied by the Village of Franklin as a special assessment against the property. The Commission or its agents may, after approval by the Village Council, enter the property for purposes of this section upon obtaining an order from the Circuit Court.

(Ord. 2000-65. Passed 7-10-00.)

1230.08 FAILURE TO OBTAIN A PERMIT.

(a) When work has been done upon a historic resource without a permit, and the Franklin Historic District Commission finds that the work does not

qualify for a certificate of appropriateness, the Commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work was performed or to modify the work so that it qualifies for a certificate of appropriateness.

(b) If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may, after approval by the Village Council, seek an order from the Circuit Court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness.

(c) If the owner does not comply or cannot comply with the order of the Court, the Commission or its agents may, after approval by the Village Council, enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the Court's order. The cost of the work shall be charged to the owner and may be levied by the Village of Franklin as a special assessment against the property. When acting pursuant to said order of the Circuit Court, the Commission or its agents may enter a property for purposes of this section.

(Ord. 2000-65. Passed 7-10-00.)

1230.09 ESTABLISHMENT, MODIFICATION OR ELIMINATION OF A HISTORIC DISTRICT.

(a) Establishment of Historic District Study Committee Before establishing, modifying or eliminating any Historic District, Council shall appoint a Historic District Study Committee. The Committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation, and shall contain representation from one or more duly organized local historic preservation organizations. The Historic District Study Committee shall be an ad hoc committee which may be established by Council to consider only specific proposed districts, projects or programs authorized by Council, and shall then be dissolved.

(b) Duties of the Historic District Study Committee

(1) The Historic District Study Committee shall do all of the following:

A. Conduct a photographic inventory of resources within each proposed Historic District, following procedures established or approved by the Michigan Department of History, Arts and Libraries;

B. Conduct basic research of each proposed Historic District and the historic resources located within that District;

C. Determine the total number of historic and non-historic resources within a proposed Historic District and the percentage of historic resources of that total. In evaluating the significance of the historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the U.S. Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR Part 60, and repeated below:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or

2. That are associated with the lives of persons significant in our past; or

3. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

4. That have yielded, or may be likely to yield, information important in prehistory or history; and criteria established or approved by the Michigan Department of History, Arts and Libraries, if any;

D. Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:

1. The charge of the Committee;

2. The composition of the Committee membership;

3. The Historic District or Districts studied;

4. The boundaries for each proposed Historic District in writing and on maps;

5. The history of each proposed Historic District;

6. The significance of each District as a whole, as well as a sufficient number of individual resources to fully represent the variety of resources found within the District, relative to the evaluation criteria;

E. Transmit copies of the preliminary report for review to the Village Council, the Village Planning Commission, the Franklin Historic District Commission, the Michigan Department of History, Arts and Libraries, the Michigan Historical Commission and the State Historic Preservation Review Board; and

F. Make copies of the preliminary report available to the public.

(2) The Village Council may prescribe the time for preparation and transmittal of the preliminary report if the Council deems it in the public interest to do so.

(3) Not less than 60 nor more than 75 calendar days after the transmittal of the preliminary report, the Committee shall hold a public hearing. Notice will be published of the time, date and place of the hearing. Written notice shall be mailed by first class mail not less than 14 calendar days before the hearing to the owners of properties within the proposed Historic District, as listed on the tax rolls of the Village of Franklin.

(4) The Committee shall have no other powers, express or implied, beyond those listed in this section, except as may be otherwise expressly authorized by ordinance or resolution of Council.

(c) Actions to be Taken by the Historic District Study Committee and Village Council After the date of the public hearing, the Historic District Study Committee and the Village Council shall, within the time prescribed by the Village Council, which shall not be more than one year, unless otherwise authorized by the Village Council, take the following actions:

(1) The Committee shall prepare and submit a final report with its recommendation and the recommendation, if any, of the Village Planning Commission to the Village Council. If the recommendation is to establish, modify or eliminate a Historic District or Districts, the final report shall include a draft of a proposed ordinance or ordinances.

(2) After receiving a final report that recommends the establishment, modification or elimination of a Historic District or Districts, the Village Council, at its discretion, may introduce and pass or reject an ordinance or ordinances establishing, modifying or eliminating one or more Historic Districts. If the Village Council passes an ordinance or ordinances establishing, modifying or eliminating one or more Historic Districts, the Village Council shall file a copy of that ordinance or ordinances, including a legal description of the property or properties located within the Historic District or Districts, with the Register of Deeds. The Village Council shall not pass an ordinance establishing a contiguous Historic District less than 60 days after a majority of the property owners within the proposed Historic District, as listed on the Village tax rolls, have approved the establishment of the Historic District pursuant to a written petition.

(3) At any time after expiration of the time limits set or prescribed by the Village Council pursuant to this section for the Historic District Study Committee to act, the Village Council may, in its discretion, proceed to introduce and pass or reject an ordinance as described in division (c)(2) hereof.

(d) Elimination of Districts. If considering elimination of a Historic District, the Committee shall follow the procedures set forth above for issuing a preliminary report, holding a public hearing and issuing a final report, but with the intent of showing one or more of the following:

- (1) The Historic District has lost those physical characteristics that enabled establishment of the District.
- (2) The Historic District was not significant in the way previously defined.
- (3) The Historic District was established pursuant to defective procedures.

(e) Availability of Records. All writings prepared, owned, used, in possession of or retained by the Committee in the performance of any official function shall be made available to the public.

(Ord. 2000-65. Passed 7-10-00; Ord. 2003-01. Passed 4-14-03.)

1230.10 FEES FOR AN HISTORIC REVIEW OR DEMOLITION APPLICATION.

(a) Fee for Historic Review Upon Request of Property Owner

(1) If a property owner in the Village of Franklin reasonably believes his or her property to be of historic value and significance, then upon request the Village of Franklin Historic District Commission shall evaluate the proposed resource as provided for in this chapter.

(2) Said evaluation shall not commence until the property owner has paid in full a fee in an amount not to exceed four hundred dollars (\$400.00), which may be amended by the Village Council from time to time.

(b) Fee for Demolition Applications.

(1) If a structure proposed for demolition is a proposed historic resource, the demolition permit applicant shall pay a fee not to exceed four hundred dollars (\$400.00), or a fee in such amount as may be determined from time to time by resolution of the Village Council. Said fee is to be used by the Village of Franklin Historic District Commission to make an historical study and review of the resource. In addition, the applicant shall be required to allow 60 days from the date the Franklin Historic District Commission receives the permit application for its response to the application.

(2) A. For all structures proposed for demolition, except designated historic resources, resources in designated Historic Districts and proposed historic resources, the Village of Franklin Building Official or the Village Council shall make a tentative determination as to whether or not said structures comport with the definition of an historic resource set forth in Section 1230.01(b)(10).

B. If it is tentatively determined by the Village of Franklin Building Official or Council that the structure to be demolished may be an historic resource, then the demolition permit applicant shall pay a fee not to exceed four hundred dollars (\$400.00), or such amount as shall be determined from time to time by resolution of the Village Council. Said fee is to be used by the Village of Franklin Historic District Commission to make an historical study and review of the resource. In addition, the applicant shall be required to allow 60 days from the date the Franklin Historic District Commission receives the permit application for its response to the application with regard to tentatively designating the structure to be demolished as historic.

(Ord. 99-53. Passed 5-10-99.)

1230.11 PROPOSED HISTORIC DISTRICTS; POWERS OF VILLAGE COUNCIL.

Upon receipt of substantial evidence showing the presence of historic, architectural, archeological, engineering or cultural significance of a proposed Historic District, the Village Council may adopt a resolution requiring that all applications for permits within the proposed Historic District be referred to the Historic District Commission as prescribed in Sections 1230.03 and 1230.05. The Commission shall review permit applications with the same powers that would apply if the proposed Historic District were an established Historic District. The review may continue in the proposed Historic District for not more than one year, or until such time as the Village Council approves or rejects the establishment of the Historic District by ordinance, whichever occurs first.

(Ord. 99-53. Passed 5-10-99.)

1230.12 EMERGENCY MORATORIUMS.

If the Village Council determines that pending work will cause irreparable harm to resources located within an established Historic District or a proposed Historic District, the Council may by resolution declare an emergency moratorium of all such work for a period not to exceed six months. The Council may extend the emergency moratorium for an additional period not to exceed six months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(Ord. 99-53. Passed 5-10-99.)

1230.13 AMENDMENTS.

Any amendment to this chapter may be made from time to time by the Village Council, provided that prior to the adoption of any amendments, a study committee, appointed pursuant to the provisions hereof, makes the study reports and recommendations required in Section 3 of Act 169 of the Public Acts of 1971, as amended.

(Ord. 99-53. Passed 5-10-99.)

1230.14 ACCEPTANCE OF GIFTS, GRANTS OR BEQUESTS.

(a) Council may accept gifts, grants or bequests from the State or Federal government for historic preservation purposes or historic purposes; it may accept public or private gifts, grants or bequests for said purposes, provided that such gifts, grants or bequests are not prohibited by the Charter of the Village of Franklin and are not used for the purpose of paying any fees or expenses arising out of any litigation. The Village Council may appoint the Historic District Commission to administer on behalf of the Village of Franklin said gifts, grants or bequests for the purposes herein provided.

(b) The Village Treasurer shall be custodian of funds of the Historic District Commission, and authorized expenditures shall be certified by the Village Treasurer by the Secretary or other officer designated by said Historic District Commission. The Historic District Commission shall annually report to the Village Council any money it shall receive or expend.

(Ord. 2000-65. Passed 7-10-00.)

1230.99 PENALTY.

(a) Any person, individual, partnership, firm, corporation, organization, institution or agency of government that violates any of the provisions of this chapter is responsible for a civil violation and may be fined not more than one hundred dollars (\$100.00). An action taken under State law (Act 169 of the Public Acts of 1970, as amended), however, provides for a civil violation and a fine of not more than five thousand dollars (\$5,000).

(b) Any person, individual, partnership, firm, corporation, organization, institution or agency of government that violates any of the provisions of this chapter and State law may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

(Ord. 99-53. Passed 5-10-99.)

CHAPTER 1232

Tree Management

1232.01 Findings and purpose.

1232.02 Applicability.

1232.03 Definitions.

1232.04 Tree protection.

1232.05 Dead, diseased, infested, decayed, defective, or damaged trees.

1232.06 Variance.

1232.99 Penalties, sanctions, remedies.

CROSS REFERENCES

Box elder trees, female, as nuisance - see M.C.L.A. 124.151

Cutting or destroying trees - see M.C.L.A. 247.235, 247.241, 752.701 et seq.

Malicious destruction of trees - see M.C.L.A. 750.382

Obstruction of visibility by vegetation - see P. & Z.1268.10

Heritage tree list - Pt. 12, Title 4, Appx. A-4

1232.01 FINDINGS AND PURPOSE.

The tree canopy contributes to the distinctive rural character of the Village of Franklin. Trees are important natural resources and assets of the Village that residents and visitors admire and cherish. The Village's trees provide a vital link to nature by softening the visual landscape; improving air quality; creating habitat for birds and wildlife; reducing floods and erosion; protecting against wind and heat; providing important physical, aesthetic, recreational, and economic benefits to Village residents; and supporting property values. Through the years, the tree inventory in the Village has been threatened, due to development, disease, or infestation. Therefore, in the interest of promoting the health, safety, and welfare of the citizens of the community, it is necessary to establish the regulations set forth herein to protect, preserve, and conserve mature trees, manage and provide oversight of the removal of trees, and provide for the replacement of trees removed in the Village.

(Ord. 2010-04. Passed 5-10-10.)

1232.02 APPLICABILITY.

This chapter shall apply to all lots and parcels of land in the Village and shall be in addition to requirements imposed by any other Village ordinances. The tree protection requirements in Section 1232.04 shall apply to all trees in the Village that are defined as "protected trees" and are six inches in caliper or greater and not on the non-protected trees list. The provisions dealing with dead, diseased, infested, decayed, defective, or damaged trees shall apply to all trees in the Village.

(Ord. 2010-04. Passed 5-10-10.)

1232.03 DEFINITIONS.

The following terms shall have the meaning ascribed to them:

(a) Building Envelope. The ground area of a lot or parcel of land enclosed or to be enclosed by the exterior walls or perimeter (i.e., the footprint) of principal and accessory buildings and structures, including but not limited to pools, decks, patios, walks, tennis courts, driveways, and utility services.

(b) Caliper. A tree's diameter in inches measured four and one-half feet above the ground (also known as diameter at breast height/DBH).

(c) Drip Line. An imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.

(d) Heritage Tree. A tree that is included in the American Forests' National Register of Big Trees, the Michigan Botanical Club's Michigan Champion Trees List, or in the Village's Heritage Tree List in Appendix A-4 to Title Four - Zoning.

(e) Person. Any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including governmental agencies conducting operations in the Village and all tree removal companies.

(f) Protected Tree. Any tree that has a caliper of six inches or greater and is not identified as a non-protected tree in Appendix A to this chapter.

(g) Remove or Removal. The act of removing, relocation, or destroying a tree by digging it up or cutting it down, or the effective removal or destruction through mutilation, damage, poison, girdling, topping, failure to protect within the drip line, or other actions that are likely to cause or hasten the death of a tree.

(Ord. 2010-04. Passed 5-10-10.)

1232.04 TREE PROTECTION.

(a) Tree Removal.

(1) Permit Required Except as Noted. Except for activities that are exempt under division (a)(2) below, a tree removal permit shall be required prior to the removal, relocation or destruction of any protected tree in the Village.

(2) Permit Exemptions. The following activities are exempt from the provisions of this chapter and are allowed without a tree removal permit, unless otherwise prohibited by statute or ordinance:

- A. Removal of non-protected trees.
- B. Removal of up to two protected trees during any 12-month period on an occupied one-family residential lot or parcel. This exemption shall not apply to removal of heritage trees.
- C. Removal, pruning or trimming of protected trees within public or private roads or utility rights-of-way or easements in connection with the installation, repair, operation, replacement or maintenance of roads, drains, sewers, sidewalks, and water, electric, gas, cable television, telephone, telecommunications, or other public service or utility lines and facilities, provided that such activities are overseen by a certified arborist or forester and prudent and reasonable efforts are made to prevent or minimize protected tree loss or damage.
- D. Ordinary trimming and pruning of protected trees as part of landscape maintenance.
- E. Removal or trimming of dead, diseased, infested, decayed, defective, or damaged trees, provided that the death, disease, infestation, decay, defect, or damage are not the result of an action or the conduct of the owner or occupant (or contractor or agent) of the subject property.
- F. Removal of protected trees located within ten feet of an existing principal or accessory building or structure to reasonably avoid actual or threatened damage to such building or structure.
- G. Where a site plan or building permit has been submitted and new construction is proposed, removal of protected trees located within the designated building envelope or within ten feet thereof shall be exempt, along with removal of protected trees within existing or proposed rights-of-way, utility easements, and areas of site grading or storm water detention or retention areas.

(b) Application for a Tree Removal Permit. When a tree removal permit is required, an application shall be filed with the Village for review and processing. In addition, the applicant shall submit 20 copies of a tree location survey and plan, a nonrefundable application/permit fee in an amount established by resolution of the Village Council, and any other information required by this chapter. The Village Administrator may reduce the number of copies that need to be submitted.

Where a site plan, plat or building permit is required for the proposed activity, the application and tree location survey and plan shall be reviewed with the site plan, plat or building permit. However, site plan, plat or building permit approval is prerequisite to issuance of a tree removal permit.

(c) Tree Location Survey and Plan.

(1) The tree location survey and plan shall have a minimum scale of 1 inch = 20 feet (or other scale specified by the Building Official) and shall include the information listed below. The Village Administrator or his or her designee may waive certain requirements for all or a portion of the site upon making the determination that requested information would not be relevant to the goal of conserving protected trees on the site.

(2) The plan shall provide the legal description, boundaries, and dimensions of the lot or parcel, together with existing and proposed locations of all structures and improvements, including utilities, driveways, sidewalks, drains, swales, wetlands, watercourses, ponds, significant topographic features, and other man-made or natural features. The location of proposed structures and improvements must be staked in the field.

(3) The location and dimensions of all required setbacks and existing and proposed easements shall be illustrated.

(4) The plan shall show existing topography and grade changes proposed for the property, together with an explanation of how grade changes will affect protected trees. The existing and proposed grade at the base of every tree shall be indicated.

(5) The plan shall show the location of all protected trees, including protected trees within the adjoining road rights-of-way, protected trees within 25 feet of the property lines, and all other protected trees that may be affected by proposed development activity. All protected trees shall be tagged in the field with an identifying number. The survey shall contain a key identifying each tree by number, size, scientific and common name, condition, and whether it is to be saved or removed.

(6) For an application submitted in connection with a site plan, the proposed building envelope shall be designated, as well as an area ten feet outside the building envelope.

(7) Tree location surveys shall be performed in the field by a registered professional land surveyor and verified on-site by a registered landscape architect, certified arborist, or forester. Both must be identified by name, address and phone number on the survey.

(8) If protected trees are to be relocated on site, then the plan shall indicate where the trees will eventually be located, where they will be stored and protected during construction, and how they will be maintained after construction.

(9) The plan shall explain and depict how protected trees proposed to remain will be protected during land clearance, construction and development.

(10) A cost estimate and plan shall be provided for tree replacement. The plan shall indicate number, size, and species of trees.

(11) For parcel five acres or larger, an aerial photo (1 inch = 30 feet minimum scale) shall be provided.

(d) On-Site Examination in Lieu of Tree Location Survey and Plan. The Village Administrator or his or her designee may permit an on-site examination by the Village Administrator or his or her designee in lieu of a tree location survey and plan, provided that both of the following conditions are met:

(1) The tree removal permit application pertains to removal or relocation of protected trees on an occupied single-family residential lot or parcel; and

(2) No more than four protected trees are proposed for removal, provided that none of the trees are heritage trees.

(e) Review Criteria. When reviewing an application for a tree removal permit, the Village Council or Village Administrator shall consider the following:

(1) Whether a satisfactory and viable plan designed and intended to avoid or minimize negative impacts to protected trees has been presented;

(2) Whether all desirable, prudent and reasonably feasible alternatives that would reduce or avoid negative impacts to protected trees have been considered;

(3) Whether trees proposed for removal pose a safety hazard; cause unsafe vision clearance or threaten to injure or disrupt persons; threaten to damage property or utility service; prevent or obstruct access to a lot or parcel; or unreasonably prevent development, improvement or use of a lot or parcel. It is the intent of this provision that a permit should not be granted for the removal of a protected tree where a reasonable alternative design solution exists that is consistent with the permitted use of the property;

(4) Whether the proposed tree removal does not threaten the public health and safety or materially increase the risk of flooding or erosion on the subject or adjacent property, nor will it endanger a wetland or watercourse;

(5) Whether an alternative location for the proposed structure or improvement exists that would not necessitate the removal of the protected tree, without causing undue hardship to the applicant;

(6) Whether heritage trees are being protected and preserved to the fullest extent reasonable and feasible; and

(7) Whether the application complies with the tree replacement requirements of this chapter.

(f) Review and Decision. The decision to approve, approve with conditions, or deny a tree removal permit application shall be made as follows:

(1) Site Plan, Plat or Site Condominium. If a tree removal permit application is submitted in connection with a site plan, plat or site condominium, the

Planning Commission shall first complete its review of, and take action on, the site plan, plat or site condominium and make a recommendation to the Village Council relative to the tree removal permit application. The Village Council shall have final authority to act on the tree removal permit application. If tree replacement is required, then the Village Council shall specify the time by which the replacement must be completed.

(2) No Site Plan, Plat or Site Condominium. If a site plan, plat or site condominium is not required for the proposed activity associated with the tree removal, then the Village Administrator or his or her designee shall be responsible for reviewing and rendering a decision on the tree removal permit application. Any such decision to deny an application shall be in writing and shall set forth the reasons for denial. If tree replacement is required, then the Village Administrator shall specify the time by which the replacement must be completed.

(3) Appeal from the Village Administrator's Decision. Any applicant who is aggrieved by the Village Administrator's decision concerning a tree removal permit application may appeal to the Village Council by filing a written appeal with the Village Clerk within ten calendar days after the date of the decision. Upon receipt of a properly filed written appeal, the Village Clerk shall schedule the appeal for the Village Council's next available regular meeting. The Village Council shall have the power to affirm, modify, or reverse the Village Administrator's decision.

(4) Conditions. The Village Council or the Village Administrator may attach reasonable conditions to the approval of a tree removal permit considered by them to be necessary to ensure the intent of this chapter will be fulfilled, and to minimize damage to, encroachment upon, or interference with protected trees.

(5) Denial of a Site Plan, Plat, Site Condominium, or Building Permit. When a site plan, plat, site condominium, or building permit is submitted in connection with a tree removal permit application and the site plan, plat, site condominium, or building permit is denied, the tree removal permit application shall also be denied. Alternatively, the site plan, plat, site condominium, or building permit may be tabled to allow the applicant to modify the plan to reduce or eliminate the negative impact on protected trees.

(6) Performance Guarantee. The recipient of a tree removal permit shall post a performance guarantee in the form of a cash deposit, corporate surety bond, irrevocable bank letter of credit, or other form of guarantee that is acceptable to the Village, in an amount determined adequate by the Village Administrator to guarantee compliance with the tree removal permit, any conditions attached thereto, and the requirements of this chapter.

(7) Consultants. The Village may engage consultants to review and advise the Village regarding tree removal permit applications, such as but not limited to an arborist, forester, landscape architect, planner or engineer.

(g) Issuance and Duration of a Permit

(1) Issuance of a Permit. For tree removal permit applications submitted in connection with an application for a site plan, plat, site condominium, or building permit, a tree removal permit shall not be issued nor be effective, nor shall the applicant remove or cause the removal of any protected tree, until after final approval of the site plan, plat, site condominium, or building permit, and, if applicable, the Village Engineer has approved construction and engineering plans for the proposed construction or development activity.

(2) Duration. A tree removal permit shall remain in effect for one year or the duration of approval for the site plan, plat, site condominium, or building permit, if any, whichever period is greater.

(h) Tree Replacement

(1) Replacement Ratio. A tree removal permit holder shall either replace or relocate every removed protected tree on a one-for-one basis.

(2) Deciduous Trees. All deciduous replacement trees shall have a three-inch caliper or greater. However, for every additional one-half inch increment a replacement tree exceeds the minimum three-inch caliper, the Village shall credit the permit holder with having replaced an additional one-half tree.

(3) Coniferous Trees. All coniferous replacement trees shall measure at least eight feet in height. However, for every additional one foot increment a replacement tree exceeds ten feet, the Village shall credit the permit holder as having replaced an additional one-half tree.

(4) Heritage Trees. When a heritage tree is permitted to be removed, replacement trees shall be provided at a minimum of fifty percent of the caliper of the heritage tree being removed. Such replacement trees may be provided individually or on a cumulative basis to meet the fifty percent caliper requirement.

(5) Dense Woods Option. As a full or partial alternative to the above, the Village may approve replacement trees that are smaller in size in situations where the intent is to create or re-create a densely wooded area. This option shall consist of groupings of trees that have a minimum caliper of one-fourth of an inch, and shall be used only in situations where it is appropriate to create a densely wooded effect. When this alternative is used, the sum of the caliper of the replacement trees shall be equal to the sum of the caliper of the trees being replaced.

(6) Quality of Trees. Replacement trees shall have the shade potential and other characteristics determined by the Village to be comparable to the removed trees. All trees shall be Michigan Department of Agriculture Nursery Grade No. 1 or better, and shall meet the following standard: ANSI Z60.1.

(7) Planting Standards: Guarantee. Replacement trees shall be staked, wrapped, fertilized and mulched. Replacement trees shall be guaranteed by the permit holder to exhibit a normal growth cycle for at least one year following planting or else they shall be replaced.

(8) Damage to Saved Trees. Protected trees that were intended to be saved shall be replaced on an inch-for-inch basis if they become damaged or illegally removed during construction or development.

(9) Replacement Tree Locations. The Village shall approve replacement tree locations to provide optimum enhancement, preservation and protection of trees in wooded areas. To the extent feasible and desirable, replacement trees shall be located on-site and within the same general area as the trees removed, but such trees shall not be relocated or replaced in the building envelope of a structure or within ten feet thereof. Replacement trees shall not substitute for or count toward landscape screening or buffer requirements that may be imposed under other ordinances.

(10) Off-Site Relocation or Replacement. Where it is not feasible nor desirable to relocate or replace trees on-site, relocation or replacement may be made at another approved location in the Village.

(11) Village Tree Fund. Where it is not feasible nor desirable to relocate or replace trees on- or off-site, the tree removal permit holder may satisfy the tree replacement requirement by paying into the Village Tree Fund a sum of money approximating the current market price to purchase and plant the replacement trees, as determined by the Village Administrator or his or her designee. The Village shall use the Village Tree Fund for the purposes of planting, replacing, maintaining and preserving trees in the Village.

(i) Tree Protection During Construction or Development

(1) Prior to any land clearing or tree removal, the tree removal permit holder shall clearly mark all trees to be removed by painting, flagging, or other approved method, and shall erect and maintain suitable barriers to protect the remaining protected trees. Protective barriers must be inspected and approved by the Village before the work begins. Protective barriers shall be kept in place until the Village authorizes their removal.

(2) The permit holder shall not cause or allow any construction or development activity to occur within the drip line of a protected tree proposed to remain, nor shall any solvents, building materials, vehicles, construction equipment, soil deposits or fill, or other harmful materials be allowed to be placed, kept, parked or stored within the drip line of such tree(s).

(3) No damaging wire, signs, or other devices shall be attached to any protected tree that is proposed to remain.

(Ord. 2010-04. Passed 5-10-10.)

1232.05 DEAD, DISEASED, INFESTED, DECAYED, DEFECTIVE, OR DAMAGED TREES.

(a) Public Nuisance. The Village of Franklin determines that all dead, diseased, infested, decayed, defective, or damaged trees located in the Village that threaten or endanger the public or persons, structures or property on-site or on adjoining land are public nuisances.

(b) Owner's Responsibilities.

(1) Land owners shall maintain or treat their trees so that the trees do not become a threat or danger to the public or to persons, structures or property on-site or on adjoining land.

(2) It shall be the land owner's responsibility to properly and safely prune, treat, remove and/or dispose of any trees, branches and limbs which, due to death, disease, infestation, decay, defect or damage, threaten or endanger the public or persons, structures or property on-site or on adjoining land, and to also remove any fallen trees, branches and limbs in an approved manner.

(3) Diseased or infested trees, including but not limited to those infected by the fungus *Ceratostomella ulmi* (Dutch elm disease), shall be removed and destroyed in a manner approved by the Village Administrator or his or her designee.

(c) Dangerous Tree Determination. In determining whether the condition of a tree, branch or limb threatens or endangers the public or persons, structures or property on-site or on adjoining land, the Village shall be guided by the International Society of Arboriculture Guide to Evaluation of Hazard Trees in Urban Areas.

(d) Notice that Action Must be Taken

(1) On Private Property.

A. The Village may notify an owner of land on which a dead, diseased, infested, decayed, defective, or damaged tree, branch, or limb is found, to abate the nuisance by pruning, treating and/or removing the tree, branch or limb. The notice shall be in writing, shall be served personally or by certified mail on the land owner according to the current property tax rolls, shall specify the nature of the pruning, treatment and/or removal work needed, and shall prescribe the time period within which it must be performed, which shall be not more than 30 days unless the Village Administrator or his or her designee determine exigent or special circumstances necessitate a different time period.

B. Should such nuisance not be abated within the 30-day period, the owner or occupant, or both, shall be deemed in violation of this division and subject the penalties set forth in Section 1232.06.

(2) On Public Property. Whenever a tree on public property is determined to be dead, diseased, infested, decayed, defective, or damaged, the Village or other public agency that has jurisdiction over the property shall forthwith cause such public nuisance to be abated by pruning, treating and/or removing the tree, branch or limb in an approved manner.

(Ord. 2010-04. Passed 5-10-10.)

1232.06 VARIANCE.

The Village Council may grant a variance from the requirements of this chapter when undue hardship will result from strict compliance. In granting a variance, the Council may attach conditions the Council deems necessary or appropriate to further the public interest in tree protection.

(Ord. 2010-04. Passed 5-10-10.)

1232.99 PENALTIES, SANCTIONS, REMEDIES.

(a) Any person who removes a non-exempt protected tree or violates any provision of this chapter or any term or condition of a tree removal permit, and any landowner who fails to comply with the requirements of this chapter or any notice issued pursuant to Section 1232.05(d) above, shall be responsible for a municipal civil infraction and shall be subject to the penalties, sanctions and remedies prescribed in Section 202.99 of these Codified Ordinances and in Chapter 87 of the Revised Judicature Act, being M.C.L.A. 600.8701 et seq.

(b) Each violation of this chapter or unauthorized removal of a protected tree shall be deemed a separate offense.

(c) Any act performed or perpetrated in violation of this chapter is declared to be a nuisance per se, and the Village may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation.

(d) The Village shall issue a stop work order or withhold issuance of certificates of occupancy, permits or inspections until the provisions of this chapter, the tree removal permit, or any conditions attached thereto, have been fulfilled.

(e) The Village shall require replacement of illegally removed trees on an inch-for-inch basis or payment to the Village Tree Fund.

(f) The Village's employees, contractors or agents may enter onto land to prune, treat or remove a dangerous or fallen tree, branch or limb to abate the nuisance if the land owner has failed to comply with the notice issued pursuant to Section 1232.05(d) above. The Village shall bill the land owner for the Village's actual cost plus ten percent for administration which if not paid within 30 days shall be added to the tax roll and shall constitute a lien against the subject land which shall be collected and enforced in the same manner general property taxes are collected and enforced.

(Ord. 2010-04. Passed 5-10-10.)

TITLE FOUR - Zoning

Chap. 1240. General Provisions and Definitions.

Chap. 1242. Administration, Enforcement and Penalty.

Chap. 1244. Board of Zoning Appeals.

Chap. 1246. Amendments.

Chap. 1248. Districts Generally and Zoning Map.

Chap. 1250. Single-Family Residential Districts.

Chap. 1252. Single-Family Planned Residential Development Option.

Chap. 1254. RO-1 Restricted Office District.

Chap. 1256. C-1 Commercial District.

Chap. 1258. P-1 Vehicular Parking District.
Chap. 1259. PI Public Institutional District.
Chap. 1260. Historic District. (Repealed)
Chap. 1262. Off-Street Parking and Loading.
Chap. 1263. Residential Design Standards.
Chap. 1264. Nonconformities.
Chap. 1265. Wireless Telecommunication Facilities.
Chap. 1266. Natural Buffer Zones.
Chap. 1267. Condominium Development Standards.
Chap. 1268. Supplementary Regulations.
Appendix A Non-Protected Trees
Appendix A-1 Basement and Story Definition
Appendix A-2 Basic Structural Terms
Appendix A-3 Building Height Requirements
Appendix A-4 Heritage Tree List
Appendix A-5 Corner, Interior and Double Frontage Lots
Appendix A-6 Lot Terms
Appendix A-7 Nonconforming Use
Appendix A-8 Yard Requirements
Appendix B Schedule of Regulations for Area, Height, Bulk and Placement Requirements
Zoning Map

CHAPTER 1240

General Provisions and Definitions

EDITOR'S NOTE: A schedule of fees for planning related activities is adopted from time to time by resolution of Council. Copies of the latest such schedule and of the latest relevant legislation may be obtained, at cost, from the Village Clerk.

- 1240.01 Intent and purpose.
- 1240.02 Short title.
- 1240.03 Conflicts of laws.
- 1240.04 Compliance required.
- 1240.05 Interpretation; abrogation of laws not in conflict; conflicts of laws and agreements.
- 1240.06 Separability.
- 1240.07 Repealer.
- 1240.08 Definitions.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201
Authority to zone - see M.C.L.A. 125.3202
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208
Subdivision regulations - see P. & Z. Ch.1225
Engineering design standards - see P. & Z. Ch.1228
Notification of Enforcement Official during construction or alteration - see P. & Z.1242.05
Fees - see P. & Z. 1242.06
Performance bonds - see P. & Z. 1242.07
Condominium developments - see P. & Z. Ch. 1267

1240.01 INTENT AND PURPOSE.

It is the intent of this Zoning Code to improve and protect the public health, safety and general welfare of the residents of the Village of Franklin. To this end, the Zoning Code seeks to:

- (a) Further the implementation of the adopted master plan;
- (b) Conserve property values and encourage the most appropriate use of land throughout the Village;
- (c) Protect all areas from encroachment by incompatible uses;
- (d) Establish adequate standards for the preservation of light, air, and open spaces;

- (e) Prevent the overcrowding of land and concentration of population, thereby preventing blight and deterioration;
- (f) Minimize congestion on public streets;
- (g) Facilitate the provision of adequate public services and facilities;
- (h) Provide for adequate drainage, control of erosion, reduction of flood damage, and preservation of sensitive or valuable environmental resources;
- (i) Foster compatible relationships among residential, commercial, industrial, and other uses;
- (j) Isolate and control the location of unavoidable nuisance-producing uses;
- (k) Fix reasonable standards to which buildings, structures, and other uses of land shall conform;
- (l) Prevent new construction, or alteration or expansion of existing structures, or uses that do not comply with the restrictions herein;
- (m) Provide for the elimination of existing structures or use that do not comply with the restrictions herein;
- (n) Define the powers and duties of the officers and bodies charged with the enforcement of this Zoning Code; and
- (o) Prescribe penalties for any violation of the provisions herein.

(Ord. 2017-02. Passed 2-13-17.)

1240.02 SHORT TITLE.

This Title Four of Part Twelve - the Planning and Zoning Code - shall be known and may be cited as the Zoning Code of the Village of Franklin, or just the Zoning Code.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1240.03 CONFLICTS OF LAWS.

Whenever any provision of this Zoning Code imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Zoning Code shall govern. All ordinances regulating land use matters should be adopted by amendment to this Zoning Code to minimize conflicting requirements when possible.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1240.04 COMPLIANCE REQUIRED.

No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Zoning Code.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1240.05 INTERPRETATION; ABROGATION OF LAWS NOT IN CONFLICT; CONFLICTS OF LAWS AND AGREEMENTS.

In interpreting and applying the provisions of this Zoning Code, its provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare.

It is not intended by this Zoning Code to interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this Zoning Code, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this Zoning Code; nor is it intended by this Zoning Code to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Zoning Code imposes a greater restriction or requires larger open spaces or larger lot areas than are imposed or required by such laws or agreements, the provisions of this Zoning Code shall control.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1240.06 SEPARABILITY.

This Zoning Code and the various articles, sections, paragraphs and clauses thereof, are hereby declared to be separable. If any article, section, paragraph or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Zoning Code shall not be affected thereby.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1240.07 REPEALER.

All other ordinances and parts of ordinances in conflict with this Zoning Code, to the extent of such conflict and no further, are hereby repealed. Ordinance 21, adopted August 17, 1964, as amended, and known as the Zoning Ordinance for the Village of Franklin, Michigan, is specifically repealed in its entirety.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1240.08 DEFINITIONS.

(a) As used in this Zoning Code:

- (1) Words used in the present tense include the future tense.
- (2) The singular number includes the plural, and the plural the singular.
- (3) The word "person" includes a corporation, limited liability company, partnership and association, as well as an individual.
- (4) The term "shall" is always mandatory and not merely discretionary.
- (5) Terms not herein defined shall have the meanings customarily assigned to them.

(Ord. 101. Passed 2-20-70.)

(b) In addition:

(1) Accessory use, building, or structure. "Accessory use, building, or structure" means a use, building or structure that is clearly incidental to, customarily found in connection with, subordinate to, and unless otherwise specifically permitted, is located on the same zoning lot as the principal use to

which it is related. A garage or utility area attached to a residence or connected to it by a common roof or covered breezeway is not considered to be an accessory building. Solar and wind energy facilities are considered accessory structures.

(Ord. Unno. Passed 7-14-86.)

(2) Accessory use. "Accessory use" means a use naturally and normally incidental to, subordinate to and auxiliary to the permitted use of the premises.

(3) Alley. "Alley" means a dedicated public way providing a secondary means of ingress to or egress from land or structures thereon, as designated upon the Zoning Map.

(4) Alteration. "Alteration" means any change, addition or modification in construction; any change in structural members of a building, such as walls, partitions, columns, beams or girders; or any change which may be referred to herein as altered or reconstructed.

(Ord. 101. Passed 2-20-70.)

(4A) Antenna. Relative to wireless telecommunication facilities, "antenna" refers to the surface or device from which wireless radio signals are sent or received by a wireless telecommunication facility.

(Ord. 2004-04. Passed 12-13-04.)

(4B) Attached wireless telecommunication facility. "Attached wireless telecommunication facility" means a wireless telecommunication facility affixed to an existing structure, such as a building, tower, water tank, utility pole, and the like. This definition shall not include wireless telecommunication support structures.

(Ord. 98-41. Passed 3-16-98.)

(5) Automotive service station. "Automotive service station" means a building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and includes the customary space and facilities for the installation of such commodities on or in such vehicles, and space for facilities for the temporary storage of vehicles not over forty-eight hours, and for minor repair or servicing, but not for bumping, painting, refinishing, major repairs, overhauling, steam cleaning, rustproofing or high-speed washing thereof.

(6) Bank. "Bank" means an establishment for the custody, loan, exchange or issue of money, for the extension of credit and for facilitating the transmission of funds by drafts or bills of exchange.

(7) Basement. "Basement" means a portion of a building partly or wholly below the finished grade level and so located that the vertical distance from said grade level to the floor is greater than the vertical distance from said grade level to the ceiling. (See Appendices A-1 and A-2 following the text of this Zoning Code.)

(7A) Bed. Wherever the term "bed" is herein referred to, it shall mean such beds as are occupied by patients or guests of the hospital or building in question, provided, however, that bassinets and incubators shall not be counted as beds.

(8) Block. "Block" means the property abutting one side of a street and lying between the two nearest intersecting streets or between the nearest such streets and unsubdivided acreage or a lake, or between any of the foregoing and any other barrier to the continuity of development.

(9) Board of Zoning Appeals. "Board of Zoning Appeals" or just "Board" means the Board of Zoning Appeals of the Village of Franklin. The Board shall have all the authority, rights, and duties of the Zoning Board of Appeals specified in Article VI of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (M.C.L.A. 125.3601 to 125.3607).

(10) Breezeway. "Breezeway" means a structure connecting the principal building or house on a lot with an accessory building (e.g. a garage) and may, in addition to a roof, have enclosed side walls or screening or be open except for roof supports.

(11) Buildable area. "Buildable area" of a lot means the space remaining after the minimum open space requirements of this Zoning Code have been complied with.

(12) Building. "Building" means any structure having a roof, supported by columns or walls and intended for the shelter, housing or enclosure of any person, animal or chattel. (See also "structure.")

(13) Building Department. "Building Department" means the Building Department of the Village of Franklin.

(14) Building height. In the RO-1 and C-1 districts, "building height" means the vertical distance measured from the reference level to the highest point of the roof surface if a flat roof, to the deck of mansard roofs and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. (See Appendix A-3 following the text of this Zoning Code.) In all other districts, "building height" means the vertical distance measured from the reference level to the highest point of the roof surface (excluding the chimney). (Ord. 2005-05. Passed 1-10-05.)

(15) Building line. "Building line" means a line established in general, parallel to the front street right-of-way line, between which line and the front street line no part of a building shall project, except as otherwise provided by this Zoning Code.

(16) Building Official. "Building Official" means the Building Official of the Building Department of the Village of Franklin, or his or her authorized representative.

(17) Building, principal. "Principal building" means a building in which is conducted the principal use of the lot on which it is located.

(18) Catch terms and titles. Catch terms and titles used in this Zoning Code shall not be construed as specific regulations but rather as guides to the various articles, sections and subsections of this Zoning Code.

(19) Clerk. "Clerk" means the Clerk of the Village of Franklin.

(Ord. 101. Passed 2-20-70.)

(19A) Colocation. "Colocation" means the location by two or more wireless telecommunication providers of wireless telecommunication facilities on a common structure, tower or building, in a manner that reduces the overall number of, or the need for, wireless telecommunication facilities and/or support structures within the Village.

(Ord. 98-41. Passed 3-16-98.)

(19B) Commercial vehicle. "Commercial vehicle" means any vehicle bearing or required to bear commercial license plates and which can be classified in one or more of the following categories:

- A. Truck tractors;
- B. Trailers, whether attached or unattached to other vehicles or equipment;
- C. Semitrailers, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures;
- D. Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit, or similar vending supply or delivery purposes, such

as box or step vans. This category shall include vehicles of a similar nature that are commonly used by electrical, plumbing, heating and cooling, and other construction or service oriented contractors, sometimes referred to as step vans.

- E. Tow trucks;
- F. Commercial hauling trucks;
- G. Vehicle repair service trucks;
- H. Vehicles with blades attached for plowing, grading, or mowing;
- I. Any construction vehicle or equipment, such as a bulldozer, backhoe, or similar vehicle used in construction, earth moving, or landscaping;
- J. Any vehicle that has permanently mounted outside brackets or holders for ladders, tools, pipes, or other similar equipment;
- K. Any vehicle that bears external advertising or signage, identifying a particular business;
- L. Busses and motor coaches;
- M. Vehicles previously used for public safety purposes, such as fire engines or other fire apparatus and ambulances;
- N. Vehicles that are similar in appearance to private passenger vehicles but which are used for, or are intended to be used for, commercial purposes and which are owned or leased for use in a commercial enterprise, such as "fleet" vehicles; and

O. The definition of "commercial vehicle" does not include traditional passenger cars or vehicles, including SUVs or pick up trucks, which do not bear external advertising or other similar signage, and which are routinely used by the owner or operator for ordinary personal transportation and are not primarily for business or fleet purposes. (Ord. 96-13. Passed 1-8-96; Ord. 2020-06. Passed 11-9-20.)

(20) Cubic content. "Cubic content" means the actual space enclosed within the outer surfaces of the outside walls and contained between the outside of the roof and the bottom of the first floor joist or floor slab. Bays, oriels and dormers are to be taken in full volume. "Cubic content" shall not include private garages, either attached or detached, parapets, outside steps, terraces, porches, breezeways, light shafts, cornices, footings, piles, caissons, deep foundations, exterior garden walls, outside stairways, fire escapes, fire towers, platforms, balconies, other projections, accessory buildings, any nonhabitable rooms or areas or any part of a building which is below grade.

(21) District. "District" means a portion of the Village of Franklin within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yard, open space, lot area and other requirements are established.

(22) Dwelling, multiple. "Multiple dwelling" means a building or portion thereof used or designed as a residence for two or more families living independently of each other and doing their own cooking in said building. This definition includes two-family houses, three-family houses, four-family houses and apartment houses, but does not include hotels, motels, trailer camps or mobile home parks.

(23) Dwelling unit. "Dwelling unit" means a building or portion thereof designed or used as a place of residence for a single family.

(Ord. 101. Passed 2-20-70.)

(23A) Dwelling unit, rental. "Rental dwelling unit" means any dwelling unit that is rented wholly or partly for compensation, in which the owner does not reside, to a person who is not the legal owner of record, for a term of twenty-eight days or longer, pursuant to a written or oral agreement. "Rental dwelling unit" does not include state-licensed residential facilities, subject to the provisions of Section 206 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MCL 125.3206).

(23B) Dwelling unit, short term rental. "Short term rental dwelling unit" means any dwelling unit that is rented wholly or partly for compensation, in which the owner does not reside, to a person who is not the legal owner of record, for a term of less than twenty-eight days, pursuant to a written or oral agreement. "Short term rental dwelling unit" is considered to be a commercial use of land. "Short term rental dwelling unit" does not include state-licensed residential facilities, subject to the provisions of Section 206 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MCL 125.3206).

(23C) Electric fence. "Electric fence" means a type of barrier composed of underground low-voltage electrical devices intended to contain domestic animals on or off a property.

(Ord. 95-284. Passed 12-11-95.)

(24) Endangered species habitat. "Endangered species habitat" means a land or water area supporting or protecting any fish, animal or plant listed as threatened or endangered by the State of Michigan.

(Ord. Unno. Passed 7-14-86.)

(25) Erected. "Erected" means built, constructed, reconstructed, moved upon or any physical operations on the premises required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

(26) Essential services. "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, or of collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the general public health, safety or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment.

(27) Family, domestic. "Domestic family" means one or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption, or guardianship, and occupying a dwelling unit as a single nonprofit housekeeping unit. A family shall be deemed to include domestic servants, gratuitous guests foster or boarded children whose room and board is paid by a recognized child care agency or organization.

(Ord. 101. Passed 2-20-70.)

(27A) Family, functional. "Functional family" means persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with demonstrable and recognizable bond, which constitutes the functional equivalent of the bonds that render the domestic family a cohesive unit. This definition shall not include any group occupying a hotel, club, boarding house, fraternity or sorority house. There shall be a rebuttable presumption that the number of persons who may reside as a functional family shall be limited to six. Such presumption may be rebutted by application for special approval based on the applicable standards in this Zoning Code.

(27B) Fence. "Fence" means an artificially constructed barrier of wood, wire, metal or any other material or combination of materials, used to prevent or control entrance, confine within or mark a boundary. A fence may be decorative or ornamental. Gates or barriers to entry and exit, screening walls and other types of boundary protection shall be included in this definition.

(Ord. 95-284. Passed 12-11-95.)

(28) Filling. "Filling" means the depositing or dumping of any matter on or into the ground, except deposits resulting from common household gardening.

(29) Floor area, gross. "Gross floor area" means the sum of the gross horizontal areas of the floor within outside walls of a building, including the basement, elevator shafts and stairwells at each story, floor space used for mechanical equipment, a penthouse, a half story and a mezzanine or interior balcony. Garages, covered porches, enclosed breezeways, and similar attached structures shall be included in the calculation for gross floor area.

(29A) Floor area, ground. "Ground floor area" means the sum of the horizontal areas of the ground floor of a building measured from the exterior face of exterior walls, but not including open porches, decks, terraces, garages, or exterior stairways.

(30) Floor area, usable. "Usable floor area" means the gross floor area less twenty percent thereof.

(31) Foster child. "Foster child" means a child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

(32) Garage, commercial. "Commercial garage" means any premises used for the storage, care, repair or refinishing of motor vehicles, but not including a place where any such vehicles are for hire or sale. (See also "automotive service station.")

(33) Garage, community. "Community garage" means a series of private garages located jointly on a parcel of land under a single ownership.

(34) Garage, private. "Private garage" means an accessory building designed or used for the storage of motor vehicles used by the occupants of the principal residence which it is accessory.

(35) Grade. "Grade" means:

- A. For buildings adjoining one street only, the elevation of the established curb at the center of the wall adjoining the street.
- B. For buildings adjoining more than one street, the average of the elevations of the established curbs at the center of all walls adjoining streets.
- C. For buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building.

All walls approximately parallel to and not more than fifteen feet from a street line are to be considered as adjoining the street.

(36) Greenbelt. "Greenbelt" means a landscaped area that is intended to serve as a buffer between residential and nonresidential land uses and as beautification for land uses in other places.

(Ord. 101. Passed 2-20-70.)

(37) Heritage tree. "Heritage tree" means any tree standing alone in the open, or any woodlot tree which stands distinctively apart from its neighbors by size, form or species. Trees equal to or greater than the diameters shown will be considered heritage trees regardless of location. (See Appendix A-4 following the text of this Zoning Code.)

(Ord. Unno. Passed 7-14-86.)

(38) Home occupation. "Home occupation" means any use customarily conducted entirely within a dwelling and carried on entirely by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, provided that the use does not result in any physical exchange of goods or commodities on the premises, and that no treatment is performed on humans or animals, and that such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage or signs attached to the building or placed on the premises, aside from those commonly found on a residential premises.

(39) Kennel. "Kennel" means any lot on which three or more dogs are either permanently or temporarily quartered.

(40) Loading space. "Loading space" means an off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

(41) Lot. "Lot" means land occupied or to be occupied by a use, building or structure and permitted accessory buildings, together with such open spaces, lot width and lot area as are required by this Zoning Code and having its principal frontage upon a public street or upon a private way used for street purposes. A "lot" need not be a lot within a plat of record.

(42) Lot area. "Lot area" means the total horizontal area of a lot within the lot lines as defined herein. As of September 4, 1991, for all newly created sidwell parcels, the computation for minimum lot size shall not include any portion of the road right of way.

(43) Lot, corner. "Corner lot" means a lot which has at least two adjacent sides abutting for their full length upon a street, provided that such two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than 135 degrees, it is a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (See Appendix A-5 following the text of this Zoning Code.)

(44) Lot coverage. "Lot coverage" means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures, swimming pools, and other impervious surfaces such as driveways, patios, recreational courts, and decks.

(45) Lot depth. "Lot depth" means the mean horizontal distance from the front street line to the rear lot line.

(46) Lot, double frontage. "Double frontage lot" means an interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, one street will be designated as the front street in the plat and the request for a building permit. (See Appendix A-5 following the text of this Zoning Code.)

(47) Lot, interior. "Interior lot" means a lot other than a corner lot. (See Appendix A-5 following the text of this Zoning Code.)

(48) Lot lines. "Lot lines" means the property lines bounding the lot. Specifically:

A. Front lot line. "Front lot line," in the case of a lot abutting upon one public or private street, means the line separating such lot from such street or easement right of way. In the case of any lot facing on two or more streets, the owner shall, for the purpose of this Zoning Code, have the privilege of electing any street lot line as the front lot line, provided that such choice, in the opinion of the Building Official, will not be injurious to the existing adjacent properties or the desirable future development of the same. In no case shall the front lot line include any portion of the road right of way. (See Appendix A-6 following the text of this Zoning Code.)

B. Rear lot line. "Rear lot line" means ordinarily that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore-shaped lot, a line ten feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining the depth of the rear yard. In cases where none of these definitions is applicable, the Building Official shall designate the rear lot line. (See Appendix A-6 following the text of this Zoning Code.)

C. Side lot line. "Side lot line" means any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. In the case of any lot facing on two or more streets, the street lot lines not defined as a front lot line or rear lot line are exterior side lot lines. (See Appendix A-6 following the text of this Zoning Code.)

D. Street or alley lot line. "Street or alley lot line" means a lot line separating a lot from the right of way of a street or an alley.

(49) Lot width. "Lot width" means the straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.

(49A) Mast. "Mast" means a thin pole that resembles a street light standard or utility pole.

(Ord. 2004-04. Passed 12-13-04.)

(50) Mobile home. "Mobile home" means any structure intended for or capable of human habitation, sleeping or cooking, mounted on wheels or any other devices and capable of being moved from place to place, either by its own power or by the power supplied by some vehicle attached thereto. This definition shall not include travel homes eight feet or under in width and thirty-two feet or under in length as hereafter defined.

(51) Motor vehicle repair. "Motor vehicle repair" means the general repair, engine rebuilding, rebuilding or reconditioning of a motor vehicle; collision service such as body, frame or fender straightening and repair; and overall painting; but not including undercoating of automobiles unless conducted in a completely enclosed spray booth.

(Ord. 101. Passed 2-20-70; Ord. 192. Passed 8-8-94; Ord. 193. Passed 11-14-94.)

(52) Natural asset. "Natural asset" means natural features such as woods, waterways, wetlands, slopes, topographic features, rivers, ponds, marshes, floodplains, wildlife habitat, poor soil, endangered plant species, archeological and historic sites or other natural features occurring or existing naturally on a parcel which has physical, biotic, cultural or aesthetic importance.

(Ord. Unno. Passed 7-14-86.)

(53) Nonconforming building. "Nonconforming building" means a building or portion thereof which lawfully existed at the effective date of this Zoning Code, or amendments thereto, and which does not conform to the provisions of this Zoning Code in the zoning district in which it is located.

(54) Nonconforming use. "Nonconforming use" means a use which lawfully occupied a building or land at the effective date of this Zoning Code, or amendments thereto, and which does not conform to the use regulations of the zoning district in which it is located.

(55) Nursery, day nursery, nursery school or child care center. "Nursery, day nursery, nursery school or child care center" means an establishment wherein three or more children, not related by bonds of consanguinity or fosterage to the family residing on the same premises, are, for remuneration, cared for. Such nurseries or centers need not have a resident family on premises.

(56) Off-street parking lot. "Off-street parking lot" means a facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two automobiles. (Ord. 101. Passed 2-20-70.)

(56A) Opacity. "Opacity" means the percentage measurement of the area obstructed by wood, metal, wire, plants and all other materials used in the creation of a perimeter feature.

(Ord. 95-284. Passed 12-11-95.)

(57) Parking space. "Parking space" means a rectangular area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles. (Ord. 101. Passed 2-20-70.)

(57A) Perimeter feature. "Perimeter feature" means a type of fence or lot line delineation that is a low barrier of natural or artificial materials located at or near the perimeter of a lot and adjacent to a street or road front. Materials commonly used in perimeter feature construction include wood, wire, metal or any other material or combination of materials commonly used in fence construction.

(57B) Perimeter feature area. "Perimeter feature area" means a rectangular area with sides defined as follows: The base of the rectangle shall be the existing average ground surface elevation at the nearest lot line; the upper side of the rectangle (parallel to the base) shall be sixty inches above the base; and the two remaining sides of the rectangle shall be lines extending sixty inches vertically from the nearest lot corners at opposite ends of the base of the rectangle. Only one rectangle shall be used to measure the perimeter feature area on each street or road front.

(Ord. 95-284. Passed 12-11-95.)

(58) Person. "Person" means, in addition to a natural person, any firm, co-partnership, corporation, or limited liability company and any association of natural persons acting jointly or by a servant, agent or otherwise.

(59) Prefabricated building. "Prefabricated building" means a preassembled, pre-cut or other type of manufactured building or structure which is moved onto a premises (e.g. mobile home) or is brought to a site for residential or commercial purposes. (Ord. 101. Passed 2-20-70.)

(59A) Privacy screen. "Privacy screen" means an artificially constructed barrier of wood, wire, metal or any other material or combination of materials commonly used in fence construction. A privacy screen is intended to screen a selected use or area in a private residential yard.

(Ord. 95-284. Passed 12-11-95.)

(60) Public utility. "Public utility" means any person, firm, corporation or municipal department or board, duly authorized to furnish, and furnishing, under Federal, State or municipal regulations, electricity, gas, steam, communications, telegraph, transportation or water to the public.

(61) Reference level. "Reference level," for any building within ten feet of the front lot line, means the official established curb grade opposite the center of the front of such building. For any building more than ten feet from the front lot line, or where no curb grade is established, "reference level" means the mean level of the finished grade of the ground across the front of such building. When the mean finished grade abutting any portion of a building varies five feet or more from that at the front, such mean may be taken as the reference level for such portion of such building.

(61A) Restaurant. An establishment serving foods and/or beverages primarily for consumption upon the premises for remuneration. A restaurant may provide carry-out service as an accessory use.

(61B) Restaurant, Carry-Out. A restaurant that primarily sells food or beverages in disposable containers or wrappers for consumption primarily off the premises.

(61C) Restaurant, Drive-in. A restaurant at which patrons are served from a drive-up window, by employees serving patrons in a motor vehicle or at which consumption of food takes place within the motor vehicle on the premises.

(61D) Restaurant, Drive-Thru. A restaurant at which patrons pay for an order and pick up the order at a drive-thru window in a motor vehicle.

(61E) Retail Food Store. Grocery stores, meat and fish markets, fruit and vegetable markets, candy, nut and confectionary stores, dairy product stores, and retail bakeries. A retail food store may offer food or beverages in disposable containers or wrappers for consumption primarily off the premises.

(62) Rubbish. "Rubbish" means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter, such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

(62A) Seating capacity or seats. "Seating capacity" or "seats" mean, for parking requirements, that every 20 inches of seating facilities shall be counted as one seat, except that where specifications and plans filed with the Building Department specify a certain seating capacity for a particular building, such specified seating capacity, if approved by the Building Department, shall be used as the basis for required parking space.

(63) Sign, outdoor advertising. "Outdoor advertising sign" means any card, cloth, paper, metal, glass, plastic, wood, plaster, stone or sign, or other

material of any kind, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed," as used in the definition of "outdoor advertising sign" and "outdoor advertising structure," shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever.

(64) Soil removal. "Soil removal" means the removal of any kind of soil or earth matter, which includes topsoil, sand, gravel, clay or similar materials, or any combination thereof, except common household gardening and general farm care.

(64A) Solar energy facility, roof-mounted. "Roof-mounted solar energy facility" shall mean any solar collector or other solar energy device and related facilities, or any structural design feature, mounted on a building, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity. This shall include building-integrated solar energy facilities, where solar panels themselves act as a building material or structural element.

(64B) Solar energy facility, ground-mounted. "Ground-mounted solar energy facility" shall mean any solar collector or other solar energy device and related facilities not mounted on a building, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity.

(64C) Special event. "Special event" means a temporary indoor or outdoor use on private or public property that extends beyond the normal uses and standards allowed in the Zoning Code, including, but not limited to, art shows, music and other artistic performances, festivals, and bazaars.

(65) Stable, private. "Private stable" means a building for the keeping of horses for the noncommercial use of the residents of the principal building on the lot, and shall not include the keeping of horses for other than the residents of said principal building.

(66) Stable, public. "Public stable" means any other stable except a private stable.

(67) State equalized valuation. "State equalized valuation (SEV)" means the value shown on the Village assessment roll as equalized through the process of State and/or County equalization.

(67A) State licensed residential facility. State licensed residential facility means a structure constructed for residential purposes which is licensed by the state under the Adult Foster Care Licensing Act, PA 218 of 1979 (M.C.L.A. 400.701 to 400.737) or the Child Care Licensing Act, PA 116 of 1973 (M.C.L.A. 722.111 to 722.128) and which provides residential services to six or fewer persons under 24-hour supervision or care. Such facilities include adult foster care family homes, foster family homes, and foster family group homes, as defined in the respective licensing acts referenced above. This definition excludes state licensed facilities for the care and treatment of persons released from or assigned to adult correctional institutions.

(Ord. 2006-03. Passed 11-13-06.)

(68) Story. "Story" means that portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. (See Appendices A-1 and A-2 following the text of this Zoning Code.) Specifically:

A. Ground story. "Ground story" means the lowest story of a building, the floor of which is not more than twelve inches below the elevation of the reference level.

B. Half story. "Half story" means the part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half of the floor area of said full story.

C. Mezzanine. "Mezzanine" shall be deemed a full story when it covers more than 50% of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the floor next above it is 24 feet or more. As used in this Zoning Code, a basement or cellar shall be counted as a story if over 50% of its height is above the level from which the height of the building is measured, if it is used for business purposes or if it is used for dwelling purposes by other than a janitor or domestic servants employed in the same building, including the family of the same.

(69) Street. "Street" means a thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. Specifically:

A. "Private street" means any street designated as such on a recorded plat, provided it has not been accepted as a public street by the Village.

B. "Public street" means a street accepted by dedication or otherwise by the Village of Franklin or other governmental jurisdictions.

(70) Structural alteration. "Structural alteration" means any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, any change in the width or number of exits or any substantial change in the roof.

(71) Structure. "Structure" means anything constructed or erected that requires permanent location on the ground or attachment to something that has a permanent location.

(72) Structure, outdoor advertising. "Outdoor advertising structure" means any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including also outdoor advertising statuary. As used herein, the term "placed" shall be as defined in paragraph (63) hereof.

(72A) Substantial justice. "Substantial justice" means justice of a sufficient degree to satisfy a standard of fairness.

(73) Travel home and travel trailer. "Travel home" and "travel trailer" mean any structure intended for or capable of human habitation, sleeping or eating, mounted upon wheels and capable of being moved from place to place, either by its own power or power supplied by some other vehicle attached thereto. This definition shall include all such vehicles eight feet or under in width and 32 feet or under in length. Such definition shall include travel trailers, motor homes, campers, etc.

(74) Treasurer. "Treasurer" means the Village Treasurer of the Village of Franklin.

(74A) Useable floor area. "Useable floor area" in the case of offices, merchandising or service types of uses, means the gross floor area used or intended to be used by customers, patrons, clients, patients, owners and tenants, less 20% thereof.

(75) Use. "Use" means the purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

(76) Utility room. "Utility room" means a room or space, located other than in the basement, specifically designed and constructed to house any home utilities or laundry facilities.

(77) Variance. "Variance" means a modification of the literal provisions of this Zoning Code granted when strict enforcement of this Zoning Code would cause practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

(Ord. 2006-03. Passed 11-13-06.)

(78) Village. "Village" means the Village of Franklin, Oakland County, Michigan.

(79) Village Council. "Village Council" or "Council" means the Village Council of the Village of Franklin.

(80) Village Engineer. "Village Engineer" means the Village Engineer of the Village of Franklin, or his or her authorized representative.

(81) Village Planning Commission. "Village Planning Commission," "Planning Commission" or "Commission" means the Village of Franklin Planning Commission.

(Ord. 101. Passed 2-20-70.)

(82) Wetlands. "Wetlands" means low areas and floodplain adjoining and including any watercourse or drainage way or body of water subject to periodic flooding or overflow; and those marsh, wooded marsh, submerged marsh, inundation area, intermittent lake, or intermittent streams as designated by the Franklin Village Master Plan, or any geological survey map on file in the Village office.

(Ord. Unno. Passed 7-14-86.)

(82A) Wireless telecommunication facility. "Wireless telecommunication facility" means facilities and equipment for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, 47 USC § 332, as amended. Not included within this definition are citizen band, short wave, ham or amateur radio facilities, television reception antennas, satellite dishes, and governmental facilities which are subject to State or Federal law or regulations which preempt municipal regulatory authority, or telecommunication facilities that are regulated under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (the "Metro" Act), MCL 484.3101, et seq. A wireless telecommunication facility located upon municipally-owned or operated sites and incorporated into the Village's emergency communication network shall be considered to be an "essential service," as defined and used in this section and in Section 1268.24. No other wireless telecommunication facilities shall be considered an "essential service" for purposes of this Zoning Code. (Ord. 2004-04. Passed 12-13-04.)

(83) Woodland. "Woodland" means any lands on which there are found growing trees, shrubs or similar woody vegetation with a trunk diameter of three inches or more, and any other lands with smaller forms of woody growth which are defined as wetlands.

(Ord. Unno. Passed 7-14-86.)

(84) Yard. "Yard" means an open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard is the minimum horizontal distance between the lot line and the building or structure. (See Appendices A-6 and A-8 following the text of this Zoning Code.)

(85) Yard, front. "Front yard" means a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building on the lot.

(86) Yard, rear. "Rear yard" means a yard extending the full width of the lot, the depth of which is the horizontal distance between the rear lot line and the rear line or lines of the principal building on the lot.

(87) Yard, side. "Side yard" means a yard between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front and rear lot lines as the case may be; except that on a corner lot, the side yard adjacent to a street shall extend the full depth of the lot.

(88) Zoning district. "Zoning district" means a portion of the Village of Franklin within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas and other requirements are established.

(Ord. 101. Passed 2-20-70; Ord. 2009-03. Passed 5-11-09; Ord. 2010-05. Passed 5-10-10; Ord. 2017-02. Passed 2-13-17; Ord. 2019-05. Passed 6-10-19; Ord. 2020-05. Passed 9-14-20; Ord. 2020-06. Passed 11-9-20; Ord. 2021-02. Passed 7-19-21; Ord. 2021-04. Passed 10-11-21.)

CHAPTER 1242

Administration, Enforcement and Penalty

EDITOR'S NOTE: This chapter, previously a codification of Ordinance 101, passed February 20, 1970, was repealed in its entirety and re-enacted by Ordinance 2000-38, passed May 8, 2000.

A schedule of fees for planning related activities is adopted from time to time by resolution of Council. Copies of the latest such schedule and of the latest relevant legislation may be obtained, at cost, from the Village Clerk.

1242.01 Enforcement.

1242.02 Duties of Enforcement Official.

1242.03 Permits.

1242.04 Certificates of occupancy.

1242.05 Notification of Enforcement Official during construction or alteration.

1242.06 Fees.

1242.07 Performance bonds.

1242.08 Standard notice of public hearing.

1242.99 Penalty.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Conflicts of laws - see P. & Z. 1240.03, 1240.05

Compliance required - see P. & Z. 1240.04

Interpretation - see P. & Z. 1240.05

Board of Zoning Appeals - see P. & Z. Ch.1244

1242.01 ENFORCEMENT.

The provisions of this Zoning Code shall be administered by the Building Department and the Enforcement Official and his or her deputies.

(Ord. 2000-38. Passed 5-8-00.)

1242.02 DUTIES OF ENFORCEMENT OFFICIAL.

The Enforcement Official, as designated by Council, shall have the power to grant zoning compliance and occupancy permits and to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this Zoning Code. The Enforcement Official shall not approve any plans or issue a zoning compliance permit or a building permit for any excavation or construction until he or she has caused such plans to be inspected in detail and found them in conformity with this Zoning Code. To this end, the Enforcement Official shall require that every application for a zoning compliance permit for excavation, construction or alteration or change in type of use or occupancy be accompanied by written statements and plans or plats drawn to a scale of not less than one inch equals thirty feet, in duplicate, and showing the following in sufficient detail to enable the Enforcement Official to ascertain whether the proposed work or use is in conformance with this Zoning Code.

- (a) The legal description, actual shape, location and dimensions of the lot.
- (b) The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any buildings or other structures already on the lot.
- (c) The existing and intended use of the lot and all such structures upon it.
- (d) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Zoning Code are being observed.
- (e) Existing and proposed grades to an extent necessary to allow the Enforcement Official and the Village Engineer to properly determine the results of the proposed work.

If the proposed excavation, construction or alteration, or use of land, as set forth in the application, are in conformity with the provisions of this Zoning Code, the Enforcement Official shall issue a zoning compliance permit. If any application for such permit is not approved, the Enforcement Official shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this Zoning Code.

The Enforcement Official is, under no circumstances, permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in this Zoning Code to any person making application to excavate, construct, move, alter or use either buildings, structures or land within the Village.

The Enforcement Official is, under no circumstances, permitted to make changes to this Zoning Code, nor to vary the terms of this Zoning Code in carrying out his or her duties as Enforcement Official.

The Enforcement Official shall record all nonconforming uses existing at the effective date of this Zoning Code within twelve months after the adoption of this Zoning Code for the purpose of carrying out the provisions of Chapter 1264.

(Ord. 2000-38. Passed 5-8-00.)

1242.03 PERMITS.

The following provisions shall apply in the issuance of any permit:

(a) Permits Required. No person shall commence excavation for, or construction of, any building or structure or for the moving of an existing building, without first obtaining a building permit from the Enforcement Official. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this Zoning Code, showing that the construction proposed is in compliance with the provisions of this Zoning Code and with the Building and Housing Code.

No plumbing, electrical, drainage or other permit shall be issued until the Enforcement Official has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this Zoning Code.

Alteration or repair of an existing building or structure shall include any changes in structural members, stairways, basic construction, type, kind or class of occupancy, light or ventilation, means of egress and ingress or any other changes affecting or regulated by the Building and Housing Code, or this Zoning Code, except for minor repairs or changes not involving any of the aforesaid provisions. (See the definition of "alteration" in Section 1240.08.)

(b) Permits for New Uses of Land. A building permit shall also be obtained for the new use of land, whether such land is presently vacant or a change in land use is proposed.

(c) Permits for New Uses of Buildings or Structures. A building permit shall also be obtained for any change in use of an existing building or structure to a different class or type.

(Ord. 2000-38. Passed 5-8-00.)

1242.04 CERTIFICATES OF OCCUPANCY.

No person shall use or permit the use of any land, building or structure for which a building permit is required, or use or permit to be used any building or structure hereafter altered, extended, erected, repaired or moved, until the Enforcement Official shall have issued a certificate of occupancy stating that the provisions of this Zoning Code and the Building and Housing Code have been complied with.

(a) Certificate Validity. The certificate of occupancy as required in the Building and Housing Code for new construction of, or renovations to, existing buildings and structures, shall also constitute certificates of occupancy as required by this Zoning Code.

(b) Certificates for Existing Nonresidential Buildings. Certificates of occupancy shall be issued for existing nonresidential buildings, structures or parts thereof, or existing uses of land, if after inspection it is found that such buildings, structures or parts thereof, or such use of land, is in conformity with the provisions of this Zoning Code.

Where an existing nonresidential building has been occupied without the issuance of a proper certificate of occupancy, the Enforcement Official shall, as soon as possible, issue a temporary certificate of occupancy which shall set forth all of the alterations and changes necessary to bring the structure or use in compliance with the requirements of this Zoning Code and other ordinances of the Village of Franklin. The said date for bringing the structure or use into compliance with the requirements of this Zoning Code shall not be more than six months later than the date of the temporary certificate of occupancy.

If the structure or use cannot be made to conform with the requirements of this Zoning Code and other ordinances of the Village of Franklin, then the structure or use shall be vacated within the six-month period.

(c) Temporary Certificates. Temporary certificates of occupancy may be issued for a part of a building or structure prior to the occupation of the entire building or structure, provided that such temporary certificate of occupancy shall not remain in force more than six months, nor more than five days after the building or structure is fully completed and ready for occupancy and, provided, further, that such portions of the building or structure are in conformity with the provisions of this Zoning Code.

(d) Records of Certificates. A record of all certificates of occupancy shall be kept in the office of the Enforcement Official, and copies of such certificates of occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.

(e) Certificates for Accessory Buildings to Dwellings. Accessory buildings or structures to dwellings shall not require a separate certificate of occupancy, but rather may be included in the certificate of occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.

(f) Application for Certificates. A certificate of occupancy shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alteration of such building shall have been completed in conformity with the provisions and requirements of this Zoning Code. If such certificate is refused for cause, the applicant therefor shall be notified of such refusal and the cause thereof within ten days.

(g) Certificates for Nonconforming Buildings and Uses. Reference is made to Section 1264.02 of this Zoning Code.

(Ord. 2000-38. Passed 5-8-00.)

1242.05 NOTIFICATION OF ENFORCEMENT OFFICIAL DURING CONSTRUCTION OR ALTERATION.

In order to insure compliance with the provisions of this Zoning Code, the Enforcement Official will be notified as construction or alteration reaches specific stages as specified in the Building and Housing Code.

(Ord. 2000-38. Passed 5-8-00.)

1242.06 FEES.

Fees for inspections and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Zoning Code shall be collected in advance of the issuance of such permits or certificates.

The amount of such fees shall be established by the Village Council, from time to time, and shall cover the cost of inspection and supervision relating to the enforcement of this Zoning Code.

(Ord. 2000-38. Passed 5-8-00.)

1242.07 PERFORMANCE BONDS.

Where in this Zoning Code there is delegated to Council or the Board of Zoning Appeals the function of establishing certain physical site improvements as a contingency to securing a site plan approval, special approval or variance, the Enforcement Official shall, to insure strict compliance with any regulation contained herein or required as a condition of the issuance of a permit, require the permittee to furnish a performance or surety bond, or cash bond at the discretion of the Enforcement Official or Board of Zoning Appeals, executed by a reputable surety company authorized to do business in the State of Michigan in an amount determined by Council or the Board of Zoning Appeals to be reasonably necessary to insure compliance hereunder, provided, however, that in fixing the amount of such performance or surety bond, Council or the Board of Zoning Appeals shall take into account the size and scope of the proposed improvement project, current prevailing cost for the Village to rehabilitate the premises upon default of the operator, estimated expense to compel the operator to comply with a court judgment and such other factors and conditions as might be relevant in determining the sum reasonable in the light and circumstances surrounding such application. If cash or a check is received as a bond, the cash or check need not be maintained in an interest bearing account.

The Enforcement Official shall monitor the progress of the work under permit. Upon request of the permit holder, the Enforcement Official shall inspect the work site within a reasonable period of time for purposes of determining compliance with the permit as issued by the Village. If, in the opinion of the Enforcement Official, all work, including restoration of soil and other property disturbed by the work, has been completed in compliance with the permit and all applicable laws, then the remaining portion of any performance, surety or cash bond held by the Village shall be returned to the permit holder. Interest shall not be paid on the surety or cash bond.

(Ord. 2000-38. Passed 5-8-00.)

1242.08 STANDARD NOTICE OF PUBLIC HEARING.

(a) Except as otherwise provided in this section, if the Village is required to provide notice for a public hearing, the Village shall do all of the following:

- (1) Public notice of the request in a newspaper of general circulation in the Village;
- (2) Mail or personally deliver said notice to the owners of property for which approval is being considered; and

(3) Mail or personally deliver said notice to all persons to whom real property is assessed within one thousand (1,000) feet of the subject property and to the occupants of all structures within one thousand (1,000) feet of the subject property, regardless of whether the property or occupant is located in the Village. If the name of an occupant is not known, the term occupant may be used.

(4) For any notice given regarding a plan applying the Single-Family Planned Residential Development Option, described in Chapter 1252, the notice shall be delivered as specified in subsection (c) above, except that the distance shall be fifteen hundred feet (1,500) feet.

(b) The notices specified above shall be given not less than fifteen days before the date the application will be considered for approval. The notice shall do all of the following:

- (1) Describe the nature of the request;
- (2) Indicate the property that is the subject of the request by street address, or if none, other appropriate descriptive terms;
- (3) State when and where the request will be considered; and
- (4) Indicate when and where written comments will be received concerning the request.

(Ord. 2006-03. Passed 11-13-06.)

1242.99 PENALTY.

Whoever violates, or neglects or refuses to comply with any of the provisions of this Zoning Code shall be responsible for a Municipal civil infraction and shall be subject to the penalty, sanctions and remedies prescribed in Section 202.99 of these Codified Ordinances. A separate offense shall be deemed committed each day that a violation or noncompliance occurs or continues.

(Ord. 2000-38. Passed 5-8-00; Ord. 2001-03. Passed 4-9-01.)

Board of Zoning Appeals

EDITOR'S NOTE: A schedule of fees for planning related activities is adopted from time to time by resolution of Council. Copies of the latest such schedule and of the latest relevant legislation may be obtained, at cost, from the Village Clerk.

- 1244.01 Establishment.
- 1244.02 Membership; appointment; removal; vacancies.
- 1244.03 Election of officers.
- 1244.04 Meetings.
- 1244.05 Appeals and review.
- 1244.06 Fee for appeals.
- 1244.07 Powers and duties.
- 1244.08 Notice of hearing.
- 1244.09 Approval period.

CROSS REFERENCES

- Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201
- Authority to zone - see M.C.L.A. 125.3202
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208
- Board of Appeals - see M.C.L.A. 125.3601
- Meetings of the Board; freedom of information - see M.C.L.A. 125.3602
- Review by Circuit Courts; appeals to Supreme Court; procedure - see M.C.L.A. 125.3606

1244.01 ESTABLISHMENT.

There is hereby established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in Article VI of Act 110 of the Public Acts of 2006, as amended, in such a way that the objectives of this Zoning Code shall be observed, public safety secured and substantial justice done.

(Ord. 101. Passed 2-20-70; Ord. 2006-03. Passed 11-13-06.)

1244.02 MEMBERSHIP; APPOINTMENT; REMOVAL; VACANCIES.

The Board of Zoning Appeals, consisting of seven members, is hereby created to replace the Board heretofore created by the Village of Franklin in Ordinance No. 21, effective August 18, 1964. When the term of an individual member of the Board expires, the Village Council shall appoint a successor for a three-year term from the date of expiration of said original member's term, except for the seventh member added by this section to the earlier six-man Board, which member shall be appointed for a three-year term at the time the next reappointment or appointment is made to the Board. All members shall be citizens of the United States and residents of the Village of Franklin and shall not be employees of the Village. One member of the Board shall be a member of the Village Planning Commission. One member of the Board may be a member of the Village Council, but shall not serve as chairperson of the Board. Members may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office only after consideration of written charges and a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest; failure to do so constitutes malfeasance in office. Any vacancy in the Board shall be filled by the Village Council for the remainder of the expired term.

Appointments to the Board shall be made annually on July 15. Vacancies of specific unexpired terms may be filled throughout the year. Each term shall begin on July 15 and end on July 14.

The Village Council may appoint not more than two alternate members for the same term as regular members to the Board. An alternate member may be called as specified to serve as a member of the Board in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Board.

(Ord. 101. Passed 2-20-70; Res. 98-116. Passed 6-8-98; Res. 98-117. Passed 6-8-98; Ord. 2006-03. Passed 11-13-06.)

1244.03 ELECTION OF OFFICERS.

The Chairperson, Vice Chairperson and Secretary of the Board of Zoning Appeals shall be elected annually by the members of the Board.

(Ord. 101. Passed 2-20-70.)

1244.04 MEETINGS.

All meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson or, in his or her absence, the Vice Chairperson, and at such times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record. A quorum shall consist of five members, and the Chairperson can vote on all matters.

(Ord. 101. Passed 2-20-70; Res. 84-149. Passed 12-10-84.)

1244.05 APPEALS AND REVIEW.

An appeal may be taken to the Board of Zoning Appeals by any person or by any officer, department, board or bureau affected by any order, requirement, decision or interpretation related to the Zoning Code. Such appeal shall be taken within such time as shall be prescribed by the Board of Zoning Appeals by general rule by filing with the Building Official and with the Board a notice of appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board, after the notice of appeal has been filed with him or her that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Notice of the hearing shall be given in accordance with Section 1242.08. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

(Ord. 101. Passed 2-20-70; Ord. 2006-03. Passed 11-13-06; Ord. 2017-02. Passed 2-13-17.)

1244.06 FEE FOR APPEALS.

A fee of one hundred dollars (\$100.00) shall be paid to the Village Treasurer at the time notice of an appeal is filed, unless payment of such fee is waived by the general rules adopted by the Board of Zoning Appeals.

1244.07 POWERS AND DUTIES.

The Board of Zoning Appeals, as herein established, is a body of limited powers. The Board shall have the following specific powers and duties:

(a) Purpose. The purpose of the Board shall be to hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or interpretation in the enforcement of this Zoning Code, and to hear and decide cases where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Zoning Code so that the spirit of this Zoning Code shall be observed, public safety secured and substantial justice done.

(b) Authorization. As set forth in Section 603(l) of Public Act 110 of 2006, as amended, and herein, the Board shall have the authority to hear and decide appeals and grant variances from this Zoning Code as to be in harmony with the general purpose and intent thereof so that the function of this Zoning Code is observed, public safety and welfare secured and substantial justice done, including the following:

(1) Interpretation of Zoning District Boundaries. Interpret the provisions of this Zoning Code in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts, accompanying and made part of this Zoning Code, where street layout actually on the ground varies from the street layout as shown on the Map aforesaid. In cases of any question as to the location of any boundary line between zoning districts, the Board shall interpret the Zoning Map.

(2) Height, Yard Space and Area Requirements. Permit such modification of the height, yard space and area requirements as may be necessary to secure improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that it cannot otherwise be improved without such modification.

(3) New Construction. Permit modification of zoning requirements for new and existing buildings where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Zoning Code so that the spirit of this Zoning Code shall be observed, public safety secured and substantial justice done.

(4) Off-Street Parking Lot Development and Loading Requirements. Permit a variation, in the required regulations, specified in Section 1262.02 of this Zoning Code, if after investigation by the Board, it is found that such variation, modification or exception is necessary because of peculiar existing conditions and that such variation, modification or exception will provide substantial justice to the applicant, secure the safety of the public, and observe the spirit of the Zoning Code.

(5) Temporary Buildings, Uses and Signs. Permit temporary buildings, uses and signs for periods not to exceed six months.

(6) Performance Bonds. Establish performance bonds to insure compliance with any requirement which may be deemed necessary for approving any variance. (See Section 1242.07 .)

(c) Action on Building Department Decisions. The concurring vote of two-thirds of the members of the Board shall be necessary to reverse any order, requirement, decision or interpretation of the Zoning Code in favor of the applicant on any matter upon which the Board is authorized by this Zoning Code to render a decision.

The power or authority to alter or change this Zoning Code or the Zoning Map is reserved to the Village Council of the Village of Franklin in the manner provided by law.

(d) Standards for Variances. In consideration of all appeals and all proposed variances from this Zoning Code, the Board shall ensure that the intent of the Zoning Code is observed, public safety is secured, and substantial justice is done:

(1) The Board may grant a requested "non-use" or "dimensional" variance only upon finding that practical difficulties exist. A finding of practical difficulties must require demonstration by the applicant of all of the following:

A. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render Zoning Code conformity unnecessarily burdensome.

B. The variance will do substantial justice to the applicant, as well as other property owners.

C. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

D. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

E. The problem and resulting need for the variance has not been self- created by the applicant and/or the applicant's predecessors. Self-created conditions include, but are not limited to:

1. The property owner not knowing or discovering local zoning restrictions and opportunities.

2. The property owner making financial commitments prior to zoning approval.

3. The property owner constructing without necessary permits.

4. The property owner creating a unique situation.

5. The property owner overbuilding or not building to market conditions.

6. The property owner falsifying information.

(2) The Board may grant a requested "use" variance only upon a finding that an unnecessary hardship exists. A finding of unnecessary hardship must require a demonstration by the applicant of all of the following:

A. The property cannot be put to a reasonable use is permitted to be used only for uses allowed in the district in which it is located.

B. The hardship of the owner is due to unique circumstances peculiar to the property and not to general neighborhood conditions.

- C. The problem is not self-created. Self-created conditions include, but are not limited to:
1. The property owner not knowing or discovering local zoning restrictions and opportunities.
 2. The property owner making financial commitments prior to zoning approval.
 3. The property owner constructing without necessary permits.
 4. The property owner creating a unique situation.
 5. The property owner overbuilding or not building to market conditions.
 6. The property owner falsifying information.

D. The proposed variance will cause development of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood.

E. The proposed variance will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in Residential Districts.

F. The location, size, intensity, site layout and periods of operations of any such proposed development allowed by the variance will be designed to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.

G. The location and height of buildings or structures and the location, nature and height of walls and fences allowed by the variance will be such that the proposed use will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

(e) Conditions of Variances. The Board, in acting on any appeal in connection with a request for a variance, may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the foregoing standards.

In exercising the above powers, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or interpretation appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Building Official.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1244.08 NOTICE OF HEARING.

The Board of Zoning Appeals, in conducting any public hearing, shall fix a reasonable time for hearing and appeal within thirty days of receipt of the notice of appeal, and shall give due notice to the parties concerned in accordance with Section 1242.08. The Board shall decide the appeal within a reasonable period of time, not to exceed thirty days.

(Ord. 2006-03. Passed 11-13-06.)

1244.09 APPROVAL PERIOD.

No order of the Board of Zoning Appeals permitting the erection or alteration of a building shall be valid for a period longer than 12 months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit within twelve months after the order of the Board. The Board may, upon application, in writing, stating the reasons therefor, extend the 12-month period for an additional six-month period.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

CHAPTER 1246

Amendments

EDITOR'S NOTE: This chapter was repealed in its entirety and re-enacted by Ordinance 99-76, passed July 12, 1999.

A schedule of fees for planning related activities is adopted from time to time by resolution of Council. Copies of the latest such schedule and of the latest relevant legislation may be obtained, at cost, from the Village Clerk.

- 1246.01 Authority of Village Council to amend Zoning Code text or Zoning Map.
- 1246.02 Powers and duties of Planning Commission.
- 1246.03 Public hearing by Planning Commission.
- 1246.04 Recommendations to Village Council.
- 1246.05 Action by Village Council.
- 1246.06 Protest petitions.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Zoning; adoption and amendment - see M.C.L.A. 125.3401

1246.01 AUTHORITY OF VILLAGE COUNCIL TO AMEND ZONING CODE TEXT OR ZONING MAP.

The Village Council may amend the Village Zoning Code text or Zoning Map, pursuant to the authority and procedures in Act 110 of the Public Acts of 2006, as amended, provided, however, that no such amendment shall take effective until it has been reviewed and approved in accordance with this

chapter. Upon filing an application to amend the Zoning Code text or Zoning Map, the applicant shall pay the fee specified in the Schedule of Fees adopted by the Village Council, in order to cover the costs of publication, review, and other miscellaneous expenses.

(Ord. 99-76. Passed 7-12-99; Ord. 2006-03. Passed 11-13-06; Ord. 2013-02. Passed 5-13-13.)

1246.02 POWERS AND DUTIES OF PLANNING COMMISSION.

Proposals submitted by applicants for zoning text or Zoning Map amendments shall be placed on the Planning Commission agenda for review and to make a recommendation to Village Council. The Planning Commission shall consider the following in its evaluation of each proposal:

(a) Master Plan.

(1) The Planning Commission shall determine whether the proposed amendment is consistent with the intent of the Master Plan as expressed in the Vision statement.

(2) The Planning Commission shall determine whether the proposed amendment is consistent with the policies, goals, and objectives in the Master Plan.

(3) With respect to Zoning Map amendments, the Planning Commission shall determine whether the proposed rezoning is consistent with the Future Land Use Map.

(b) Planning and Zoning Legislation.

(1) The Planning Commission shall determine whether the proposed amendment is consistent with planning and zoning legislation, particularly the Michigan Planning Enabling Act (Act 33 of the Public Acts of 2008, as amended), and the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006, as amended). Accordingly, where appropriate, the amendment shall:

A. Address the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service and other uses of land;

B. Ensure that use of the land is situated in appropriate locations and relationships;

C. Limit the inappropriate overcrowding of land and congestion of population, transportation systems, sewage and other public facilities;

D. Facilitate adequate and efficient provision for transportation system, sewage disposal, water, energy, education, recreation, and other public service and facility requirements; and

E. Promote public health, safety and welfare.

(2) Furthermore, a zoning amendment shall be evaluated with consideration of the character of the district(s) affected, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

(Ord. 99-76. Passed 7-12-99; Ord. 2013-02. Passed 5-13-13.)

1246.03 PUBLIC HEARING BY PLANNING COMMISSION.

Before submitting its recommendation to Village Council for a proposed zoning text or Zoning Map amendment, the Planning Commission shall hold at least one public hearing. Notice of the time and place of the public hearing shall be given in the manner described in Section 1242.08, except that the notice shall also be posted at the Village Office and the Franklin Public Library.

(Ord. 99-76. Passed 7-12-99; Ord. 2006-03. Passed 11-13-06; Ord. 2013-02. Passed 5-13-13.)

1246.04 RECOMMENDATIONS TO VILLAGE COUNCIL.

Following the public hearing, the Planning Commission shall transmit a summary of the comments received at the hearing, the proposed amendments, and its recommendations to the Village Council. A motion to recommend approval or denial shall require a majority vote of the members of the Planning Commission.

(Ord. 99-76. Passed 7-12-99; Ord. 2013-02. Passed 5-13-13.)

1246.05 ACTION BY VILLAGE COUNCIL.

Upon receiving a recommendation from the Planning Commission, the Village Council shall consider whether the proposed amendment should be approved or denied. Prior to making its decision, the Village Council may conduct a public hearing if it considers it necessary. Notice of the public hearing shall be given in the same manner as described in Section 1246.06.

In the course of its deliberations, the Village Council may decide to refer the proposed amendment back to the Planning Commission for further review and recommendation. In the event of such a referral, the Village Council shall specify to the Planning Commission the additional evaluation or recommendation(s) it requires. In the event of such a referral, the Planning Commission shall not hold any public hearings.

Upon completion of its deliberations, the Village Council shall consider and vote upon the proposed amendment. The amendment shall be approved by a majority vote of the members of the Village Council.

(Ord. 99-76. Passed 7-12-99; Ord. 2006-03. Passed 11-13-06; Ord. 2013-02. Passed 5-13-13.)

1246.06 PROTEST PETITIONS.

Upon presentation of a protest petition meeting the requirements of this section, a proposed amendment to the Zoning Code that is the object of the petition shall require a two-thirds vote of Village Council. The protest petition must be presented to the Village Council prior to final action on the proposed amendment. The petition shall be signed by one of the following:

(a) The owners of at least 20% of the area of land included within the Zoning Map amendment;

(b) The owners of at least 20% of land within 100 feet from any point on the boundary of the parcel(s) included in the Zoning Map amendment.

For purposes of this section, publicly owned land shall be excluded in calculating the 20% land area requirement.

(Ord. 99-76. Passed 7-12-99; Ord. 2013-02. Passed 5-13-13.)

Districts Generally and Zoning Map

1248.01 Establishment of districts.

1248.02 Zoning Map.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. 125.3207

1248.01 ESTABLISHMENT OF DISTRICTS.

The Village of Franklin is hereby divided into zoning districts known as follows:

R-E Estate Residential District;

R-L Large Lot Residential District;

R-M Modified Low Density Residential District;

R-1 Low Density Residential District;

R-2 Medium Low Density Residential District;

R-3 Medium Density Residential District;

R-4 Medium High Density Residential District;

RO-1 Restricted Office District;

C-1 Commercial District;

P-1 Vehicular Parking District.

(Ord. 101. Passed 2-20-70; Ord. 158. Passed 9-14-87; Ord. 99-52. Passed 5-10-99; Ord. 2005-01. Passed 1-10-05.)

1248.02 ZONING MAP.

The boundaries of the districts established in Section 1248.01 are shown upon the Map attached to original Ordinance 101, passed February 20, 1970, and made a part of this Zoning Code, which Map is designated as the Zoning Map of the Village of Franklin. The Zoning Map is on file in the office of the Clerk of the Village of Franklin, and all notations, references and other information shown thereon are hereby made a part of this Zoning Code and have the same force and effect as if said Zoning Map, and all such notations, references and other information shown thereon, were fully set forth or described herein. A copy of such Zoning Map follows the Appendices following the text of this Zoning Code.

Except where references on said Map to a street or other designated line indicate otherwise, the district boundary lines follow lot lines or the centerlines of the street or alley rights of way, or such lines extended, and the corporate limits of the Village of Franklin, as they existed at the time of the adoption of this Zoning Code.

(Ord. 101. Passed 2-20-70.)

CHAPTER 1250

Single-Family Residential Districts

1250.01 Statement of purpose.

1250.02 Permitted uses.

1250.03 Special approval uses.

1250.04 Accessory uses, buildings and structures.

1250.05 Site plan review.

1250.06 Area, height, bulk and placement requirements.

1250.07 Lot dimensions.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Single-Family Planned Residential Development Option - see P. & Z. Ch.1252

Off-street parking and loading - see P. & Z. Ch. 1262

Nonconforming uses and buildings - see P. & Z. Ch.1264

Natural buffer zones - see P. & Z. Ch.1266

Supplementary regulations - see P. & Z. Ch.1268

1250.01 STATEMENT OF PURPOSE.

The R-E, R-L, R-M, R-1, R-2, R-3 and R-4 Single-Family Residential Districts are hereby established as Districts in which the principal use of land is for single-family dwellings and related educational, cultural and religious uses where appropriate and harmonious with the residential environment. For these Single-Family Residential Districts, in promoting the general purpose of this Zoning Code, the specific intent of this chapter is to:

- (a) Encourage the construction of, and the continued use of, the land for, single-family dwellings.
- (b) Prohibit business, commercial or industrial use of the land, and to prohibit any other use which would interfere with development or maintenance of single-family dwellings in the District.
- (c) Encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Zoning Code.
- (d) Discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve the residences on those streets.
- (e) Discourage any use which, because of its character or size would create requirements and costs for public services, such as fire and police protection, water supply and sewerage, substantially in excess of such requirements and costs if the District were developed solely for single-family dwellings.

(Ord. 158. Passed 9-14-87; Ord. 2005-01. Passed 1-10-05.)

1250.02 PERMITTED USES.

In all Single-Family Residential Districts the following uses are permitted:

- (a) Single-family detached dwellings.
- (b) Public parks and public recreation areas operated by governmental, quasi-governmental, or private entities exclusively for the use and enjoyment of the public.
- (c) State licensed residential facilities, subject to the provisions of Section 206 of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MCL 125.3206).
- (d) Accessory structures, buildings, uses and signs, customarily incidental to the above permitted uses in accordance with Section 1268.13.

(Ord. 158. Passed 9-14-87; Ord. 2005-01. Passed 1-10-05; Ord. 2006-03. Passed 11-13-06; Ord. 2017-02. Passed 2-13-17; Ord. 2019-05. Passed 6-10-19; Ord. 2021-02. Passed 7-19-21.)

1250.03 SPECIAL APPROVAL USES.

In all Single-Family Residential Districts, the following uses shall be permitted only after approval in accordance with Section 1268.32.

- (a) Municipal buildings, offices, community centers and facilities owned and operated by the Village of Franklin for the purposes of the government of the Village of Franklin.
- (b) Public, quasi-public, and institutional buildings, offices, centers and facilities, such as, but not limited to libraries and post offices, owned or operated by governmental or quasi-governmental entities for the purposes of providing civic services and functions.
- (c) Churches and other facilities normally incidental thereto, including but not limited to community and civic group meetings, events and activities, and religious, social, cultural and educational services, instruction and programs. A proposed site for a church shall not be less than two acres, shall have adequate access to all required off-street parking areas, shall prohibit parking in the required front yard and be located on a site adjacent to a major thoroughfare as defined by the Village's Master Plan.
- (d) Public, parochial and private elementary, junior high and/or senior high schools offering courses in general education, which may contain libraries and other facilities customarily found within a school, not operated for profit, and situated on a site not less than two acres.
- (e) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating of such uses in order to serve the immediate vicinity.
- (f) Museums displaying or exhibiting items or artifacts of an historical nature and not operated for profit. It is the express intent of this section to prohibit any displays or exhibits of a commercial nature or which are operated for profit, provided, however, that certain nonprofit activities may be permitted under Section 1268.32(h).

The following additional conditions shall apply to any special approval use under this subsection:

- (1) No item or display shall bear any indication of cost, value or price.
- (2) No income, revenue or compensation of any kind shall be received as part of any such museum use or exhibition, except that a nominal door fee or entrance fee may be imposed.
- (3) No artifact, souvenir or any other article or item of any type or nature whatsoever shall be offered for sale upon the premises.
- (4) All exhibitions, displays or programs shall be related to the history of the Village of Franklin, the State of Michigan or the United States.
- (5) No museum shall be located closer than 2,500 feet to any other museum.

(Ord. 158. Passed 9-14-87; Ord. 2014-06. Passed 9-11-14; Ord. 2017-02. Passed 2-13-17; Ord. 2019-05. Passed 6-10-19; Ord. 2021-02. Passed 7-19-21.)

1250.04 ACCESSORY USES, BUILDINGS AND STRUCTURES.

The following accessory uses, buildings and structures shall be permitted in the Single-Family Residential Districts, subject to Section 1268.13:

- (a) Accessory structures, buildings, or uses customarily incidental to uses permitted by Section 1250.02, when located on the same lot and not involving any business, profession, trade or occupation.
- (b) A private garage may not house more than one commercial vehicle, which shall not be larger than a typical manufactured pick-up or panel truck of three-quarter ton capacity, further provided the commercial vehicle is owned and operated by a member of the family who resides in the living unit.
- (c) Accessory dwelling units (ADUs) that provide living quarters for an extension of the primary residents' family as defined by the Fair Housing Act shall be considered an accessory use if located in a building separate from the principal building on the lot, and shall be permitted only where the lot in question exceeds one acre in area, and shall be subject to site plan and special approval requirements in Sections 1268.30 and 1268.32.
- (d) The growing of vegetables, fruit, flowers, shrubs and trees, provided that such uses are not conducted for commercial purposes.

(e) Home occupations as limited and defined in Section1240.08(b)(38).

(f) Temporary buildings for use incidental to construction work as approved by the Board of Zoning Appeals, for a period not to exceed six months, subject to renewal, which buildings shall be removed upon the completion or abandonment of the construction work.

(g) Private swimming pools as regulated by all Village ordinances and regulations.

(h) Off-street parking in accordance with the requirements ofChapter 1262.

(i) The Village of Franklin encourages the development and use of alternative energy sources, such as energy generated by solar and wind facilities, provided that the devices to generate, process and store the energy are safe and will cause no harm to the well-being of adjacent residents or the neighborhood as a whole. Alternative energy facilities are considered to be accessory structures, and are subject to the following site plan and use approval requirements.

(1) Wind energy facilities, whether freestanding or attached to the principal building, require site plan review in accordance with Section1268.30 and special use approval in accordance with Section 1268.32.

(2) Ground-mounted solar energy facilities require site plan review in accordance with Section1268.30 and special use approval in accordance with Section 1268.32.

(3) Roof-mounted solar energy facilities require zoning compliance approval in accordance with Section1242.02 and shall comply with Section 1268.13A, Roof-Mounted Solar Energy Systems.

(j) All accessory buildings and structures, including garages, barns, stables, pool houses, permanent swimming pools, children's playhouses and similar structures shall not exceed 15 feet in height and, along with principal buildings on the same lot, the maximum permitted lot coverage as established in the schedule provided in Appendix B following the text of this Zoning Code.

(Ord. 158. Passed 9-14-87; Ord. 2010-05. Passed 5-10-10; Ord. 2017-02. Passed 2-13-17; Ord. 2019-05. Passed 6-10-19; Ord. 2020-05. Passed 9-14-20.)

1250.05 SITE PLAN REVIEW.

For all uses permitted in an R-E, R-L, R-M, R-1, R-2, R-3, and R-4 District, other than single-family detached dwellings and accessory buildings and uses thereto, site plan review is required in accordance with Section 1268.30.

(Ord. 158. Passed 9-14-87; Ord. 2005-01. Passed 1-10-05.)

1250.06 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements for Single-Family Residential Districts shall be as established in the schedule provided in Appendix B following the text of this Zoning Code.

(Ord. 158. Passed 9-14-87.)

1250.07 LOT DIMENSIONS.

The minimum lot depth in any Residential District shall be 120 feet. The lot depth shall not be greater than four times the lot width.

(Ord. 194. Passed 11-14-94.)

CHAPTER 1252

Single-Family Planned Residential Development Option

1252.01 Intent; criteria; application.

1252.02 Optional development patterns.

1252.03 Combinations of development configurations.

1252.04 Contiguous land area.

1252.05 Conditions for approval.

1252.06 Conditions for denial.

1252.07 Conditions for waiving setback and lot size requirements.

1252.08 Preparation and submittal of plans.

1252.09 Public hearing.

1252.10 Recommendations by Planning Commission; appeals to Council; hearing and notice.

1252.11 Council action re Planning Commission decisions.

1252.12 Council approval; deed restrictions.

1252.13 Application fees.

1252.14 Application for single-family planned residential option.

1252.15 Number of dwelling units.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.S. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Single-Family Residential Districts - see P. & Z. Ch.1250

Off-street parking and loading - see P. & Z. Ch. 1262

Nonconforming uses and buildings - see P. & Z. Ch. 1264

Natural buffer zones - see P. & Z. Ch. 1266

Supplementary regulations - see P. & Z. Ch. 1268

1252.01 INTENT; CRITERIA; APPLICATION.

This chapter may be cited as the Village of Franklin Single-Family Planned Residential Development Option. It is the intent of this chapter to permit an optional means of development of single-family residential properties through design alternatives. This chapter is not intended to create any additional rights on the part of any property owner nor as an addition to any of the permitted uses allowed in Chapter 1250. The grant or denial of permission to utilize the Single-Family Planned Residential Development Option will be based upon the criteria hereinafter set forth, giving realization to the increased public importance of protecting natural assets while preserving the integrity and density of the single-family zoning districts consistent with the character of residential development of the Village of Franklin. Subject to the terms of this chapter, this option will be applicable to those areas where a modification to the Schedule of Regulations may be permitted without impairing or threatening the public health, safety or welfare, and where utilization of this option will result in the preservation of natural assets which might otherwise be destroyed by virtue of conventional subdividing or development of property. Except as set forth in this chapter, all requirements and provisions of Chapter 1250 shall be fully applicable, including those requirements set forth in the Schedule of Regulations provided in Appendix B following the text of this Zoning Code, as amended from time to time.

(Ord. 170. Passed 8-27-90; Ord. 2017-02. Passed 2-13-17.)

1252.02 OPTIONAL DEVELOPMENT PATTERNS.

So long as the overall density of any single-family residential development does not exceed that density set forth in the Schedule of Regulations provided in Appendix B following the text of this Zoning Code for the zoning classification in which the property is located, the Village Council may, after reviewing reports or recommendations from the Village Planning Commission, approve, in whole or in part, either of the following single-family planned residential optional development patterns when the property is under single ownership and where the Village Council is satisfied that the utilization of a planned residential option would be beneficial to the public health, safety and welfare of the Village of Franklin and consistent with surrounding zoning and natural concerns, and will not impose any vehicular or pedestrian traffic impediments.

(a) Lot Size Averaging. The Village Council, subject to the requirements set forth in this chapter, may allow a variation in lot size from those requirements set forth in the Schedule of Regulations provided in Appendix B following the text of this Zoning Code, where conditions so warrant, provided that the average lot size for any such development shall be equal to or greater than that minimum lot size set forth in Appendix B for the particular residential zoning district. No single lot may be reduced by more than twenty-five percent from the scheduled minimum lot size set forth in Appendix B. Average lot size shall be calculated by adding together the area of each buildable lot and dividing by the number of building lots proposed for said development.

(b) Open Space Plan. This provision allows the Village Council, pursuant to this chapter, to approve a reduction of those single-family lot sizes set forth in Appendix B by an amount not to exceed fifty percent of the scheduled minimum lot size of the particular single-family zoning district as set forth in said Appendix B. The open space plan shall create a permanent open space, park or preservation area utilizing all of the areas reduced from the scheduled minimum lot site requirements as set forth in Appendix B, as said Appendix B may be amended from time to time. The created open space must include the provision of ongoing maintenance guarantees by the applicant and their successors. Average lot size, including open space for any such development, shall be equal to or greater than that minimum lot size set forth in Appendix B for the particular residential zoning district.

(Ord. 170. Passed 8-27-90; Ord. 2017-02. Passed 2-13-17.)

1252.03 COMBINATIONS OF DEVELOPMENT CONFIGURATIONS.

A planned residential development under this chapter may incorporate either or both of the development alternatives set forth in Section 1252.03 in combination with the lot size and development configurations as set forth in the Schedule of Regulations provided in Appendix B following the text of this Zoning Code. Such combination of configurations may be proposed by the developer in the submission of the development plan or may be proposed by the Village of Franklin Planning Commission or Village Council during any of the hearing or approval processes. It is intended by this section to permit the Village of Franklin to alter or modify a proposed development plan so as to amend configuration options, so as to substitute, eliminate or add any of the permitted development configuration options, including those set forth in Appendix B. Under no circumstances, by reason of any utilization or combination of any of the development configurations set forth in this chapter, shall the overall development density or the number of single-family residential units per acre be increased in any zoning district over and above that set forth in Appendix B. It is the intent of this section, while allowing maximum flexibility of development configuration for the good of the health, safety and welfare of the people of the Village of Franklin, to allow increases in density only by means of a rezoning application and procedure in accordance with this Zoning Code.

(Ord. 170. Passed 8-27-90.)

1252.04 CONTIGUOUS LAND AREA.

A planned residential development under this chapter shall include a contiguous land area for at least three dwelling units as may be required under applicable zoning regulations. (Ord. 170. Passed 8-27-90.)

1252.05 CONDITIONS FOR APPROVAL.

In reviewing an area for a Single-Family Planned Residential Development Option, in whole or in part, the Planning Commission and Village Council shall not approve any proposed single-family development unless any portion of the area in question shall be within 300 feet of any of the following streets and thoroughfares: Telegraph Road, Franklin Road, Thirteen Mile Road, Fourteen Mile Road or Inkster Road, and one or more of the following conditions are found to exist with regard to the subject property:

(a) The subject parcel is of such a depth and/or width or is shaped in such a way that it contains acute angles which would make a normal subdivision difficult to achieve in accordance with the strict letter of the Schedule of Regulations provided in Appendix B following the text of this Zoning Code.

(b) The parcel contains a flood plain or poor soil conditions, including high ground water tables, which result in a substantial portion of the total area of the subject parcel being unbuildable. In such event, satisfactory soil test borings, flood plain maps or other documented evidence shall be submitted to the Planning Commission as part of the application for a planned development option in order to substantiate the parcel's qualification for optional development.

(c) The subject parcel contains natural assets which would be preserved through the use of a Single-Family Planned Residential Development Option. Such assets may include natural stands of large trees, natural habitat for wildlife, unusual topographic features or other unique and valuable conditions, such as flora, fauna and still water waterways.

(d) The subject parcel is situated such that utilization of the Single-Family Planned Residential Development Option will allow flexibility of design and placement of open space for increased insulation and protection for the single-family residential units from major thoroughfares.

(e) The subject parcel contains natural land forms which are so arranged that the change of elevation within the site includes both slopes in excess of one foot vertical for every six feet horizontal between the elevations and the topography of the subject property, such that the grades are so steep that building sites would be impossible unless the site were mass graded, such as would destroy the natural topography.

(Ord. 170. Passed 8-27-90; Ord. 2017-02. Passed 2-13-17.)

1252.06 CONDITIONS FOR DENIAL.

A request for a Single-Family Planned Residential Development Option shall not be approved under any circumstances when any of the following applies:

- (a) The Village Council makes a finding that the proposal would be contrary to the health, safety and general welfare of the developed and established residential areas in the immediate vicinity.
- (b) The request would be contrary to the purpose of the planned development option, which is solely to maintain important natural assets and improve the open space and residential characteristics of a given area.
- (c) The request is not consistent with the goals and objectives of the Village of Franklin Master Plan.
- (d) The request is not consistent with the goals of creating optional single-family residential developments so as to create a sound and stable residential area and improve the health, safety and welfare of surrounding residential areas.
- (e) The request would generate undue noise or vehicular traffic, or create an inability to adequately deal with on-site ground water or sanitary facilities based upon existing conditions.
- (f) The request, if approved, would conflict with or violate deed restrictions applicable to the subject parcel.
- (g) The request is not consistent with the Village of Franklin Historic District or will impair or impede the character or preservation of the Historic District or structures within said Historic District.

(Ord. 170. Passed 8-27-90.)

1252.07 CONDITIONS FOR WAIVING SETBACK AND LOT SIZE REQUIREMENTS.

In areas meeting the criteria provided for in this chapter, the minimum dwelling unit setbacks and minimum lot sizes per unit, as required by the Schedule of Regulations provided in Appendix B following the text of this Zoning Code, may be waived subject to the following:

- (a) No common party wall relationship is permitted.
- (b) The minimum size dwelling unit shall be determined by the respective zoning district in which the development is located and as listed in Appendix B.
- (c) Perimeter setback requirements shall be as provided in Appendix B.
- (d) There shall be a minimum distance of ten feet between structures.

(Ord. 170. Passed 8-27-90.)

1252.08 PREPARATION AND SUBMITTAL OF PLANS.

The procedures for preparation and submittal of a plan under this chapter shall be as follows:

- (a) Ten copies of a plan of the development with a written application shall be submitted to the Planning Commission. All applications and plans shall be filed with the Village Clerk.
- (b) The plan must be drawn to scale and show the arrangement of dwelling units, streets and open space. Dimensions of the elements shall be shown and must comply with the dimensional standards as listed in Appendix A. It is the intent of this section that the plan be done in sufficient detail to permit planning review. At this stage, the Planning Commission shall have the authority to require alterations to be made in the plan or to require additional information if this is found necessary to comply with the intent of this section.
- (c) The plan shall include:
 - (1) An overall map showing the relationship of the property to its surroundings within one-half mile, such as section lines and/or major and secondary streets. The map shall be drawn to scale, which must be specified on plans, and contain a north arrow.
 - (2) Property and lot lines and public and private streets of adjacent tracts of subdivided and unsubdivided property within 200 feet of the proposed plan.
 - (3) The location of existing and proposed on-site sanitary and water facilities within or immediately adjacent to the proposed property.
 - (4) A survey by a registered surveyor showing topography drawn at two-foot contour intervals, and a grid map showing elevation at fifty-foot intervals; preliminary landscaping plans, and all computations relative to the acreage and density.
 - (5) All the natural assets of the property. The preservation of drainage and natural stream channels must be maintained by the developer and owner, and the provision of adequate easements, where appropriate, shall be required.
 - (6) A preliminary landscaping plan identified by size, height and species and showing trees and vegetation to be added and existing vegetation. Where berms are to be employed, an elevation of such berms, together with ground covering and vegetation shall be shown.
 - (7) Provision for intended vehicular and pedestrian traffic, including signs, striping, walkways, pathways, lighting and other provisions for protection of vehicular and pedestrian traffic.
 - (8) Typical building elevations and floor plans in sufficient detail to allow measurements of floor area, height and property coverage.
- (d) Plans submitted under this section shall be accompanied by written statements regarding the following:
 - (1) The proposed manner of holding title to the open land, including the method and manner of preservation and maintenance of such open spaces or natural areas, as well as the manner for assessment of maintenance charges and an organizational description of the responsible entity.
 - (2) The proposed manner of payment of taxes.
 - (3) The proposed method of financing the maintenance and development of the property.
- (e) Upon receipt of all the necessary materials and plans, the Planning Commission shall review all details of the proposed plan within the framework of this Zoning Code, the various elements of the Master Plan and the intent of this chapter.

(Ord. 170. Passed 8-27-90; Ord. 2017-02. Passed 2-13-17.)

1252.09 PUBLIC HEARING.

The Planning Commission shall not take final action upon a request for approval of a proposed plan until after notices of a public hearing has been given according to Section 1242.08 and a public hearing has been held.

(Ord. 170. Passed 8-27-90; Ord. 2006-03. Passed 11-13-06.)

1252.10 RECOMMENDATIONS BY PLANNING COMMISSION; APPEALS TO COUNCIL; HEARING AND NOTICE.

If the Planning Commission is satisfied that the proposal meets the spirit and intent of this Zoning Code and the Village of Franklin Master Plan, it shall give a favorable recommendation with the conditions upon which such approval should be based. If the Planning Commission is not satisfied that the proposal meets the spirit and intent of this Zoning Code, or finds that recommendation of the proposal would be detrimental to existing development in the general area and should not be approved, it shall record reasons therefore in the minutes of the Planning Commission meeting. If the Planning Commission recommends approval of the proposal, the Village Clerk shall place the matter upon the agenda of the Village Council. If disapproval is recommended by the Planning Commission, the applicant shall be entitled to a hearing before the Village Council if he or she requests one in writing within thirty days after action by the Planning Commission. Such Council hearing shall be held not later than ninety days after the date of request for such hearing. The Village Council shall not act upon the request until notice has been given according to Section 1242.08 and a public hearing has been held. In the event of an appeal to the Village Council from an unfavorable recommendation by the Planning Commission, the Council may base its review on the record of the Planning Commission or may request additional information. In each instance, the decision of the Council shall be a final decision and shall not be subject to further review other than by a court of competent jurisdiction and based solely upon the record made before the Village Council.

(Ord. 170. Passed 8-27-90; Ord. 2006-03. Passed 11-13-06.)

1252.11 COUNCIL ACTION RE PLANNING COMMISSION DECISIONS.

The Village Council shall have the authority to affirm, reverse or modify any decision of the Planning Commission, based upon the record of the Planning Commission or upon new or additional information brought to the attention of the Council, provided, however, that it shall require a minimum two-thirds majority of the Council to reverse or override any decision of the Planning Commission rejecting or disapproving any proposed plan under this chapter. Where the Village Council may deem it appropriate, it may remand an application to the Planning Commission for further review, report or recommendation.

(Ord. 170. Passed 8-27-90.)

1252.12 COUNCIL APPROVAL; DEED RESTRICTIONS.

If the Village Council approves the plan, it shall instruct the applicant to prepare deed restrictions setting forth the conditions upon which such approval is based. The restrictions, after review by the Village Attorney and approval by the Village Council, shall be binding upon the property and the prospective purchasers. Said restrictions shall include, but not be limited to:

- (a) Penalty provisions for noncompliance with the approved plan.
- (b) A specified time period for development. Failure to begin construction within six months of approval renders said plan null and void, unless an extension is requested, in writing, by the applicant, and the request is reviewed by the Planning Commission and is granted by the Village Council.
- (c) A provision which will guarantee the completion of the proposed improvements to the open land within a time to be set by the Village Council.
- (d) Provision for ownership, maintenance and preservation of all areas designated as open space, common areas or natural preservation areas. Such restriction shall include provision for assessment for maintenance charges for such areas and a detailed description of the authority or organization responsible for maintenance and preservation.
- (e) Provision to permit inspection by Village or County Officials for any on-site sanitary waste facilities or components of any such facility or system.

(Ord. 170. Passed 8-27-90; Ord. 2017-02. Passed 2-13-17.)

1252.13 APPLICATION FEES.

An application fee shall be charged for the planning review of requests under this chapter in the amount of two hundred dollars (\$200.00) per dwelling unit. This fee is necessary and reasonably related to the expense incurred in processing such requests and shall be paid at the time of presenting the request to the Planning Commission through the Village Clerk. Such fee shall be in addition to, and not in place of, fees for site plan review in accordance with Section 1268.30.

(Ord. 170. Passed 8-27-90.)

1252.14 APPLICATION FOR SINGLE-FAMILY PLANNED RESIDENTIAL OPTION.

(a) No building permit, nor any permission to begin grading, land development or any construction activity whatsoever, shall be issued by the Village of Franklin until such time as the proposed development has received site plan approval in accordance with Section 1268.30. No requirement of Section 1250.05 shall be deemed to waive, replace or eliminate any requirement for site plan approval under Section 1268.30. Site plan review pursuant to Section 1268.30 shall be required for any development under this chapter.

(b) The developer or an applicant for a development proposed hereunder may wait for final determination by the Village Council on the application for planned residential development before filing his or her application for site plan approval under Section 1268.30.

(c) At the option of the applicant hereunder, the applicant may combine his or her application for site plan approval under Section 1268.30 with application for planned residential development hereunder.

(1) Such combined application shall contain all drawings and information required under Sections 1268.30 and 1250.05.

(2) The review fee shall be found in the most recent Village Fee Schedule.

(3) At any time during the review process, an applicant, upon advice to the Village Clerk, may elect to sever the application for site plan review to await final determination of the application for planned residential development under this chapter.

(4) Any such combined application shall be clearly designated as: "APPLICATION FOR SINGLE-FAMILY PLANNED RESIDENTIAL OPTION AND APPLICATION FOR SITE PLAN REVIEW."

(5) Approval of an application for planned residential development shall not be construed as waiving or eliminating any requirement or procedure for site plan approval nor in any manner be deemed to assure or guarantee approval of a proposed site plan submitted pursuant to Section 1268.30.

(Ord. 170. Passed 8-27-90: Ord. 2017-02. Passed 2-13-17.)

1252.15 NUMBER OF DWELLING UNITS.

Notwithstanding any other provision of this chapter, the number of dwelling units in a planned residential development option site plan shall not exceed the number of dwellings that could have otherwise been built on the site without the planned residential development option.

(Ord. 170. Passed 8-27-90.)

CHAPTER 1254

RO-1 Restricted Office District

- 1254.01 Statement of purpose.
- 1254.02 Permitted uses.
- 1254.03 Accessory uses, buildings and structures.
- 1254.04 Off-street parking facilities.
- 1254.05 Landscaping.
- 1254.06 Site plan review.
- 1254.07 Area, height, bulk and placement requirements.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Off-street parking and loading - see P. & Z. Ch. 1262

Nonconforming uses and buildings - see P. & Z. Ch. 1264

Natural buffer zones - see P. & Z. Ch. 1266

Supplementary regulations - see P. & Z. Ch. 1268

1254.01 STATEMENT OF PURPOSE.

The RO-1 Restricted Office District is intended to permit those office and restricted business uses that will provide opportunities for local employment close to residential areas, thus reducing travel to and from work; which will provide clean, modern office buildings in landscaped settings; which will provide, adjacent to residential areas, appropriate districts for uses that do not generate large volumes of traffic, traffic congestion and parking problems; and which will promote most desirable use of land in accordance with the Village's Master Plan.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1254.02 PERMITTED USES.

In the RO-1 District, the following uses are permitted:

(a) Uses resulting from any of the following occupations: executive, administrative, professional, accounting, banking, clerical, stenographic and drafting, and manufacturers' agents. No display shall be in an exterior show window, and the total area devoted to display, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed fifteen percent of the usable floor area of the establishment using the display of an actual product for sale as a sales procedure; provided that there shall be no outdoor storage of goods or material, irrespective of whether or not they are for sale; provided, further, that there shall be no warehousing or indoor storage of goods or material, irrespective of whether or not they are for sale; and provided, further, that there shall be no warehousing or indoor storage of goods or material beyond that normally incidental to the above permitted office type uses.

(b) Medical or dental centers, not including veterinarian hospital or any type of medical facility permitting overnight patients.

(c) The professional office of a medical doctor, osteopath, chiropractor, dentist, architect, lawyer, professional engineer, land surveyor or city planner, or other business, professional or governmental offices.

(d) Publicly-owned building and public utility offices, transformer stations and sub-stations, but not including storage yards.

(e) There shall be no accessory structures in an RO-1 District, except that wall signs may be permitted, providing they pertain to a use conducted within the main building and provided, further, that such signs are displayed flat against the side of the building and do not project above the roof line. Such signs are subject to the requirements of Chapter 1474, Signs and Outdoor Display Structures. (See also Section 1268.05.)

(Ord. 101. Passed 2-20-70: Ord. 2017-02. Passed 2-13-17.)

1254.03 ACCESSORY USES, BUILDINGS AND STRUCTURES.

The following accessory uses, buildings and structures shall be permitted in the RO-1 Restricted Office District, subject to Section 1268.13:

(a) Signs, provided they pertain to the use being conducted within the main building, and provided further that such signs are displayed flat against the wall and do not project above the roof line. Signs shall not have flashing lights. One sign shall be permitted for each office or clinic use in the building, provided that no single sign shall exceed ten square feet in area.

(b) The Village of Franklin encourages the development and use of alternative energy sources, such as energy generated by solar and wind facilities, provided the devices to generate, process and store the energy are safe and cause no harm to the well-being of adjacent residents or businesses or the neighborhood as a whole. Alternative energy facilities are considered to be accessory structures, and are subject to the following site plan and use approval requirements:

- (1) Wind energy facilities, whether freestanding or attached to the principal building, require site plan review in accordance with Section 1268.30 and

special use approval in accordance with Section 1268.32.

(2) Ground-mounted solar energy facilities require site plan review in accordance with Section 1268.30 and special use approval in accordance with Section 1268.32.

(3) Roof-mounted solar energy facilities require zoning compliance approval in accordance with Section 1242.02 and shall comply with Section 1268.13A, Roof-Mounted Solar Energy Systems.

(Ord. 2010-05. Passed 5-10-10; Ord. 2020-05. Passed 9-14-20.)

1254.04 OFF-STREET PARKING FACILITIES.

Off-street parking facilities shall be provided as specified in Chapter 1262, with the further condition that no parking be permitted in the required front yard, said front yard area being the 40-foot yard space abutting the front property line, nor within the required side or rear setback adjacent to any side or rear property zoned R-1, R-2, R-3 or R-4, or which is adjacent to any property or lot used for residential purposes. (See Section 1262.02 for off-street parking development regulations.)

(Ord. 172. Passed 12-6-90; Ord. 2010-05. Passed 5-10-10.)

1254.05 LANDSCAPING.

Along any property line of an RO-1 District abutting a residentially zoned district, the area between the required setback and the property line shall be sodded, planted and shrubbed to form a permanent greenbelt.

(Ord. 101. Passed 2-20-70; Ord. 2010-05. Passed 5-10-10.)

1254.06 SITE PLAN REVIEW.

For all uses permitted in an RO-1 District, there must be site plan review as required under Section 1268.30.

(Ord. 101. Passed 2-20-70; Ord. 2010-05. Passed 5-10-10.)

1254.07 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements for the RO-1 District shall be as established in the schedule provided in Appendix B following the text of this Zoning Code.

(Ord. 101. Passed 2-20-70; Ord. 2010-05. Passed 5-10-10.)

CHAPTER 1256

C-1 Commercial District

- 1256.01 Statement of purpose.
- 1256.02 Permitted uses.
- 1256.03 Special approval uses.
- 1256.04 Accessory uses, buildings and structures.
- 1256.05 Site plan review.
- 1256.06 Protective screening.
- 1256.07 Area, height, bulk and placement requirements.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Off-street parking and loading - see P. & Z. Ch. 1262

Nonconforming uses and buildings - see P. & Z. Ch. 1264

Natural buffer zones - see P. & Z. Ch. 1266

Supplementary regulations - see P. & Z. Ch. 1268

1256.01 STATEMENT OF PURPOSE.

The purpose of the C-1, Commercial District, is to further the goals, objectives and policies of the Master Plan by providing the opportunity for continued growth and development of a vibrant Village Center. Although uses permitted in the C-1 District are intended to be primarily retail, service, or office, residential uses are considered appropriate in certain locations and under certain conditions. New uses should be compatible with existing uses with respect to small scale, character of design, and intensity of activity.

(Ord. 101. Passed 2-20-70; Ord. 2012-07. Passed 11-12-12.)

1256.02 PERMITTED USES.

In the C-1 District, the following uses are permitted:

- (a) All uses permitted in the RO-1 District.
- (b) Automobile service stations, subject to the requirements of Section 1268.15.
- (c) Bake shops, provided that at least 75% of all baked goods produced on the premises are sold on said premises at retail, and further provided that

floor area used for bakery production shall be limited to 500 square feet per establishment.

- (d) Bank, savings and loan, brokerage or other type of financial institution.
- (e) Barber shop.
- (f) Beauty shop.
- (g) Clothes pressing and repair.
- (h) Custom dressmaking, millinery and tailoring.
- (i) Fire station.
- (j) Household furniture and appliance shops.
- (k) Institutions and establishments of a philanthropic or charitable nature, but not including car washes, credit unions and other related activities operated or sponsored by such institutions or establishments.
- (l) Laundry agency or dry cleaning agency and hand laundry, except laundry and dry cleaning establishments with customer-operated equipment.
- (m) Public utility buildings, telephone exchange buildings, electric transformer stations and substations and gas regulator stations.
- (n) Repairs to electrical or other household appliances, locks, radios, televisions, shoes, time pieces and the like.
- (o) Restaurants, but not including drive-in or drive-thru restaurants.
- (p) Carry-out restaurants.
- (q) Outdoor dining, subject to the provisions in Section 1268.33.
- (r) Retail food stores.
- (s) Shops or stores for the retail sale of art supplies, beverages, confections, delicatessen, drugs, dry goods, flowers, food stuffs including meats, gifts, hardware, jewelry, leather goods, music, notions, paint, periodicals, sewing machines for households only, sports goods, stamps or coins, stationery, sundry, small household articles, tobacco or wearing apparel.
- (t) Single family residential uses, including rental dwelling units, when located on the second floor of a building that is designed for a retail, service, or office use on the first floor.
- (u) Accessory structures, uses and signs, excluding buildings, customarily incidental to the above permitted uses in accordance with Section 1268.13, subject to the following restrictions:

(1) Outdoor advertising signs, only when pertaining to the sale, rental or use of the premises on which they are located, or to goods sold or activities conducted thereon, shall be displayed flat against the front or side elevation of the building and shall not project above the roof line. (See also Chapter 1474 of these Codified Ordinances.)

(v) Off-street parking and loading, in accordance with the requirements of Chapter 1262, provided that, on or after December 5, 2005:

- (1) No new parking or loading area shall be established on a parcel unless a principal permitted structure is first constructed on the parcel; and
- (2) No new parking or loading facilities shall be located in the front yard (between the front face of the building and the street) except by special approval. Where front yard parking is proposed, the applicant must demonstrate to the satisfaction of the Planning Commission and Village Council that:
 - A. No other reasonable and safe location for parking exists on the site and that front yard parking can be provided without compromising vehicular or pedestrian traffic safety; and
 - B. The proposed parking satisfies the special approval criteria in Section 1268.32.

(Ord. 101. Passed 2-20-70; Ord. 2000-87. Passed 9-11-00; Ord. 2005-10. Passed 11-14-05; Ord. 2009-02. Passed 5-11-09; Ord. 2012-07. Passed 11-12-12; Ord. 2015-02. Passed 9-21-15; Ord. 2021-02. Passed 7-19-21; Ord. 2021-04. Passed 10-11-21.)

1256.03 SPECIAL APPROVAL USES.

In the C-1, Commercial District the following uses shall be permitted, subject to approval in accordance with Section 1268.32:

- (a) Multiple family residential uses, including short-term rental dwelling units, when located on the second floor of a building that is designed for a retail, service, or office use on the first floor.
- (b) Solar and wind facilities, whether freestanding or attached to the principal building, are considered accessory structures, subject to Section 1268.13. The Village of Franklin encourages the development and use of alternative energy sources, such as energy generated by solar and wind facilities, provided that the devices to generate, process and store the energy are safe and will cause no harm to the well-being of adjacent residents or businesses or the neighborhood as a whole.
- (c) Accessory buildings customarily incidental to uses permitted by Section 1256.02, subject to site plan and special approval requirements in Sections 1268.30 and 1268.32.
- (d) Any use not otherwise permitted in this Zoning Code (Part 12, Title Four, of the Village of Franklin Code of Ordinances).

(Ord. 2012-07. Passed 11-12-12; Ord. 2015-02. Passed 9-21-15; Ord. 2021-04. Passed 10-11-21.)

1256.04 ACCESSORY USES, BUILDING

1256.04 ACCESSORY USES, BUILDINGS AND STRUCTURES.

The following accessory uses, buildings and structures shall be permitted in the C-1, Commercial District, subject to Section 1268.13:

- (a) Outdoor advertising signs, only when pertaining to the sale, rental or use of the premises on which they are located, or to the goods sold or activities conducted thereon. Such signs shall be displayed flat against the wall on the front or side elevation of the building and shall not project above the roof line (see also Chapter 1474 of the Codified Ordinances of the Village).
- (b) Accessory structures, uses and signs, excluding buildings, customarily incidental to uses permitted by Section 1256.02.
- (c) Accessory buildings customarily incidental to uses permitted by Section 1256.02, subject to site plan and special approval requirements in Sections 1268.30 and 1268.32.
- (d) The Village of Franklin encourages the development and use of alternative energy sources, such as energy generated by solar and wind facilities,

provided that the devices to generate, process and store the energy are safe and will cause no harm to the well-being of adjacent residents or businesses or the neighborhood as a whole. Alternative energy facilities are considered to be accessory structures, and are subject to the following site plan and use approval requirements:

(1) Wind energy facilities, whether freestanding or attached to the principal building, require site plan review in accordance with Section 1268.30 and special use approval in accordance with Section 1268.32.

(2) Ground-mounted solar energy facilities require site plan review in accordance with Section 1268.30, and special use approval in accordance with Section 1268.32.

(3) Roof-mounted solar energy facilities require zoning compliance approval in accordance with Section 1242.02 and shall comply with Section 1268.13A, Roof-Mounted Solar Energy Systems.

(Ord. 2010-05. Passed 5-10-10; Ord. 2012-07. Passed 11-12-12; Ord. 2015-02. Passed 9-21-15; Ord. 2020-05. Passed 9-14-20.)

1256.05 SITE PLAN REVIEW.

For all uses permitted in a C-1 District, there must be site plan review as required under Section 1268.30.

(Ord. 101. Passed 2-20-70; Ord. 2010-05. Passed 5-10-10; Ord. 2012-07. Passed 11-12-12.)

1256.06 PROTECTIVE SCREENING.

C-1 parcels adjacent to land within a Single-Family Residential District or used for residential purposes shall provide protective screening in compliance with the regulations set forth in Sections 1268.28 and 1268.29.

(Ord. 101. Passed 2-20-70; Ord. 2010-05. Passed 5-10-10; Ord. 2012-07. Passed 11-12-12; Ord. 2021-02. Passed 7-19-21.)

1256.07 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements for the C-1 District shall be as established in the schedule provided in Appendix B following the text of this Zoning Code.

(Ord. 101. Passed 2-20-70; Ord. 2010-05. Passed 5-10-10; Ord. 2012-07. Passed 11-12-12.)

CHAPTER 1258

P-1 Vehicular Parking District

1258.01 Statement of purpose.

1258.02 Permitted use.

1258.03 Limitation of the use.

1258.04 Location.

1258.05 Front yards.

1258.06 Side yards.

1258.07 Site plan approval.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Off-street parking and loading - see P. & Z. Ch. 1262

Nonconforming uses and buildings - see P. & Z. Ch. 1264

Natural buffer zones - see P. & Z. Ch. 1266

Supplementary regulations - see P. & Z. Ch. 1268

1258.01 STATEMENT OF PURPOSE.

The P-1 Vehicular Parking District is intended to permit the establishment of areas to be used for off-street vehicular parking of private passenger cars, so as to benefit and service nonresidential uses. This District is also designed to afford maximum protection to adjacent residential areas by providing landscaped setbacks, fences and well-designed parking lot facilities. It is also intended that this District act as a transitional area between commercial areas and residential areas, thereby permitting private property owners as well as public agencies to provide needed off-street parking.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1258.02 PERMITTED USE.

In the P-1 District, the following use is permitted: Vehicular parking subject to the requirements in Section 1258.03, off-street parking and loading requirements in Chapter 1262, landscaping requirements in Section 1268.34, and site plan approval under Section 1268.30.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1258.03 LIMITATION OF THE USE.

(a) Parking areas shall be used only for parking of passenger vehicles operated by the management, employees, customers and guests of the enterprise doing business in the Village of Franklin.

(b) Parking may be with or without charge.

(c) No business involving the repair or services to vehicles, trailers, mobile homes, travel trailers, boats or boat trailers, or the sale, display or storage of the same shall be permitted from or upon property zoned in a P-1 District.

(d) No buildings other than those for shelter of attendants shall be erected upon premises; there shall be not more than two such buildings in the area, and each such building shall be not more than fifty square feet in area nor exceed fifteen feet in height.

(e) No signs shall be erected on the premises, except regulatory signage and not more than one directional sign at each point of ingress or egress may be erected which may also bear the name of the operator of the lot and enterprise it is intended to serve. Such signs shall not exceed six square feet in area, shall not extend more than ten feet in height above the nearest curb and shall be entirely upon the parking area. Directional signs must respect the clear vision triangle, leaving the area between two and one-half feet in height and seven feet in height clear of obstruction.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1258.04 LOCATION.

All P-1 Districts shall be contiguous to a C-1, RO-1 or another P-1 District. In all cases, lots which are used for parking shall be the adjacent successive lots from said Commercial District or nonresidential district.

(Ord. 101. Passed 2-20-70.)

1258.05 FRONT YARDS.

Where a P-1 District is contiguous to a residentially zoned district that has a common frontage on the same block with the P-1 District, and wherein residential structures have been erected, there shall be provided a yard space equal to the average setback of homes in the block on the same side of the street.

Where the P-1 District is contiguous to a residentially zoned district that has a common frontage in the same block with the P-1 District, and wherein residential structures have been erected having a front yard of greater than 20 feet in depth, there shall be provided a yard space equal in depth to the minimum setback distance of any existing residential structure so located, except in cases where residential structures have been erected at the rear of lots. In such cases, the yard space shall not be less than 20 feet in depth or equal to the minimum required by the private restrictions.

Where the P-1 District lies across a street and opposite a residentially zoned district wherein the lots front upon such a street, there shall be provided a yard space not less than 20 feet in depth, and a protective wall as set forth in Section 1268.34(a).

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1258.06 SIDE YARDS.

Where a P-1 District is contiguous to side lot lines of premises in a residentially zoned district, there shall be provided a side yard not less than ten feet in width between the side lot lines and the parking area.

Where the P-1 District lies across a street and opposite a residentially zoned district where the side lot lines are contiguous to such street, there shall be provided a yard space not less than ten feet in depth.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1258.07 SITE PLAN APPROVAL.

For all development in a P-1 District, there must be site plan review as required under Section 1268.30.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

CHAPTER 1259

PI Public Institutional District

- 1259.01 Statement of purpose.
- 1259.02 Permitted use.
- 1259.03 Special approval uses. (Reserved)
- 1259.04 Accessory uses, buildings and structures.
- 1259.05 Off-street parking facilities.
- 1259.06 Protective screening.
- 1259.07 Site plan approval.
- 1259.08 Area, height, bulk and placement requirements.

1259.01 STATEMENT OF PURPOSE.

The PI Public Institutional District is intended to recognize the public, quasi-public, and institutional nature of particular parcels of land and provide standards and guidelines for their continued use and future development; to ensure that those public, quasi-public, and institutional land uses will be compatible with the surrounding districts and uses; and to ensure that the public, quasi-public, and institutional use of property will promote the most desirable use of land in accordance with the Village's Master Plan.

(Ord. 2021-02. Passed 7-19-21.)

1259.02 PERMITTED USES.

In the PI District, the following uses are permitted:

(a) Municipal buildings, offices, community centers and facilities owned and operated by the Village of Franklin for the purposes of the government of the Village of Franklin.

(b) Public, quasi-public, and institutional buildings, offices, centers and facilities, such as, but not limited to libraries and post offices, owned or operated by governmental or quasi-governmental entities for the purposes of providing civic services and functions.

(c) Public parks and public recreation areas operated by governmental, quasi-governmental, or private entities exclusively for the use and enjoyment of the public.

(d) Churches and other facilities normally incidental thereto, including but not limited to community and civic group meetings, events and activities, and religious, social, cultural and educational services, instruction and programs. A proposed site for a church shall not be less than two acres, shall have adequate access to all required off-street parking areas, and be located on a site adjacent to a major thoroughfare as defined by the Village's Master Plan.

(e) Public, parochial and private elementary, junior high and / or senior high schools offering courses in general education, which may contain libraries and other facilities customarily found within a school, not operated for profit, and situated on a site not less than two acres.

(f) Public utility buildings, telephone exchange buildings, electronic transformer stations and substations, and gas regulator stations, but not including service or storage yards, when operating requirements necessitate the locating of such uses in order to serve the immediate vicinity.

(g) Museums displaying or exhibiting items or artifacts of an historical nature and not operated for profit.

(h) Accessory structures, buildings, uses and signs, customarily incidental to the above permitted uses in accordance with Section 1268.13.

(Ord. 2021-02. Passed 7-19-21.)

1259.03 SPECIAL APPROVAL USES. (RESERVED)

1259.04 ACCESSORY USES, BUILDINGS AND STRUCTURES.

The following accessory uses, buildings and structures shall be permitted in the PI District, subject to Section 1268.13:

(a) Accessory structures, uses and signs, excluding buildings, customarily incidental to uses permitted by Section 1259.02.

(b) Accessory buildings customarily incidental to uses permitted by Section 1256.02, subject to site plan requirements in Section 1268.30.

(c) The Village of Franklin encourages the development and use of alternative energy sources, such as energy generated by solar and wind facilities, provided that the devices to generate, process and store the energy are safe and will cause no harm to the well-being of adjacent residents or the surrounding area as a whole. Solar and wind energy facilities, whether freestanding or attached to the principal building, are considered accessory structures and require site plan review and special use approval. Alternative energy facilities, considered accessory structures, are subject to the following site plan and use approval requirements:

(1) Wind energy facilities, whether freestanding or attached to the principal building, require site plan review in accordance with Section 1268.30 and special use approval in accordance with Section 1268.32.

(2) Ground-mounted solar energy facilities require site plan review in accordance with Section 1268.30, and special use approval in accordance with Section 1268.32.

(3) Roof-mounted solar energy facilities require zoning compliance approval in accordance with Section 1242.02 and shall comply with Section 1268.13A, Roof-Mounted Solar Energy Systems.

(d) Special events, limited to four consecutive calendar days, single days for two consecutive weeks, or two consecutive weekends. If in excess of four consecutive calendar days, single days for two consecutive weeks, or weekend events for more than two consecutive weekends, a special event shall be subject to the requirements in Section 1268.32(h).

(e) Retail activity. In the PI District, a limited amount of retail activity is permitted where the retail activity is accessory to the principal public, quasi-public, and institutional use of property. Retail activity shall be deemed an acceptable accessory use if the following criteria are met:

(1) Character of the principal use. The principal use on the site must be public, quasi-public, or institutional in character. The retail activity must be an integral part of the principal use such that separation of the public, quasi-public, or institutional and retail activity would adversely affect operating and management procedures.

(2) Percent of floor area. The retail activity shall occupy no more than 49% of the total floor area or 1,000 square feet, whichever is less.

(3) Compatibility of traffic. The type and quantity of traffic generated by the retail sales operation shall be compatible with permitted uses in the district.

(Ord. 2021-02. Passed 7-19-21.)

1259.05 OFF-STREET PARKING FACILITIES.

Off-street parking facilities shall be provided as specified in Chapter 1262, with the further condition that no parking be permitted in the required front yard, said front yard area being the 40-foot yard space abutting the front property line, nor within the required side or rear setback adjacent to any side or rear property zoned R-1, R-2, R-3 or R-4, or which is adjacent to any property or lot used for residential purposes. (See Section 1262.02 for off-street parking development regulations.)

(Ord. 2021-02. Passed 7-19-21.)

1259.06 PROTECTIVE SCREENING.

PI parcels adjacent to property within a Single-Family Residential District or used for residential purposes shall provide protective screening in compliance with the regulations set forth in Sections 1268.28 and 1268.29.

(Ord. 2021-02. Passed 7-19-21.)

1259.07 SITE PLAN APPROVAL.

For all uses in the PI District, site plan approval is required in compliance with the requirements set forth in Section 1268.30.

(Ord. 2021-02. Passed 7-19-21.)

1259.08 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

Area, height, bulk and placement requirements for the PI District shall be as established in the schedule provided in Appendix B following the text of this Zoning Code.

(Ord. 2021-02. Passed 7-19-21.)

CHAPTER 1260

Historic District

EDITOR'S NOTE: Chapter 1260 was repealed in its entirety by Ordinance 99-52, passed May 10, 1999. See Chapter 1230 of this Planning and Zoning Code for provisions relating to Historic Districts.

CHAPTER 1262

Off-Street Parking and Loading

- 1262.00 General provisions.
- 1262.01 Parking requirements.
- 1262.02 Parking development regulations.
- 1262.03 Off-street loading requirements.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

1262.00 GENERAL PROVISIONS.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of buildings erected, altered or extended after the effective date of this chapter (Ordinance 101, passed February 20, 1970) shall be provided as herein prescribed.

(a) Existing Off-Street Parking at Effective Date of Chapter. Off-street parking existing at the effective date of this chapter which serves an existing building or use, shall not be reduced in size less than that required under the terms of this chapter.

(b) General Use Conditions. Except when land is used as storage space in connection with the business of a repair or service garage, the time limits for parking in off-street parking areas shall prevail as specified under Section 1262.02 (j), it being the purpose and intention of the foregoing that the requirements of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed or intended to provide, and no person shall permit, the storage or parking on such open land of wrecked or junked cars, trailers, mobile homes, travel homes, boats or boat trailers, or the creation of a junk yard or nuisance in such area.

(c) Restriction of Parking on Private Property. No person shall park any motor vehicle on any private property or use the private property for vehicle storage, or use any portion of any private property as parking space, without the express or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property.

(d) Exemption from Parking Requirements. All existing building and uses and all buildings erected and uses established prior to the date of adoption of this chapter shall be exempt from the requirements of Sections 1262.01 and 1262.02, except that where such buildings or uses are substandard in respect to the requirements of this chapter, they shall be considered nonconforming and subject to the provisions of Chapter 1264.

(e) Collective Provisions. Nothing in this chapter shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses, provided such facilities collectively shall not be less than the sum requirements for the various individual uses computed separately in accordance with the table provided herein.

(Ord. 2017-02. Passed 2-13-17.)

1262.01 PARKING REQUIREMENTS.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of buildings erected, altered or extended after the effective date of this chapter (Ordinance 101, passed February 20, 1970) shall be provided as herein prescribed.

For required parking areas or loading zone areas, a plan shall be submitted showing the areas set aside for parking or loading zones with a legal description of such lands and a statement signed by the legal owners of the property that such lands are irrevocably set aside and maintained for the parking of automobiles or for a loading zone for the purpose required, unless an equivalent number of such spaces is provided elsewhere in conformance with this chapter.

Such plan shall be on a form to be furnished by the Building Department, which shall include a certificate from the Building Department that the parking areas or loading zone requirements of this chapter have been met as of this date. The form shall be kept on file in the Village Clerk's office during the life of the required use.

(a) Area for Parking Space. For the purpose of this section, 300 square feet of lot area shall be deemed a parking space for one vehicle, including an access aisle, except that 180 square feet of lot area which has a direct means of ingress and egress from an alley or street may also be deemed a parking space. Parking spaces shall be, at minimum, nine feet in width and 20 feet in depth.

(b) Fractional Requirements. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(c) Loading Space Limitations. Loading space, as required in Section 1262.03, shall not be construed as providing off-street parking space.

(d) Location of Parking Spaces for Single-Family Dwellings. The off-street parking facilities required for single-family dwellings shall be located on the same lot as the building they are intended to serve, and shall consist of an enclosed garage or carport served by a paved or gravel surfaced driveway from the garage to the access street or alley.

(e) Location of Parking Spaces for Other Land Uses. The off-street parking facilities required for all other uses shall be located on the lot or within 300 feet of the permitted use requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served.

(f) Table of Off-Street Parking Requirements. The amount of off-street parking spaces for new buildings and uses and additions thereto shall be determined in accordance with the following Schedule of Off-Street Parking Requirements. In the case of a use not specifically mentioned herein, the requirements for off-street parking facilities for a use which is so mentioned, and which is similar to the aforesaid use, shall apply:

SCHEDULE OF OFF-STREET PARKING REQUIREMENTS
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	Primary Use	Required Number of Parking Spaces	Off-Street Parking Space Requirements
SCHEDULE OF OFF-STREET PARKING REQUIREMENTS			
	Primary Use	Required Number of Parking Spaces	Off-Street Parking Space Requirements
1.	Automobile service stations	1	Per employee on the largest working shift, plus 2 spaces for each grease rack or stall for servicing automobiles or wash rack.
2.	Banks	5	Per 1,000 square feet of useable floor area.
3.	Beauty parlors or barber shops	3	For the first 2 chairs, plus 1-1/2 spaces for each additional chair
4.	Business and professional offices (other than medical professional offices)	3	Per 1,000 square feet of useable floor area.
5.	Buildings used for meetings or assembly (including Village Hall, Kreger Barn)	1	Per 2 people, based on the maximum occupancy load.
6.	Religious institutions	1	Per 3 seats, based on the maximum seating capacity in the main place of assembly.
7.	Child care centers with over 6 children	1	Per employee or administrator, plus 1 space per 400 square feet of useable floor area.
8.	Establishments for sales and consumption on the premises of beverages, food or refreshments	15	Per 1,000 square feet of useable floor area.
9.	Fire station		<ul style="list-style-type: none"> • For each firefighter and officer present during weekday daytime hours at the time of adoption of this provision. • Reevaluation of parking requirements shall be required in the event that fire station expansion is proposed. • Adjacent on-street parking may be included in the calculations to determine compliance with parking requirements.
10.	Fitness center, exercise studio, health club	7.5	Per 1,000 square feet of useable floor area.
11.	Furniture and appliance sales, household equipment repair shops, showroom of a plumber, decorator, electrician or similar trade; clothing alteration or repair shops, shoe repair shops, laundry or dry cleaning establishment, hardware store	1.25	Per 1,000 square feet of useable floor area, plus 1 space for management plus 1 space for each 2 employees.
12.	Libraries and museums	5	Per 1,000 square feet of useable floor space.
13.	Mortuary establishments	13	Per 1,000 square feet of floor space in the viewing rooms.
14.	Offices of doctors, dentists, and other medical and health care professionals	4	Per 1,000 square feet of useable floor area.
15.	Post office	6	Per 1,000 square feet of useable floor area.
16.	Residential single-family detached or attached dwelling	2	Per dwelling unit.
17.	Residential in a C-1 district	1.5	Per dwelling unit.
18.	Retail store, except as otherwise specified herein	4	Per 1,000 square feet of useable floor area.
19.	Schools	1	Per 2 teachers, employees and administrators, plus parking requirements for any auditorium or assembly hall.

(g) Shared Parking.

(1) Shared parking is the concept of using parking facilities jointly between different nearby businesses or uses to take advantage of different peak parking characteristics. For example, office buildings typically experience their peak parking demand during weekday daytime hours while restaurants experience their peak during weekend evening hours.

(2) Shared parking is permitted, subject to the conditions in this section, for the following purposes:

- A. To make efficient use of parking facilities;
- B. To minimize the amount of impervious surface;
- C. To minimize the amount of storm water runoff and ponding, flooding and contamination often associated with storm water runoff; and
- D. To maintain the character of the Village by avoiding an overabundance of parking.

(3) To determine if a shared parking proposal should be approved, the Planning Commission and Village Council shall first evaluate the parking needs of each use individually as set forth in the Schedule of Off-Street Parking, and the peak parking characteristics of each use. The following criteria must be met:

- A. At minimum, there shall be an adequate number of spaces to accommodate the user with the highest demand for parking.
- B. The applicant(s) shall provide documentation that indicates the businesses or uses have distinctly different hours of operation.
- C. The closest parking space in the shared parking facility shall be 500 feet or less from the site occupied by a building or use that is making use of the shared parking.

D. If, after receiving a recommendation from the Planning Commission, the Village Council approves the joint parking proposal, the applicant(s) shall prepare a Reciprocal Parking Agreement (RPA) for review by the Village administration. The RPA shall cover the following topics, at minimum:

1. Use of parking facilities (exclusive, joint, time(s) and day(s) of the week of usage).
2. Types of uses that will share the parking, including floor area for each use.
3. Peak hours of parking demand for each use.
4. Maintenance responsibilities (cleaning, striping, seal coating, asphalt repair).
5. Payment of taxes and utilities (lighting).
6. Method of allocating parking in the event that peak demand changes for one of the uses.
7. Rights of access.
8. Liability insurance.
9. Cooperation (parties must agree to cooperate to the best of their abilities to mutually use the facilities without disruption to either party).
10. Conflict resolution (method of determining which party has first choice).
11. Term and termination of agreement.

(4) Prior to receiving final approval to implement the shared parking arrangement, the Reciprocal Parking Agreement shall be recorded at the Oakland County Register of Deeds, and a copy of the recorded document shall be provided to the Village.

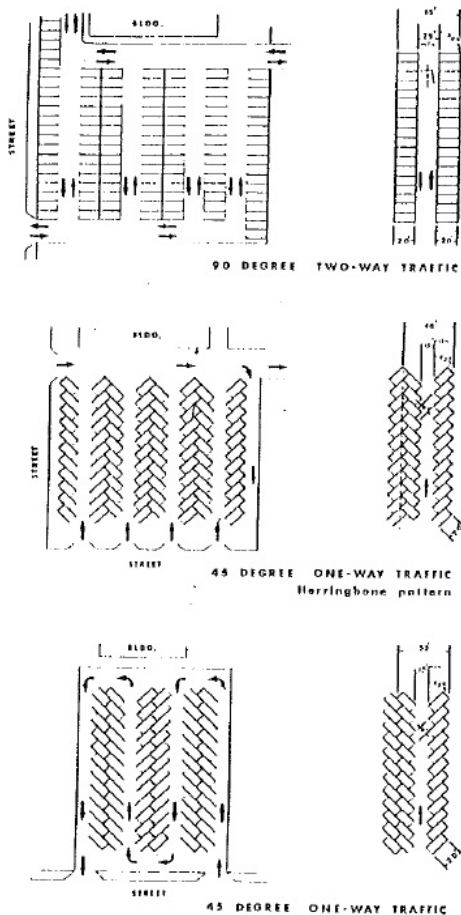
(Ord. 101. Passed 2-20-70; Ord. 2013-06. Passed 7-8-13; Ord. 2017-02. Passed 2-13-17.)

1262.02 PARKING DEVELOPMENT REGULATIONS.

Parking developed for three or more vehicles shall comply with the design and construction standards in this section.

(a) Parking Layout. Parking shall comply with the dimensions specified in the illustration below. The Village Council, upon receiving a recommendation from the Planning Commission, may allow modifications to these dimensional requirements where deemed appropriate because of the configuration of building(s) relative to the shape and size of the lot. Parking spaces located on asphalt or concrete shall be striped, based on the approved dimensions.

DESIRABLE PARKING LAYOUTS



(b) **Parking Plans.** A proposal for new, improved, or expanded off-street parking for any use other than single family residential shall be subject to the site plan review requirements in Section 1268.30. Parking shall be sealed by an engineer registered in the State of Michigan. They shall illustrate all relevant aspects of the project, including but not necessarily limited to: existing and proposed grades, drainage, and utilities; surfacing and base materials; and, layout of parking spaces.

(c) **Surfacing.** All parking, including maneuvering aisles, driveways, and approaches, shall be surfaced with either pavement (concrete or asphalt) or crushed limestone. Parking shall be graded and drained to properly dispose of surface water without draining onto adjoining property or across a public sidewalk. Parking shall not be located over a septic tank or tile field.

(d) **Lighting.** Lighting fixtures, if proposed, shall not exceed a height of 20 feet measured from the ground level to the centerline of the light source. Lighting fixtures shall be focused downward and shall be fully shielded to prevent glare and sky glow and minimize light trespass onto adjoining properties. Parking lot lighting shall emit no light above 90 degrees. Lighting shall be arranged as to reflect the light away from all residentially zoned properties. Lighting in the Historic District shall be subject to review and approval by the Historic District Commission. Lighting shall comply with the National Electrical Code.

(e) **Setbacks.** The following setbacks shall apply:

(1) In the Historic District, a minimum setback of five feet shall be required wherever a parking lot in a nonresidential district abuts a residential district.

(2) In areas not within the Historic District, a minimum setback of ten feet shall be required wherever a parking lot in a nonresidential district abuts a residential district.

(3) Parking in the front yard of an RO-1 or C-1 district shall not encroach into the road right-of-way. Parking along a street that is otherwise residentially-used and zoned, shall comply with the front yard setback requirement for the adjoining residential district. Existing parking spaces that do not comply with the requirements in this subsection shall be considered legally nonconforming.

(f) **Screening.** Screening shall be required wherever parking abuts a single family zoned district. Such screening shall comply with Section 1268.29. Screening may be located in the required setback described in subsection (e).

(g) **Curbs or Wheel Stops.** Curbs or wheel stops shall be provided at the foot of each space to prevent vehicles from driving onto lawns, landscape areas and sidewalks.

(h) **Ingress and Egress.** Adequate means of ingress and egress, shall be provided, which shall be subject to review by the Village Planner, Village Engineer, Police Chief and the appropriate road agency. The nearest edge of a driveway serving a parking lot shall be at least 20 feet from any adjoining residential district. Access to off-street parking that serves a non-residential use shall not be permitted across land that is zoned or used solely for residential purposes. Spaces backing directly onto a street shall be prohibited.

(i) **Maintenance.** Areas surrounding parking lots, including areas occupied by screening, shall be kept free from tall grass, weeds, rubbish and debris. Parking consisting of pavement shall be maintained with a hard, smooth, dust free surface.

(j) **Servicing, Sale, and Storage of Vehicles** Parking lots shall not be used for servicing or sale of vehicles, except that emergency service required to start vehicles shall be permitted. Vehicles shall not be parked or stored for continuous periods of more than 72 hours. A parking lot may not be used for the following:

- (1) Storage or parking of trailers, mobile homes, travel trailers, boats, boat trailers, or junked or wrecked vehicles of any type;
- (2) Storage of industrial equipment or material; or
- (3) A place to deposit refuse.

(k) Buildings. No buildings or structures shall be permitted, except one parking lot attendant building may be permitted, provided it does not exceed 25 feet in area and ten feet in height.

(l) Parking for the Physically Handicapped. Each parking lot that serves a building, except single-family units, shall have a number of level parking spaces, identified by an above-grade sign that indicates that spaces are reserved for physically handicapped people. Parking for the physically handicapped shall comply with State and Federal laws, as well as the adopted Building Code. The number of required barrier-free spaces is as follows:

Total Spaces in Parking Lot	Total Minimum Number of Accessible Parking Spaces	Required Number of Van-Accessible Spaces with 96" Wide Access Aisle
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	1
301 to 400	8	1
401 to 500	9	2

Regular barrier-free spaces shall be eight feet in width with a five-foot side aisle. Van accessible barrier-free spaces shall be eight feet in width with an eight-foot side aisle.

- (m) Directional Signs. Signs used to direct traffic to parking entrances and exits shall be permitted in accordance with Section 1474.10(l) of the Village Code.

(Ord. 101. Passed 2-20-70; Ord. 2013-04. Passed 5-13-13; Ord. 2017-02. Passed 2-13-17.)

1262.03 OFF-STREET LOADING REQUIREMENTS.

On the same lot with every building, structure or part thereof, erected and occupied for storage, goods display, department store, market, hospital, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

Such loading and unloading space, unless otherwise adequately provided for, shall be an area twelve feet by fifty feet, with fifteen-foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area (sq. ft.)	Loading and Unloading Spaces Required in Terms of Square Feet of Useable Floor Area
2,001 - 5,000	One space
5,001 - 20,000	One space plus one space for each 5,000 square feet in excess of 5,001 square feet.
Over 20,000	Four spaces plus one space for each 20,000 square feet in excess of 20,000 square feet.

No loading space shall be located closer than fifty feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a Residential District by a solid masonry wall or ornamental fence not less than six feet in height.

(Ord. 101. Passed 2-20-70.)

CHAPTER 1263

Residential Design Standards

- 1263.01 Purpose.
- 1263.02 General requirements.
- 1263.03 Design compatibility requirements.
- 1263.04 Accessory structures.

1263.01 PURPOSE.

The purpose of this chapter is to establish standards governing the design and appearance of all single-family residential structures, including mobile homes and manufactured housing, when developed on individual lots or home sites in the Village. It is the intent of these regulations to allow a mix of housing types and living styles in a manner that will not adversely affect the appearance and character of existing neighborhoods. Single-family

residential structure shall be erected or constructed in compliance with the following residential design standards.

(Ord. 2001-05. Passed 9-10-01.)

1263.02 GENERAL REQUIREMENTS.

(a) Area and Bulk Regulations. A residential structure, including any mobile home dwelling unit, shall comply with the minimum floor area requirements specified for the zoning district where such structure is located. Mobile homes shall comply with all regulations normally required for site-built housing in the zoning district in which it is located, unless specifically indicated otherwise herein.

(b) Foundation. Any residential structure, including a mobile home, shall be placed on a permanent foundation to form a complete enclosure under the exterior walls. The foundation shall be constructed in accordance with the Village Building Code. A mobile home shall be securely anchored to its foundation. The wheels, tongue and hitch assembly, and other towing appurtenances, shall be removed before attaching a mobile home to its permanent foundation.

(c) Other Regulations. Residential structures shall be constructed in compliance with applicable State, Federal, or local laws or ordinances, including the Michigan State Construction Code. Mobile homes shall comply with the most recent regulations specified by the United States Department of Housing and Urban Development, Mobile Home Construction and Safety Standards, 24 C.F.R. 3280, as amended.

(d) Location. For the purposes of this chapter, a mobile home or other manufactured housing type may be located on an individual lot in any of the zoning districts which allow for the development of single-family residential structures, subject further to the regulations contained herein relative to floor area, lot size, setback yards and the use and improvement of lots and structures.

(e) Floodplain. No dwelling unit, including mobile homes, shall be located within a floodplain, as defined and regulated in Chapter 1464 of these Codified Ordinances.

(f) Use. Mobile homes and other structures shall be used only for the purposes permitted in the zoning district in which they are located.

(g) Attachments. Any exterior attachments or extensions onto a dwelling unit, such as entry steps, porches and storage buildings, shall comply with the Village building code, shall be designed to be permanently attached to the ground and to the structures, and shall be comparable to steps, porches and storage buildings of existing homes with which the dwelling is to be compatible.

(h) Services. A residential structure shall be connected to a waste treatment and potable water supply system approved by the Village and the Oakland County Health Department.

(Ord. 2001-02. Passed 4-9-01.)

1263.03 DESIGN COMPATIBILITY REQUIREMENTS.

To ensure the compatibility in appearance with existing homes in the Village, dwelling units erected after the effective date of this chapter shall comply with the general requirements set forth in Section 1263.02 and with the following design and site standards:

(a) Roof Pitch. The pitch of the main roof shall have a minimum vertical rise of one foot for each four feet of horizontal run, and the minimum distance from the eaves to the ridge shall be ten feet, except where the customized architectural design dictates otherwise (e.g. French provincial, Italianate).

(b) Roof Drainage and Materials. Dwellings shall be designed with a minimum six-inch roof overhang on all sides or an eave with a roof drainage system that will collect and concentrate the roof discharge of storm water or snow away from the sides of the dwelling. The roof shall have wood shake, asphaltic or other shingles or other materials commonly used in standard residential construction in the vicinity, and meet the snow load standards for this portion of the State of Michigan, as specified by the applicable construction code requirements.

(c) Exterior Materials. The exterior siding of a mobile home or manufactured dwelling shall consist of materials that are generally acceptable for existing housing in the vicinity, provided that the reflection from such exterior surface shall be no greater than from white semi-gloss exterior enamel, and provided further that any such exterior is comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

(d) Dimensions. The dimensions and placement of dwellings shall be comparable to typical dimensions and placement of existing housing in the vicinity. Therefore, a dwelling shall be located on the lot so that the minimum width of the front elevation is no less than 34 feet and the minimum dimension along any side or rear elevation is no less than 24 feet. If there are any extensions or additions off of the front of the dwelling, the minimum width of any such secondary front elevation shall be 24 feet. Such dimensions shall be measured from the outer extremities and shall include additions to the main body of the home, such as living or recreation rooms, garages, carports, utility rooms, and the like, the front portions of which are within ten feet of the front of the main body of the dwelling.

(e) Perimeter Foundation Wall. Every dwelling shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that a manufactured dwelling is installed pursuant to the manufacturer's set-up instructions, such dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission, and shall have a perimeter wall as required above.

(f) Exterior Doors. Dwellings shall have no less than two exterior doors, which shall not be located on the same side of the building. Where required because of a difference in elevation, all exterior doors shall be provided with steps that are permanently attached to the building.

(g) Design Features. The design and position of exterior features of dwellings shall be compatible and in harmony with existing homes within 1,000 feet of the dwelling lot. The foregoing shall not be construed to prohibit innovative design concepts involving such features as solar energy, view, unique land contour, or relief from the common or standard design homes.

The compatibility of design and appearance shall be determined in the first instance by the Village Building Official upon review of the plans submitted for a particular dwelling. An applicant aggrieved by an adverse decision by the Building Official may appeal to the Board of Appeals.

(Ord. 2001-05. Passed 9-10-01.)

1263.04 ACCESSORY STRUCTURES.

Detached accessory structures, as permitted in the Zoning Ordinance shall be built consistent with standards and requirements of the Village Building Code. If the accessory structure is attached to the house it shall be similar in material and integrity and meet the construction standards of the HUD National Manufactured Housing Construction and Safety Standards Act of 1974 or the Michigan Construction Code, as applicable. The dwelling shall not have a detached accessory structure or garage if attached garages are typical to homes with which the dwelling is to be compatible.

(Ord. 2001-05. Passed 9-10-01.)

Nonconformities

EDITOR'S NOTE: This chapter, previously titled "Nonconforming Uses and Buildings", was repealed and re-enacted in its entirety by Ordinance 97-45, passed March 17, 1997.

- 1264.01 Statement of intent.
- 1264.02 Nonconforming lots.
- 1264.03 Nonconforming uses of land.
- 1264.04 Nonconforming structures.
- 1264.05 Nonconforming uses of structures and land.
- 1264.06 Alterations, repairs and maintenance.
- 1264.07 Special exceptions as conforming uses.
- 1264.08 Village removal of nonconforming uses and structures.
- 1264.09 Change in tenancy or ownership.
- 1264.10 Unlawful nonconformities.
- 1264.11 Records of nonconforming uses and structures.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Certificates of occupancy - see P. & Z.1242.04

Wireless telecommunication facilities as nonconforming structures - see P. & Z.1265.04(e)

Supplementary regulations - see P. & Z. Ch.1268

1264.01 STATEMENT OF INTENT.

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Zoning Code or a subsequent amendment hereto, but were lawfully established before the time of adoption of this Zoning Code or such amendment. Such nonconformities are declared to be incompatible with the current or intended use of land in the district in which they are located.

It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as the basis to justify adding other structures or uses prohibited elsewhere in the same district.

Accordingly, the purpose of this chapter is to establish regulations that govern the completion, restoration, reconstruction, extension, or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in plans, construction, or the designated use of any building on which actual construction was lawfully initiated prior to the effective date of adoption or amendment of this Zoning Code and where actual construction is ongoing. "Actual construction" is hereby defined to include the positioning and placement of construction materials in permanent positions and their fastening in a permanent manner. If demolition or removal of an existing building in compliance with Chapter 1460 of these Codified Ordinances has been substantially initiated preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently performed until completion of the building involved.

(Ord. 97-45. Passed 3-17-97.)

1264.02 NONCONFORMING LOTS.

A nonconforming lot is a lot of record existing at the effective date of this Zoning Code that does not meet the minimum area or lot dimensional requirements of the district in which the lot is located. The following regulations shall apply to any nonconforming lot:

(a) Use of Nonconforming Lot Any nonconforming lot shall be used only for a use permitted in the district in which it is located.

(b) Single-Family Dwellings. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Code, a single-family dwelling and customary accessory buildings may be erected on a single lot of record existing at the effective date of adoption of this Zoning Code or an amendment hereto. This provision shall apply even though such single-family lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that:

- (1) The lot is in conformance with all other applicable yard and lot requirements for the district in which it is located.
- (2) The lot cannot be reasonably developed for a single-family dwelling without such deviations.
- (3) The lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health and safety.

(c) Variation From Area or Bulk Requirements. If the use of a nonconforming lot requires a variation from the bulk or setback requirements, then such use shall be permitted only if a variance is granted by the Board of Zoning Appeals.

(d) Contiguous Lots Under Common Ownership. When two or more contiguous lots are under common ownership and at least one of the lots is nonconforming at the time of adoption or subsequent to adoption of this provision, then the nonconforming lot or lots shall be considered to be combined with one or more of the other contiguous lots as necessary to eliminate, or reduce, the nonconformity. The combined lots shall be considered a single lot for purposes of compliance with the remaining provisions of this section, including for purposes of compliance with the lot area and lot width requirements. The combined lots shall not be used, occupied or sold in such a way as to diminish compliance with the provisions of this ordinance. The combined lots shall not be divided except in full compliance with the requirements of the subdivision regulations of Chapter 1255 herein and with the Michigan Land Division Act. This provision shall not apply to contiguous lots in single ownership where each of the lots is occupied by a dwelling existing at the time of adoption of this paragraph. The Zoning Board of Appeals shall not grant a variance to the requirements of this provision.

(Ord. 97-45. Passed 3-17-97. Ord. 2004-02. Passed 1-12-04.)

1264.03 NONCONFORMING USES OF LAND.

A nonconforming use of land occurs when property is used for a purpose or in a manner inconsistent with the use regulations applicable to the district in which the property is located.

Where, on the effective date of this Zoning Code, or the effective date of an amendment hereto, a lawful use of land exists that is made no longer permissible under the terms of this Zoning Code, as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) Expansion of Use. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code.
- (b) Moving. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Zoning Code.
- (c) Discontinuation of Use. If such nonconforming use of land ceases for any reason for a period of more than ninety days, any subsequent use of such land shall conform to the regulations specified by this Zoning Code for the district in which such land is located. In applying this subsection to seasonal uses, the time during the off-season shall not be counted, provided that the off-season time for such uses is reported to the Village.

(Ord. 97-45. Passed 3-17-97.)

1264.04 NONCONFORMING STRUCTURES.

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the regulations applicable to the district in which the property is located.

Where a lawful structure exists on the effective date of adoption or amendment of this Zoning Code that could not be built under the terms of this Zoning Code, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) Expansion of Structure. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structure may be enlarged or altered in a way which does not increase nonconformity.
- (b) Damage to Structure. Should such structure be destroyed by any means to an extent of more than fifty percent of its estimated cash value, it shall be reconstructed only in conformity with the provisions of this Zoning Code. The estimated cash value shall be equal to the result of multiplying the state equalized valuation recorded in the tax roll by a factor of two.
- (c) Moving. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

(Ord. 97-45. Passed 3-17-97.)

1264.05 NONCONFORMING USES OF STRUCTURES AND LAND.

If a lawful use of a structure, or of a structure and land in combination, exists on the effective date of adoption or amendment of this Zoning Code that would not be permitted in the district under the terms of this Zoning Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) Expansion of Structure. No existing structure devoted to a use not permitted by this Zoning Code in the district in which it is located shall be enlarged extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (b) Expansion of Use. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such building.
- (c) Change to Another Nonconforming Use. If no structural alterations are made, any nonconforming use of a structure, or a structure and premises, may be changed to another nonconforming use, provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with the purpose and intent of this Zoning Code.

Where a nonconforming use of a structure, or a structure and land, is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use, nor shall the Board of Zoning Appeals grant a variance from this subsection.

- (d) Change to Permitted Use. Any structure, or a structure and land in combination, in or upon which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which it is located, and the nonconforming use may not thereafter be resumed.
- (e) Discontinuation of Uses. If a nonconforming use of a structure, or a structure and land in combination, ceases for any reason for a period of six months, the structure, or the structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. In applying this subsection to seasonal uses, the time off-season shall not be counted, provided that the off-season time for such uses is reported to the Village.
- (f) Moving. No building in which a nonconforming use exists shall be moved to any other part of the lot or parcel upon which it was located on the effective date of the adoption or amendment of this Zoning Code.

(g) Removal of Structure. Where a nonconforming use status applied to a structure and premises in combination, the removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. 97-45. Passed 3-17-97.)

1264.06 ALTERATIONS, REPAIRS AND MAINTENANCE.

(a) Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs or on repair or replacement of non-loadbearing walls, fixtures, wiring or plumbing to an extent not exceeding 100 percent of the assessed value of the building as determined by the Assessor, provided that the cubic content of the building as it existed at the time of passage or amendment of this Zoning Code shall not be increased.

(b) Alterations That Decrease Nonconformity. Any nonconforming structure or any structure or portion thereof containing a nonconforming use may be altered if such alterations serve to decrease the nonconforming nature of the structure or use. The Board of Zoning Appeals shall determine if a proposed alteration will decrease the nonconforming nature of the structure or use.

(c) Protecting Public Safety. Repairs or maintenance deemed by the Building Official as necessary to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful

due to lack of maintenance and repairs and is declared as such by the Building Official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which is located.

(Ord. 97-45. Passed 3-17-97.)

1264.07 SPECIAL EXCEPTIONS AS CONFORMING USES.

Any use for which a special exception is permitted as provided in this Zoning Code shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in the district in which it is located.

(Ord. 97-45. Passed 3-17-97.)

1264.08 VILLAGE REMOVAL OF NONCONFORMING USES AND STRUCTURES.

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Village, pursuant to Section 208 of Act 110 of the Public Acts of 2006, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

(Ord. 97-45. Passed 3-17-97; Ord. 2006-03. Passed 11-13-06.)

1264.09 CHANGE IN TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses, except in conformity with the provisions of this chapter.

(Ord. 97-45. Passed 3-17-97.)

1264.10 UNLAWFUL NONCONFORMITIES.

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

(Ord. 97-45. Passed 3-17-97.)

1264.11 RECORDS OF NONCONFORMING USES AND STRUCTURES.

The Building Department shall maintain records of nonconforming uses and structures as accurately as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this chapter. Failure on the part of a property owner to provide the Village with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

(Ord. 97-45. Passed 3-17-97.)

CHAPTER 1265

Wireless Telecommunication Facilities

- 1265.01 Purpose.
- 1265.02 Permitted locations.
- 1265.03 General regulations and standards.
- 1265.04 Abandonment; removal.
- 1265.05 Radio frequency emissions.
- 1265.06 Location in Historic District.
- 1265.07 Review process.
- 1265.99 Penalty.

CROSS REFERENCES

General Municipal authority re licensing - see CHTR. Ch.II, § 2(8), (9)

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Television and radio generally - see M.C.L.A. 484.301 et seq., 750.507 et seq.

Cable communications - see B.R. & T.Ch. 820

Supplementary regulations - see P. & Z. Ch.1268

1265.01 PURPOSE.

It is the general purpose and intent of the Village of Franklin to carry out the will of the United States Congress by authorizing facilities needed to operate wireless telecommunication systems. However, it is the further purpose and intent of the Village of Franklin to provide for such authorization in a manner which will preserve and protect the integrity, character, property values, and aesthetic quality of neighborhoods and the community at large, by locating such facilities to minimize or mitigate their visual and environmental impacts.

This chapter is designed to encourage applicants to co-locate their wireless telecommunication facilities on existing structures, whenever possible. New ground mounted facilities are to be permitted only when co-location on existing structures is determined to be infeasible.

Therefore, it is the intent of the Village of Franklin to exercise its authority granted by law to regulate the placement, construction and modification of wireless telecommunication facilities.

1265.02 PERMITTED LOCATIONS.

Subject to the requirements and regulations of this chapter, and further subject to site plan review and approval within Section 1268.30 and the general regulations set forth in Section 1265.03, below, wireless telecommunication facilities shall be permitted in all zoning districts.

(a) Utility Pole. Wireless telecommunication facilities may be located on an existing, new or replacement utility pole located within a public or private right-of-way or public utility easement; sites owned, leased or operated by the Village or other governmental agencies; parks or other large, permanent open spaces; cemeteries; or public or private school sites. The height of the pole shall not exceed 70 feet, except that the Village Council may permit height of up to ten feet above the tree canopy height pursuant to Section 1265.03(b)(1), below.

(b) Essential Services. Wireless telecommunication facilities located on publicly owned or operated sites and incorporated into an emergency communication network as "essential services" in accordance with Sections 1240.08 and 1268.24.

(c) Existing Structures. Wireless telecommunication facilities may be located on existing structures, including but not limited to buildings, towers, existing telecommunication facilities, poles, and related facilities provided that the installation does not reduce the character and structural integrity of those structures. However, wireless telecommunication facilities shall not be located on any residential dwelling or residential accessory building.

(d) Ground Mounted Facilities. A new ground mounted wireless telecommunication facility may be permitted as a special approval use subject to the special approval use procedure set forth in Sections 1265.07 and 1268.32 and the feasibility considerations of this subsection.

(1) Feasibility: Burden of Proof. The applicant for a new ground mounted wireless telecommunication facility shall have the burden of proving it is not feasible to locate its wireless telecommunication facility on an existing structure. A proposal for a new ground mounted wireless telecommunication facility shall not be approved unless it is established to the Village's reasonable satisfaction by the applicant that the proposed wireless telecommunication facility cannot feasibly be colocated or installed on an existing structure due to one of the following reasons:

A. The proposed facility would exceed the structural capacity of the existing structure, as documented by a State licensed and registered professional engineer, and the existing structure cannot be reinforced, modified or replaced to accommodate the proposed or equivalent facility.

B. The proposed facility would cause interference that would materially affect the functionality of other existing or planned equipment at the existing structure as documented by a State licensed and registered professional engineer, and the interference cannot be prevented by any other reasonable means.

C. Existing structures within the coverage area cannot accommodate the proposed facility at a height necessary for the proposed facility's coverage area and capacity needs, as documented by a State licensed and registered professional engineer.

D. Other technical reasons that make it infeasible to locate the proposed facility upon an existing structure.

(2) Feasibility. Location on an existing structure shall be deemed to be "feasible," for the purposes of this section, where all of the following are met:

A. The owner of an existing structure under consideration will accept market rent or other market compensation for location of the proposed wireless telecommunication facility on the existing structure.

B. The existing structure under consideration, with reasonable modification, can provide adequate structural support.

C. Location on an existing structure under consideration is technologically reasonable, and the location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas and the like.

D. The height of the existing structure being considered will not be increased more than 20 feet or 10% of its original height, whichever is greater.

(3) Camouflaged. If the applicant demonstrates to the Village's satisfaction that it is not feasible to locate on an existing structure, a new ground mounted wireless telecommunication facility shall be designed to be concealed, disguised or camouflaged to the fullest extent reasonably possible, including, but not limited to, use of compatible building materials and colors, screening, landscaping and placement among trees.

(4) Location of Ground Mounted Facilities. New ground mounted wireless telecommunication facilities shall not be located within 200 feet of a residential dwelling. This requirement shall be in addition to any other setback required in this chapter.

(Ord. 98-41. Passed 3-16-98; Ord. 2004-04. Passed 12-13-04; Ord. 2013-10. Passed 10-14-13.)

1265.03 GENERAL REGULATIONS AND STANDARDS.

All applications for wireless telecommunication facilities shall be reviewed in accordance with the following standards and conditions, and, if such facilities are approved, they shall be constructed and maintained in accordance with these standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission and/or Village Council in their discretion.

(a) Application Requirements. All applications to locate, construct or modify any part or component of a wireless telecommunication facility in the Village shall include the following:

(1) A site plan showing the location, size, screening and design of all buildings and structures, including fences, the location and size of outdoor equipment, the location, number, and species of proposed landscaping, and construction drawings for all proposed wireless telecommunication facilities.

(2) Demonstration by the applicant of the need for the proposed wireless telecommunication facility based upon the following factors:

A. Proximity to an interstate highway or major thoroughfare.

B. Areas of population concentration.

C. Concentration of commercial, industrial, and/or other business centers.

D. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.

E. Topography of the proposed location in comparison to other available sites.

F. Other specifically identified reasons creating a need for the facility.

(3) The reason or purpose for the placement, construction or modification, with specific reference to the applicant's coverage, capacity and/or quality needs, goals and objectives.

(4) The existing form of technology being used and any anticipated or proposed changes to that technology.

(5) The proposed or existing service area of the facility, and its height, type and signal power.

(6) The nature and extent of the applicant's ownership or lease interest in the property or structure upon which facilities are proposed for placement, construction or modification.

(7) The identity and address of all owners and other persons with a legal interest in the property or structure upon which facilities are proposed for placement, construction or modification.

(8) A map showing existing and known proposed wireless telecommunication facilities within the Village, and further showing existing and proposed wireless telecommunication facilities within areas outside of the Village boundaries, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. The map shall also show existing structures of the same approximate height located within one-half mile of the proposed site which could feasibly accommodate colocation of the applicant's proposed wireless telecommunication facility. Any such information which is a trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy in accordance with the Michigan Open Meetings Act, M.C.L.A. 15.243(1)(g).

(9) For each location identified on the applicant's survey maps and drawings, the following information:

A. The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified;

B. Whether property owner approvals exist or have been requested; and

C. Whether the location could be used by the applicant for placement of a wireless telecommunication facility, or, if not, a disclosure of the technological considerations involved, with a specific explanation of why the location would restrict or prevent the applicant from providing wireless telecommunication services.

(10) A certification by a State licensed and registered professional engineer regarding the manner in which the proposed structure will fall. The certification will be utilized, along with other criteria, such as applicable regulations for the zoning district in question, in determining appropriate setbacks to be required for the structure and other facilities.

(11) A description of the security to be posted, in accordance with Section 1265.04(d), at the time of receiving a building permit for the wireless telecommunication facility to ensure removal of the facility when it has been abandoned or is no longer needed. The security shall, at the election of the Village, be in the form of cash, surety bond, or irrevocable bank letter of credit, or an agreement in a form approved by the Village Attorney and recordable at the Oakland County Register of Deeds, committing the applicant and owner of the property to remove the facility in a timely manner as required under this chapter, with the further provision that the applicant and owner shall be responsible for paying any costs and attorney fees incurred by the Village in securing removal.

(12) Included with the site plan for a new ground mounted facility, a landscape plan. The purpose of landscaping is to provide screening for the wireless telecommunication facility, accessory buildings and enclosures. Any fencing shall conform to Section 1268.28.

(13) Evidence of approval from the Federal Aviation Administration (FAA) or proof that such approval is not required.

(14) The name, address and telephone number of the person to contact for engineering, maintenance, security and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

(b) Standards Applicable to Ground Mounted Facilities For proposed ground mounted wireless telecommunication facilities, the applicant shall further demonstrate that the wireless telecommunication facility and/or support structure will not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare, and that the wireless telecommunication facility will be located and designed to be harmonious with the surrounding areas and to be aesthetically and architecturally compatible with the natural environment and the architectural, historic and residential character of the surrounding area, and will not interfere with television, telephone and radio reception in nearby residential areas.

(1) Maximum height.

A. The maximum height of any new ground mounted wireless telecommunication facility shall be the minimum height demonstrated to be necessary by the applicant for reasonable communication, and shall not exceed 70 feet, except that the Village Council may approve a greater height up to ten feet above the average tree canopy height within 150 feet of the facility, if the Council deems the increased height to be necessary or appropriate, based on the following considerations:

1. Effects of topography, terrain and nearby tree canopy on transmission or reception ability.
2. Construction and design of facilities in regard to safety regulations and fall zone requirements.
3. Visual impact on surrounding properties and existing or proposed screening and buffering.
4. Minimization or elimination of need or demand for additional facilities due to increased colocation ability.

B. Any accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the zoning district.

(2) Setback. The setback from the lot line of a ground mounted wireless telecommunication facility shall be equal to the fall zone which shall be no less than the height of the structure, unless it can be demonstrated and certified by a State licensed and registered professional engineer, to the satisfaction of the Village's Engineer or consultant, that the area within which there is a potential hazard from falling ice or debris or collapsing material is less than the height of the structure. Setbacks for equipment, support shelter or structures, and fence enclosures shall be in accordance with the required setbacks for the main or principal buildings as provided in the schedule of regulations for the zoning district in which the ground mounted wireless telecommunication facility is located.

(3) Access. There shall be unobstructed access to the ground mounted wireless telecommunication facility, for operation, maintenance, repair and inspection purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as the location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless telecommunication facility; the location of buildings and parking facilities, proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will be needed to access the site.

(4) Land Division. The division of land for the purpose of locating a ground mounted wireless telecommunication facility is prohibited unless all zoning requirements and conditions are met.

(c) Standards Applicable to Location on Existing Structure An applicant may locate a wireless telecommunication facility on an existing support structure, including a structure, building, tower or pole, provided it shall not increase the height of the existing structure by more than 20 feet and shall be camouflaged. Setback regulations of the zoning district shall apply. Where a wireless telecommunication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that an accessory building conforms with all district requirements for accessory buildings, including yard setbacks and building height.

(d) Additional Standards Applicable to All Wireless Telecommunication Facilities

(1) Color. The Planning Commission shall, with respect to the color of the wireless telecommunication facility and all accessory buildings, review and approve the same so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Metal structures shall be constructed of, or treated with, corrosion-resistant material. It shall be the responsibility of the applicant to maintain the wireless telecommunication facility in a neat and orderly condition.

(2) Construction Code Compliance. Wireless telecommunication facilities shall be constructed in accordance with all applicable construction codes and shall include the submission of a certification from a State-licensed and registered professional engineer that the structure will withstand high winds and foreseeable impacts, and that the likelihood of failure or collapse is insignificant; and shall also include a soils report from a geotechnical engineer licensed in the State. The soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), and the Michigan Aeronautics Commission shall be noted.

(3) Maintenance Plan. A maintenance plan, and any applicable maintenance agreement, shall be presented as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably diligent standard.

(4) Camouflage.

A. Camouflage for facilities on existing structures - roof mounts. When a wireless telecommunication facility extends above the roof height of a structure on which it is mounted, the facility shall be disguised, concealed or camouflaged within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be set back from the front facade in order to minimize their visual impact.

B. Camouflage for facilities on existing structures - side mounts. Wireless telecommunication facilities that are side mounted shall blend with the existing structure's architecture and, if individual antenna panels are more than five square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the existing structure.

C. Camouflage for ground mounted facilities. All ground mounted wireless telecommunication facilities shall be surrounded by a dense vegetative buffer to screen the view of the facility in all directions. This buffer must be existing on the subject property planted on site, or be within a landscape easement on an adjoining site. The Village Council shall have the authority to decrease, relocate or alter the required buffer based on site conditions. The vegetative buffer area shall be protected by a landscape easement or be within the area of the applicant's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, and that dead or dying trees shall be replaced.

(5) Equipment Shelters. Equipment shelters for wireless telecommunication facilities shall be designed consistent with one of the following design standards:

A. Equipment shelters shall be located in underground vaults;

B. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the wireless telecommunication facility;

C. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed shelter and/or wooden fence. The Planning Commission shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or

D. If mounted on a rooftop, the equipment shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

(6) Lighting and Signs.

A. Lighting.

1. The mounts of personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA).

2. Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles.

B. Signs. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of Chapter 1474 of the Village Code.

(7) Antenna Types. Any antenna array placed upon an existing or proposed ground mount, utility pole or transmission line mount shall extend no more than two feet in any direction from the center of the pole or mount. A larger diameter antenna array may be permitted after a finding by the Village Council that the visual impacts of a larger antenna array are negligible.

(8) Ground and Roof Mounts. All ground mounts shall be of a mast type mount. Lattice towers, guyed towers and roof-mounted monopoles are expressly prohibited.

(9) Hazardous Waste. No hazardous waste shall be discharged on the site of any wireless telecommunication facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

(Ord. 98-41. Passed 3-16-98; Ord. 2003-06. Passed 11-10-03; Ord. 2004-04. Passed 12-13-04; Ord. 2013-10. Passed 10-14-13.)

1265.04 ABANDONMENT; REMOVAL.

(a) Obsolescence and Removal. When a wireless telecommunication facility has not been used for 180 days or more, the entire wireless telecommunication facility, or that portion of a wireless telecommunication facility made obsolete by new technology, shall be removed by the users and/or owners of the wireless telecommunication facility. For the purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse. The situations in which removal of a wireless telecommunication facility is required may be applied and limited to a portion of the facility.

(b) Demolition Permit. Upon the occurrence of one or more of the events requiring removal, the property owner or person who had last used the wireless telecommunication facility shall immediately apply for and secure any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the wireless telecommunication facility.

(c) Removal by Village. If the required removal of the wireless telecommunication facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the Village may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected and/or reinforced from or under the security posted at the time application was made for establishing the wireless telecommunication facility.

(d) The applicant shall, at the time of receiving a building permit for the wireless telecommunication facility, post security with the Village in a form and amount satisfactory to the Village to guarantee the removal of abandoned or obsolete telecommunication facilities and restoration of the site. The amount of the security shall be estimated removal cost, plus 25%.

(Ord. 98-41. Passed 3-16-98; Ord. 2004-04. Passed 12-13-04; Ord. 2013-10. Passed 10-14-13.)

1265.05 RADIO FREQUENCY EMISSIONS.

Wireless telecommunication facilities shall comply with applicable Federal and State standards relative to the environmental effects of radio frequency emissions.

(Ord. 98-41. Passed 3-16-98; Ord. 2004-04. Passed 12-13-04; Ord. 2013-10. Passed 10-14-13.)

1265.06 LOCATION IN HISTORIC DISTRICT.

Wireless telecommunication facilities and support structures proposed for location in a designated Historic District must also be reviewed and approved by the Franklin Historic District Commission in accordance with Chapter 1230.

(a) Any wireless telecommunication facility located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

(b) Any alteration made to an historic structure to accommodate a wireless telecommunication facility shall be fully reversible.

(c) Wireless telecommunication facilities located in an Historic District shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

(Ord. 98-41. Passed 3-16-98; Ord. 2004-04. Passed 12-13-04; Ord. 2013-10. Passed 10-14-13.)

1265.07 REVIEW PROCESS.

(a) All applications for new ground mounted wireless telecommunication facilities or for wireless telecommunications facilities located on structures that have not previously supported wireless telecommunications facilities shall be considered special approval uses and shall be required to obtain special approval as described in Section 1268.32.

(1) After an application for special approval review has been filed with the Village, Village staff or consultants shall have 14 days to determine whether the application is complete. If, in those 14 days, the Village determines that the application is incomplete and notifies the applicant of the deficiencies, the applicant shall fulfill all deficiencies.

(2) If the Village fails to notify the applicant that the application is not complete within 14 days, then the application shall be deemed complete and the Village Council shall have 90 days to approve or deny the application. If the Village Council has not acted within 90 days, the application will be deemed approved.

(3) When the application is complete, the Village Council shall have 90 days to approve or deny the application. If the Village Council has not acted within 90 days, the application will be deemed approved.

(b) All applications to modify existing wireless telecommunications facilities, or to co-locate a wireless telecommunications facility on a structure with an existing wireless telecommunication facility, shall be reviewed administratively by Village staff or consultants.

(1) After an application for a modification or co-location has been filed with the Village, Village staff or consultants shall have 14 days to determine whether the application is complete. If, in those 14 days, the Village determines that the application is incomplete and notifies the applicant of the deficiencies, the applicant shall fulfill all deficiencies. If the Village fails to notify the applicant of deficiencies with 14 days, then the application shall be deemed complete.

(2) When the application is complete, the Village shall have 60 days to issue an approval of the application. If the Village has not acted with 60 days, the application will be deemed approved.

(c) Application fees for wireless telecommunications facilities of any type shall not exceed one thousand dollars (\$1,000.00).

(Ord. 2013-10. Passed 10-14-13.)

1265.99 PENALTY.

Any person who violates this chapter shall be guilty of a misdemeanor and shall be subject to the penalty, sanctions and remedies provisions of Section 202.99.

(Ord. 2013-10. Passed 10-14-13.)

CHAPTER 1266

Natural Buffer Zones

1266.01 Intent and purpose.

1266.02 Maintenance of setbacks.

1266.03 Natural feature defined.

1266.04 Authorization and prohibition.

1266.05 Exemptions.

1266.06 Application form.

1266.07 Setback standards.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Wetlands and watercourses - see P. & Z. Ch.1226

1266.01 INTENT AND PURPOSE.

It is the intent of this chapter to require a minimum setback from natural features and to regulate property within such setback in order to prevent physical harm, impairment and/or destruction of or to a natural feature. It has been determined that, in the absence of such a minimum setback, intrusions in or onto natural features would occur, resulting in harm, impairment and/or destruction of natural features contrary to the public health, safety and general welfare. The regulation provided for in this chapter is based on the police power for the protection of the public health, safety and welfare,

including the authority granted in the Michigan Zoning Enabling Act.

It is the purpose of this chapter to establish and preserve minimum setbacks from natural features in order to recognize and make provision for the special relationship, interrelationship and interdependency regarding physical location, plant species, animal species and an encouragement of diversity and richness of plant and animal species; over land and subsurface hydrology; water table; water quality; and erosion or sediment deposition.

(Ord. 191. Passed 6-13-94; Ord. 2006-03. Passed 11- 13-06.)

1266.02 MAINTENANCE OF SETBACKS.

A natural feature setback shall be maintained in relation to all areas defined in this chapter as being a "natural feature," unless and to the extent that it is determined to be in the public interest not to maintain such a setback.

(Ord. 191. Passed 6-13-94.)

1266.03 NATURAL FEATURE DEFINED.

As used in this chapter, "natural feature" means a wetland and/or a watercourse.

(Ord. 191. Passed 6-13-94.)

1266.04 AUTHORIZATION AND PROHIBITION.

(a) The natural feature setback shall be an area or feature with boundaries and limitations determined in accordance with the standards and provisions of this chapter in relation to respective types of natural features.

(b) In conjunction with the review of plans submitted for authorization to develop property or otherwise undertake an operation in, on or adjacent to a natural feature, applicable natural feature setbacks shall be determined and authorizations and prohibitions established by the body undertaking the plan review.

(c) Within an established natural feature setback, unless and only to the extent determined to be in the public interest by the body undertaking plan review, there shall be no deposit of any material, including structures; removal of any soils, minerals and/or vegetation; dredging, filling or land balancing; and/or constructing or undertaking seasonal or permanent operations. This prohibition shall not apply with regard to those activities exempted from this prohibition in Section 1266.05.

(d) In determining whether proposed construction or operations are in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or other operation, taking into consideration local, State and national concern for the protection and preservation of the natural feature in question. If, as a result of such balancing, there remains a debatable question as to whether the proposed project and/or operation is clearly in the public interest, authorization for the construction and/or operation within the natural feature setback shall not be granted. The following general criteria shall be applied in undertaking this balancing test:

- (1) The relative extent of the public and private need for the proposed activity.
- (2) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
- (3) The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides.
- (4) The probable impact of the proposed construction and/or operation in relation to the cumulative effect created by other existing and anticipated activities in the natural feature to be protected.
- (5) The probable impact on recognized historic, cultural, scenic, ecological or recreational values, and on fish, wildlife and the public health.
- (6) The size and quantity of the natural feature setback being considered.
- (7) The amount and quantity of the remaining natural feature setback.
- (8) Proximity of the proposed construction and/or operation in relation to the natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected.
- (9) Economic value, both public and private, of the proposed construction and/or operation, and economic value, both public and private, if the proposed construction and/or operation were not permitted.
- (10) The necessity for the proposed construction and/or operation.

(Ord. 191. Passed 6-13-94.)

1266.05 EXEMPTIONS.

If, and to the extent that, the Municipality is prohibited by its ordinances and/or law from regulating the proposed activity in or on the respective natural feature, then regulation under this chapter shall be exempted.

(Ord. 191. Passed 6-13-94.)

1266.06 APPLICATION FORM.

Application for plan review consistent with this chapter shall be made on forms as approved by the Franklin Village Council.

(Ord. 191. Passed 6-13-94.)

1266.07 SETBACK STANDARDS.

Unless otherwise determined by the body undertaking the plan review, the following setbacks shall apply:

- (a) A twenty-five foot setback from the boundary or edge of a wetland, as defined and regulated in Chapter 1226.
- (b) A twenty-five foot setback from the ordinary high water mark of a watercourse, including, from a natural or artificial lake, pond or impoundment, river, stream or creek which may or may not be serving as a drain as defined by Act 40 of the Public Acts of 1956, as amended, or any other body of water which has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
- (c) A setback distance determined during plan review to be reasonably required in order to prevent probable and unreasonable physical intrusion in or onto a protected natural feature, taking into consideration degree of slope, soil type, the nature and type of activities anticipated to impact upon the natural feature and the nature and type of the natural feature to be protected, provided, in all events, that the setback shall not be greater than twenty-five

feet. For purposes of this provision, unreasonable physical intrusion shall be deemed to be a physical intrusion which would be damaging, impairing and/or undermining to the usefulness and/or function of the natural feature. Such unreasonable physical intrusions may include an architectural feature of a dwelling or accessory building, including porches and decks, or playground equipment and other similar structures.

(Ord. 191. Passed 6-13-94.)

CHAPTER 1267

Condominium Development Standards

- 1267.01 Definitions.
- 1267.02 Intent.
- 1267.03 Applications; required information.
- 1267.04 Area, height and bulk requirements.
- 1267.05 Streets and easements.
- 1267.06 Requirements and standards for single-family site condominiums.
- 1267.07 Preliminary review and approval of plans.
- 1267.08 Final review and approval requirements.
- 1267.09 Final review and approval procedures.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Conflicts of laws - see P. & Z. 1240.03, 1240.05

Compliance required - see P. & Z. 1240.04

Interpretation - see P. & Z. 1240.05

Board of Zoning Appeals - see P. & Z. Ch.1244

Number of dwelling units - see P. & Z.1252.15

Dwelling lots - see P. & Z. 1268.05

Alterations and additions to existing buildings and structures in flood hazard areas - see B. & H.1464.09

1267.01 DEFINITIONS.

As used in this chapter:

(a) "Condominium" means a plan or development project consisting of not less than two condominium units, as regulated by the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended.

(b) "Condominium unit" means a portion of a condominium project as regulated by the Michigan Condominium Act, which is designed and intended for separate ownership and use, as described in the condominium master deed, regardless of whether the unit is intended for residential or any other type of use. (Ord. 95-29. Passed 2-13-95.)

1267.02 INTENT.

It is the intent of this chapter to provide regulatory standards for condominiums and site condominiums similar to those regulatory standards required for projects developed as subdivisions under other forms of ownership within a zoning district. This chapter is not intended to prohibit new condominium developments or treat a proposed or existing condominium project differently than a project or development under another form of ownership.

(Ord. 95-29. Passed 2-13-95.)

1267.03 APPLICATIONS; REQUIRED INFORMATION.

For all condominium projects within the Village, a person intending to develop a condominium project shall file with the Village Clerk, concurrently with the notice required to be given to the Village pursuant to Section 71 of the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended, being M.C.L.A. 559.171, the information required for site plan review as described in Section 1268.30 and additional information required by Section 66 of the Michigan Condominium Act.

(Ord. 95-29. Passed 2-13-95.)

1267.04 AREA, HEIGHT AND BULK REQUIREMENTS.

The areas and setbacks required for condominium buildings shall be based on the density provisions contained in the Schedule of Regulations set forth in Appendix B following the text of this Zoning Code.

(Ord. 95-29. Passed 2-13-95.)

1267.05 STREETS AND EASEMENTS.

(a) All public and private streets servicing a condominium shall comply with all street requirements found in Village regulations pertaining to streets and driveways, including all necessary easements granted to the Village for constructing, operating, inspecting, maintaining, repairing, altering, replacing or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including, but not limited to, conveyance of sewage, water and storm water runoff across, through and under the property subject to said easement, and excavating and filling ditches

and trenches necessary for the location of said structures. Streets and easements shall be designed so as to be consistent with the requirements specified in the Subdivision Regulations.

(b) The Planning Commission may require submittal of traffic engineering studies in the event proposed condominium streets will significantly alter or deter existing traffic flow on existing Village streets or County roads. Alternative methods of providing access to a proposed condominium shall be required by the Planning Commission if the traffic engineering studies indicate the proposed condominium streets will adversely affect the public health, safety and welfare.

(Ord. 95-29. Passed 2-13-95.)

1267.06 REQUIREMENTS AND STANDARDS FOR SINGLE- FAMILY SITE CONDOMINIUMS.

Single-family site condominiums shall be subject to all requirements and standards of the applicable zoning district where the site is located. Each condominium unit for a single-family dwelling shall comply with the minimum lot area and dimensional requirements specified for a lot in the subject zoning district.

(Ord. 95-29. Passed 2-13-95.)

1267.07 PRELIMINARY REVIEW AND APPROVAL OF PLANS.

All condominium plans must be reviewed and considered for approval by the Planning Commission using the standards for Site Plan Review set forth in Section 1268.30. The plans prepared for Planning Commission consideration shall include all information specified in Section 1268.30 and any additional information required by Section 66 of the Michigan Condominium Act. (Ord. 95-29. Passed 2-13-95.)

1267.08 FINAL REVIEW AND APPROVAL REQUIREMENTS.

Subsequent to approval of the site plan in accordance with the preliminary approval requirements referred to in Section 1267.07, the applicant shall make application for final approval of the condominium. The applicant shall file with the Village Clerk copies of the approved site plan, a copy of the proposed master deed, all information required by Section 66 of the Michigan Condominium Act and the application fee as established by the Village Council. In addition, the applicant shall submit copies of engineering plans for all streets, roads, drains, water mains, sanitary sewers and easements. The engineering plans shall describe the proposed improvements in sufficient detail to permit the Village Engineer to determine compliance with applicable laws, ordinances and design standards for construction of the project. (Ord. 95-29. Passed 2-13-95.)

1267.09 FINAL REVIEW AND APPROVAL PROCEDURES.

The engineering plans shall be transmitted to the Village Engineer for review and recommendation. The Engineer shall make a recommendation to the Planning Commission regarding final approval of the engineering plans. Copies of the proposed condominium master deed and related documentation shall be transmitted to the Village Attorney and Village Planner for review. The Attorney and Planner shall make recommendations to the Planning Commission regarding approval of the master deed and related documentation. Subsequent to receipt of the recommendations of the Engineer, the Planner and the Attorney, the Planning Commission shall make a recommendation regarding the final approval of the condominium to the Village Council. The Village Council shall consider the recommendations of the Planning Commission, the Engineer, the Planner and the Attorney prior to taking final action on the request to approve the proposed condominium. The Council shall take action to approve or deny the request to approve the condominium within sixty days of receipt of the recommendation from the Planning Commission.

(Ord. 95-29. Passed 2-13-95.)

CHAPTER 1268

Supplementary Regulations

- 1268.01 Street and alley rights of way.
- 1268.02 Permitted uses.
- 1268.03 Permitted area.
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- 1268.05 Lot requirement for buildings with dwelling units.
- 1268.06 Yard and open space requirements.
- 1268.07 Yard encroachments.
- 1268.08 Substandard lots.
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- 1268.11 Dwellings in nonresidential districts.
- 1268.12 Dwellings in other than main structures.
- 1268.13 Accessory buildings.
- 1268.13A. Roof-mounted solar energy systems.
- 1268.14 Parking and storage of vehicles and equipment in residential areas.
- 1268.15 Automobile service stations and public garages.
- 1268.16 Garages, basements and accessory and temporary buildings used for dwelling purposes.
- 1268.17 Building grades.
- 1268.18 Moving of buildings.
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- 1268.20 Excavation, removal and filling of land.
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- 1268.23 Voting places.
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- 1268.26 Animals.
- 1268.27 Rubbish containers.
- 1268.28 Fences.
- 1268.29 Screening.
- 1268.30 Site plan review.
- 1268.31 Approval of plats.
- 1268.32 Special approval uses.
- 1268.33 Outdoor dining and outdoor cafes.
- 1268.34 Landscaping.

CROSS REFERENCES

Regulation of land development and the uses of land and structures by local authorities - see M.C.L.A. 125.3201

Authority to zone - see M.C.L.A. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. 125.3208

Off-street parking and loading - see P. & Z. Ch.1262

Nonconforming uses and buildings - see P. & Z. Ch.1264

Wireless telecommunication facilities - see P. & Z. Ch.1265

Natural buffer zones - see P. & Z. Ch.1266

1268.01 STREET AND ALLEY RIGHTS OF WAY.

All street and alley rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such rights of way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

(Ord. 101. Passed 2-20-70.)

1268.02 PERMITTED USES.

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, designed or arranged for any purpose, other than is permitted in the district in which the building or land is located.

(Ord. 101. Passed 2-20-70.)

1268.03 PERMITTED AREA.

No building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the district in which the building is located.

(Ord. 101. Passed 2-20-70.)

1268.04 PERMITTED HEIGHTS.

(a) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for the district in which the building is located, except that towers, steeples, stage lofts and screens, flagpoles, chimneys, masts or similar structures may be erected above the height limits prescribed. No roof-top equipment or appurtenances may be erected to exceed the height limits of the district in which they are located; nor shall any roof-top equipment or appurtenances have a total area greater than ten percent of the roof area of the building on which they are located; nor shall such structure be used for any residential purpose or any commercial purpose other than a use incidental to the main use of the building. Roof-top equipment or appurtenances shall be set back from the outer walls at least two times the height of the equipment.

(b) Exterior radio, television, electronic or other similar equipment or structures which exceed 12 feet in height, or any structure other than a building to which it is attached, may be approved by the Board of Zoning Appeals, provided that in no event shall such equipment and/or structure be allowed to exceed seventy feet from the grade level; provided, however, that the erection or construction of any satellite signal receiving dish with a diameter in excess of two feet and having an installed above-ground height of more than two feet shall be prohibited unless surrounded by a solid ornamental or vegetation screening wall or fence. Any screening shall be of such material, height and location as to preserve rights of privacy and shall be harmonious with surrounding properties. Any vegetation screening shall be evergreens of sufficient height and configuration when planted to fully screen the structure during all seasons. In no event shall such be planted with a distance greater than five feet between them. Said screening wall or fence shall be approved by the Village Council after review and recommendation by the Village Planning Commission. Reasons for approval or rejection of such screening wall or fence by the Village Council shall be stated and made part of the record at a public hearing of which the applicant for approval shall be given notice and an opportunity to be heard. The standards to be applied by the Village Council shall be to ensure that such screening wall or fence is sufficient to protect surrounding properties and that the same is harmonious with surrounding areas.

1268.05 LOT REQUIREMENT FOR BUILDINGS WITH DWELLING UNITS.

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as defined in Section 1240.08, and in no case shall there be more than one such building on one lot unless otherwise provided in this Zoning Code.

(Ord. 101. Passed 2-20-70.)

1268.06 YARD AND OPEN SPACE REQUIREMENTS.

No space which, for the purpose of a building or dwelling group, has been counted or calculated as part of a side yard, rear yard, front yard or other open space required by this Zoning Code, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court or other open space requirement of or for any other building.

In any Residential District, the front and rear yard requirements of a double frontage lot shall comply with required yard setbacks for buildings that may front on either of the two streets.

No yard space may be used for material improvements and development except by the occupants of the buildings for which the yard was required.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1268.07 YARD ENCROACHMENTS.

(a) Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or occupied space provided that such excepted projections shall not extend more than 12 feet into the required front or rear yard, shall not extend nearer than four feet from an interior side lot line or nearer than five feet from a side lot line abutting upon a street.

(1) Exceptions.

A. One fireplace or one chimney, not more than eight feet in length projecting not more than 12 inches into the allowable side yard space.

B. Cornices not exceeding 18 inches in width, including the gutter.

C. Platforms, terraces, and steps below the first floor level.

D. Unenclosed porches or ground level unenclosed projections not over one story in height. Unenclosed porches shall include porches with screens and/or removable storm window sashes.

(b) The minimum yard spaces, including lot area per family and maximum lot coverage required by this Zoning Code for each and every building existing at the time of the passage of this Zoning Code, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building. (See the Schedule of Regulations provided in Appendix B following the text of this Zoning Code.)

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1268.08 SUBSTANDARD LOTS.

Any nonconforming lot shall be used only for a permitted use in the district in which it is located. If the Use of a nonconforming lot requires a variation from the area or bulk requirements, then such use shall be permitted only if a variance is granted by the Zoning Board of Appeals.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1268.09 STREET ACCESS.

No dwelling shall be built or converted upon a lot having a frontage of less than twenty feet upon a public street, or upon a private street or other permanent easement giving access to a public street. No building permit shall be issued for any construction located on any lot or parcel of land in the Village of Franklin that does not abut on a public street or highway or upon a private street, provided that this section shall not be the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected, on the date of the adoption of this Zoning Code, upon a lot or parcel of land that does not so abut such a street or highway. No lot shall be construed to abut on such a street or highway unless it includes a minimum frontage of twenty feet on such a street or highway and title to land providing access not less than twenty feet in width from such street or highway to the proposed construction.

(Ord. 101. Passed 2-20-70.)

1268.10 VISIBILITY.

No structure, wall, fence, shrubbery or tree shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection, except that shrubbery and low retaining walls not exceeding two and one-half feet in height above the curb level and shade trees where all branches are not less than eight feet above the street level will be permitted. For residential corner lots, this unobstructed area shall be a triangular section of land formed by the two street right-of-way lines and a line connecting them at points thirty feet from the intersection of said right of way, or, in the case of a rounded corner, the unobstructed area shall be construed to be the triangular area formed by the intersection of the street right-of-way lines extended and a line connecting them at points thirty feet from the intersection of said right-of-way lines (e.g. said area being a "football" shape with two arcs facing each other, connected at such curb line).

(Ord. 101. Passed 2-20-70.)

1268.11 DWELLINGS IN NONRESIDENTIAL DISTRICTS.

No dwelling unit shall be erected in the RO-1 or C-1 District, except as provided for in Section 1256.03, C-1 Commercial District Special Approval Uses.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1268.12 DWELLINGS IN OTHER THAN MAIN STRUCTURES.

No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling, other than an alternative dwelling unit and similar functions which provide living quarters for an extension of the primary residents' family as defined by the Fair Housing Act in accordance with requirements of Section 1250.04(d).

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1268.13 ACCESSORY BUILDINGS.

Accessory buildings, except as otherwise permitted in this Zoning Code, shall be subject to the following regulations:

(a) Where the accessory building is structurally attached to a principal building, it shall be subject to and must conform to all regulations of this Zoning Code applicable to main or principal buildings.

- (b) An accessory building shall be located in the rear yard except when structurally attached to the main building.
- (c) The total square footage of all detached accessory buildings may occupy not more than the following:
 - (1) Twenty-five percent (25%) of the required rear yard; and
 - (2) Forty percent (40%) of any nonrequired rear yard.
- (d) In no instance shall a detached accessory building be nearer than ten feet to any adjoining lot (see also subsection (g) hereof) or nearer than ten feet to the principal building.
- (e) In no instance shall the total area, in square feet, of all detached accessory buildings summed collectively exceed the ground floor area of the principal building.
- (f) In the case of double frontage lots, accessory buildings shall observe front yard requirements on all street frontages.
- (g) When an accessory building is located in the rear yard area on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, said accessory building shall be set back from the street side at least as far as the required front yard setback of the lot at the rear of the subject corner lot.
- (h) Private garages are permitted in any residentially zoned district, subject to the provisions of Chapter 1250. In any residence zone, no private garage shall be erected closer to the side lot line than the permitted distance for the dwelling, unless the garage shall be completely to the rear of the dwelling, in which event the garage may be erected ten feet from the side lot line. No garage or portion thereof shall extend into the required front yard area.
- (i) The following dimensional requirements listed in "Table of Allowances for Detached Accessory Buildings shall apply to detached accessory buildings.

TABLE OF ALLOWANCES FOR DETACHED ACCESSORY BUILDINGS							
Zoning District	R-E	R-L	R-M	R-1	R-2	R-3	R-4
Maximum number of buildings	3	3	3	3	2	2	1
Maximum rear yard coverage (%)	25% of required rear yard and 40% of non-required rear yard	25% of required rear yard and 40% of non-required rear yard	25% of required rear yard and 40% of non-required rear yard	25% of required rear yard and 40% of non-required rear yard	25% of required rear yard and 40% of non-required rear yard	25% of required rear yard and 40% of non-required rear yard	25% of required rear yard and 40% of non-required rear yard
Maximum size of all accessory buildings in sq. ft.	1,200 + 15% ground floor area of principal building	1,100 + 15% ground floor area of principal building	1,000 + 15% ground floor area of principal building	750 + 25% ground floor area of principal building	600 + 25% ground floor area of principal building	500 + 25% ground floor area of principal building	500
Maximum height in ft.	15	15	15	15	15	15	15

(Ord. 101. Passed 2-20-70; Ord. 150. Passed 1-4-85; Ord. 2019-05. Passed 6-10-19.)

1268.13A ROOF-MOUNTED SOLAR ENERGY SYSTEMS.

Roof-mounted solar energy systems in Zones R-E, R-L, R-M, R-1, R-2, R-3 and R-4 Single-Family Residential Districts, RO-1 Restricted Office District and C-1 Commercial District shall comply with the following regulations.

- (a) Permit Required. A building permit shall be required for installation of roof mounted systems.
- (b) Type of System. Roof-mounted solar energy systems, also referred to as solar panels, may include integrated solar panels as the surface layer of the roof structure with no additional apparent change in relief or projection, or separate flush mounted solar panels attached to the roof.
- (c) Mounting and Projection.
 - (1) Sloped Roofs:
 - A. Solar panels shall be mounted flush (within six inches of the roof surface), shall not project above the peak of the roof, and if integrated solar panels that also serve as the surface layer of the roof structure with no additional apparent change in relief or projection, then not beyond any roof edge.
 - B. Solar panels shall not be mounted on any roof that is steeper than 11/12 pitch or on the face of any building.
 - C. Solar panels that are separate flush mounted solar panels attached to the roof shall be set back a minimum of two feet from any roof edge.
 - (2) Flat Roofs:
 - A. Solar panels shall not project more than two feet above the roof plane at its highest point on the back edge of any panel. Front edge of the panel shall be no greater than six inches from the roof plane.
 - B. Solar panels shall be set back a minimum of two feet from any roof edge.
 - C. Framework and/or hardware used to affix the solar panels that is visible from the edge of the structure must be the same color as the roof underneath so as to minimize the visual impact of the system.
- (d) Height. In no case is a roof mounted solar energy system in Zones R-E, R-L, R-M, R-1, R-2, R-3 and R-4 Single-Family Residential Districts, RO-1 Restricted Office District and C-1 Commercial District permitted to be installed in a manner that would exceed the maximum height restrictions applicable for the property.
- (e) Glare and Screening.
 - (1) Glare: Glare shall not be generated that would project onto adjacent property; therefore, non-reflectiveness through design, material, or a combination of both, must be demonstrated in the submitted plans.

(2) **Screening:** Vegetative or architectural screening may be required if, in the determination of the Building Official, the roof mounted solaenergy system is proposed in a location or manner that is reasonably expected to be negatively impactful in terms of glare, noise, or visual impact to adjacent property owners and the effects can be mitigated by such means.

(f) **Removal.** If a roof-mounted solar energy system in Zones R-E, R-L, R-M, R-1, R-2, R-3 and R-4 Single-Family Residential Districts, RO-1 Restricted Office District and C-1 Commercial District ceases to perform its intended function (generating electricity) for more than six consecutive months, the operator must remove the collectors, mounts, and associated equipment and facilities no later than 90 days after the end of the six-month period. Where the removal has not been lawfully completed as required above, and after at least 30 days' written notice, the Village may remove or secure the removal of the solar energy system or portion thereof, with the Village's actual cost of administrative and legal charges to be placed as a lien on the property.

(Ord. 2020-05. Passed 9-14-20.)

1268.14 PARKING AND STORAGE OF VEHICLES AND EQUIPMENT IN RESIDENTIAL AREAS.

(a) **Purpose.** The purpose of these regulations of various types and numbers of vehicles and equipment within the Village of Franklin is to preserve the health, safety and welfare of residents, protect property in areas designed and utilized for single-family residential purposes, prevent blight, and preserve open space in single-family residential areas. This is accomplished by regulating the parking and/or storage of certain large or numerous vehicles of the types specified herein which may: (i) impede ingress and egress of emergency and fire protection vehicles; (ii) be unsafe when operated on residential streets, or (iii) cause noise, exhaust emissions, and unsightly conditions that could impair the health, safety, and general welfare of the residents of the Village of Franklin.

(b) **Definitions.** As used in this section, the following words or terms have the meaning ascribed to them:

(1) "Commercial vehicle" means any vehicle or equipment, which typically bears or is required to bear a commercial license plate, or which falls into one or more of the following categories:

- A. Truck tractors.
- B. Trailers, whether attached or unattached to other vehicles or equipment.
- C. Semi-trailers, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies, and full or partial box-type enclosures.
- D. Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or delivery purposes, such as box or step vans. This category shall include vehicles of a similar nature that are commonly used by electrical, plumbing, heating and cooling, and other construction or service oriented contractors, sometimes referred to as step vans.
- E. Tow trucks.
- F. Commercial hauling trucks.
- G. Vehicle repair service trucks.
- H. Vehicles with blades attached for plowing, grading or mowing.
- I. Any construction vehicle or equipment, such as a bulldozer, backhoe, or similar vehicle used in construction, earth moving, or landscaping.
- J. Any vehicle that has permanently mounted outside brackets or holders for ladders, tools, pipes, or other similar equipment.
- K. Any vehicle that bears external advertising or signage.
- L. Busses and motor coaches.
- M. Vehicles previously used for public safety purposes, such as fire engines or other fire apparatus and ambulances.

N. Vehicles that are similar in appearance to private passenger vehicles but which are used for, or are intended to be used for, commercial purposes and which are owned or leased for use in a commercial enterprise, such as "fleet" vehicles.

O. The definition of "commercial vehicles" does not include traditional passenger cars or vehicles, including SUVs or pick up trucks, which do not bear external advertising or other similar signage, and which are routinely used by the owner or operator for ordinary personal transportation and are not primarily for business or fleet purposes.

(2) "Licensed private passenger car or vehicle" means any vehicle for which the principal purpose is transportation of people on streets and highways. Such classification shall not include recreational vehicles as defined herein, nor shall it include any conveyance, equipment or vehicle, the primary purpose of which is other than the transportation of people on streets and highways.

(3) "Owner" means any person in whose name the legal title of a commercial vehicle is registered, or in the event such vehicle is the subject of a lease or conditional sales agreement, the lessee or person with the right of purchase upon performance of the conditions stated in the agreement and with the immediate right of possession.

(4) "Parking" means the act of putting or leaving a vehicle for a period of time in a certain location.

(5) "Presumption of violation" means in any proceeding involving a violation of any parking or storage provision of this section, the person to whom a vehicle is registered, as determined from the registration plate displayed on the motor vehicle, shall be presumed in evidence to be the person who committed the violation. In the event that the vehicle is not registered, then the owner of the property on which the vehicle is located shall be presumed to be the person who committed the offense.

(6) "Recreational vehicles" means boats, boat trailers and any vehicle equipped for camping, sleeping or living purposes or any part thereof. This definition shall also include mobile homes, campers, truck campers, camper trailers, pick up truck "caps," snowmobiles, personal watercraft, travel trailers, all terrain vehicles (ATVs), golf carts, and motor homes.

(7) "Storage" means the keeping of a vehicle in reserve for future use.

(8) "Vehicle" means a device, such as a motor vehicle or a piece of mechanized equipment, for transporting passengers, goods, or apparatus.

(9) "Vehicle/equipment." For the purposes of this section, the terms "vehicle" and "equipment" may be used synonymously.

(c) **General Guidelines.** The following regulations shall apply to all parking and storage.

(1) **Parking and Storage on Improved Surface.** All parking and storage shall be on an improved paved or gravel surface, pursuant to Section 1262.02 (c).

(2) **Home Occupations.** The regulations in this section are intended to complement the related regulations governing home occupations in Sections 1240.08(b)(38), 1250.04 (a) and 1250.04 (f).

(d) **Parking or Storing Commercial Vehicles in Residential Districts** No commercial vehicle, licensed or unlicensed, shall be parked or stored in a

residentially zoned or used district unless it is parked or stored in a fully enclosed structure that is in compliance with all applicable Village ordinances. No semi-trailers, including flat beds, stake beds, roll-off containers, tanker bodies, dump bodies, and full or partial box-type enclosures, shall be parked or stored inside or outside in a residential district. These provisions shall not apply to: (i) commercial vehicles temporarily parked (less than twelve (12) hours) at a residential property in conjunction with maintenance or service to that residential property, and (ii) vehicles and equipment being used and parked on a construction site for which a valid building permit has been issued.

(e) Parking or Storing Non-Commercial Vehicles in Residential Districts The following regulations shall apply to parking or storing non-commercial vehicles in residential districts.

(1) Inoperable or Unlicensed Private Passenger Cars or Vehicles The storage and/or parking of any inoperable or unlicensed private passenger car or vehicle, is prohibited, unless stored in a fully enclosed structure that is in compliance with all applicable Village ordinances.

(2) Vehicles for Use on Land, in the Air, or on the Water, Other than Passenger Cars Parking and/or storage of any conveyance for use on land, in the air, or on the water, including but not limited to boats, trailers, snowmobiles, aircraft, personal watercraft, travel trailers, all terrain vehicles (ATVs), golf carts, campers, recreational vehicles, other than licensed private passenger cars or vehicles, shall be prohibited in all residential districts unless stored in a fully enclosed structure that is in compliance with all applicable Village ordinances.

(3) Recreational Vehicles. The storage and/or parking of a recreational vehicle on a lot or parcel is prohibited except as follows: Any recreational vehicle may be parked on a driveway for the purposes of loading and unloading for a total of not more than six (6) days during one (1) calendar month, provided that each loading/unloading period shall not exceed three (3) consecutive days.

(4) Repair or Maintenance of a Vehicle The repair or maintenance of any vehicle which renders the vehicle inoperable for a period in excess of three (3) days is prohibited, unless the repair or maintenance activities are conducted entirely within an enclosed garage or other enclosed structure that complies with all applicable Village ordinances. Vehicle repair businesses are not permitted in residential districts.

(5) Location of Parked Cars or Vehicles No yard shall be used for storage or parking of vehicles, whether licensed or unlicensed, except that vehicles with current license plates and in operating condition may be parked on an approved driveway, extending from the street directly to a side yard or a garage. This provision shall not prohibit the temporary parking of vehicles of guests or invitees of the property owners or residents.

(Ord. 2008-02. Passed 2-11-08; Ord. 2017-02. Passed 2-13-17; Ord. 2020-06. Passed 11-9-20.)

1268.15 AUTOMOBILE SERVICE STATIONS AND PUBLIC GARAGES.

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operations of automobile service stations, and to regulate and control the adverse affects which these and other problems incidental to the automobile service station may exercise upon adjacent and surrounding areas, the following additional regulations and requirements are provided herein for automobile service stations located in any zone. All automobile service stations erected after the effective date of this Zoning Code, as amended, shall comply with all requirements of this section. No automobile service station existing on the effective date of this Zoning Code, as amended, shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on the effective date of this Zoning Code, as amended.

(a) An automobile service station shall be located on a lot having a frontage along the principal street of not less than 140 feet, and having a minimum area of not less than 14,000 square feet.

(b) An automobile service station building housing a garage, office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than forty feet from any street right-of-way or interior lot line, and not less than twenty-five feet from any side or rear lot line adjoining a residentially zoned district.

(c) All driveways providing ingress to or egress from an automobile service station shall be not more than thirty feet wide at the lot line. No more than one curb opening shall be permitted for each fifty feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than twenty feet to any intersecting street right of way or adjacent residential property. No driveway shall be located nearer than thirty feet, as measured along the property line, to any other driveway giving access to or from the same automobile service station.

(d) A raised curb six inches in height shall be erected along all street lot lines, except for driveway openings.

(e) The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material, except desirable landscaped areas which shall be separated from all paved areas by a low barrier or curb.

(f) All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than twenty feet from any lot line, and shall be arranged so that major vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right of way.

(g) An automobile service station shall include not more than four double gasoline pumps or eight single gasoline pumps and three enclosed stalls for servicing, lubricating, greasing and/or washing motor vehicles.

(h) Where an automobile service station adjoins property located in any residential zone, a solid masonry wall five feet in height shall be erected and maintained along the lot line adjoining the residential zone, or, if separated from the residential zone by an alley, then along the alley lot line. In addition, all outside trash areas of used tires, auto parts and other items shall be enclosed on all sides by said five-foot masonry wall. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall. Walls shall be gradually reduced in height (e.g. stepped down) within twenty-five feet of any street right of way.

(i) All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property. Electrified signs of any sort are prohibited on an automobile service station building or property.

(j) No automobile service station or public garage shall be located nearer than 500 feet, as measured from any point on the property line, to any point on the property line of any public or private school or playground.

(k) Outdoor storage or parking of vehicles other than private automobiles shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. of the following day. There shall be no equipment or vehicle rental or sale operations conducted on the premises.

(Ord. 101. Passed 2-20-70.)

1268.16 GARAGES, BASEMENTS AND ACCESSORY AND TEMPORARY BUILDINGS USED FOR DWELLING PURPOSES.

No garage, accessory building or temporary building now existing or in the future erected after the effective date of this Zoning Code shall be occupied or used for dwelling purposes, except as provided for in Section 1268.12, Dwellings in Other than Main Structures.

(Ord. 101. Passed 2-20-70; Ord. 2017-02. Passed 2-13-17.)

1268.17 BUILDING GRADES.

Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run

away from the walls of the building. A sloping grade, beginning at the curb level as determined by the Building Department, shall be maintained and established from the center of the front lot line to the finished grade line at the front of the building. The rear and side yards shall be sloped to allow for the flow of surface water away from the building without creating a nuisance. However, this shall not prevent the grading of a yard space to provide sunken or terraced areas, provided that proper means are constructed and maintained to prevent the run-off of surface water from creating a nuisance on the adjacent properties.

When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the reference level, as defined in Section 1240.08, shall be used in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit run-off of surface water to flow onto the adjacent properties.

Final grades shall be approved by the Building Department, which may require a certificate of grading and location of building within the Village of Franklin, in accordance with the approved grading plan on file with the Building Department, which has been duly completed and certified by a registered civil engineer or land surveyor.

At no point on a site shall the combined effect of filling or excavation result in a change of grade of greater than five feet over the entire site. This provision shall not apply to filling and excavation necessary to provide vehicular access to a site.

(Ord. 101. Passed 2-20-70; Ord. 2005-05. Passed 1-10-05.)

1268.18 MOVING OF BUILDINGS.

No building or structure which has been wholly or partially erected on any premises shall be moved except as provided for in Section 1264.07.

(Ord. 101. Passed 2-20-70.)

1268.19 EXCAVATIONS OR HOLES.

The construction, maintenance or existence within the Village of Franklin of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells, or of any excavations, holes or pits which constitute a danger or menace to public health, safety or welfare, are hereby prohibited. However, this section shall not prevent any excavation under a permit issued by the Building Code of the Village of Franklin where such excavations are properly protected and warning signs are posted in such a manner as may be required by the Building Department per Section 1268.28, Fences. This section shall not apply to natural bodies of water or to ditches, streams, reservoirs or other bodies of water created or existing by authority of the State of Michigan, County of Oakland, Village of Franklin or other governmental agency.

(Ord. 101. Passed 2-20-70; Ord. 2017-07. Passed 10-9-17.) Penalty, see Section 1242.99

1268.20 EXCAVATION, REMOVAL AND FILLING OF LAND.

The excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish or other wastes or by-products, is not permitted in any zoning district except as provided for in a separate soil removal and landfill ordinance of the Village. (Ord. 101. Passed 2-20-70.)

1268.21 RESTORING UNSAFE BUILDINGS.

Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Department or prevent the required compliance with a lawful order of the Building Department. (Ord. 101. Passed 2-20-70.)

1268.22 CONSTRUCTION BEGUN PRIOR TO ADOPTION OF ZONING CODE.

Nothing in this Zoning Code shall be deemed to require any change in the plans, construction or designed use of any building upon which actual construction was lawfully begun prior to the adoption of this Zoning Code, and upon which building actual construction has been diligently carried on, provided that such building shall be completed within one year from the date of passage of this Zoning Code.

(Ord. 101. Passed 2-20-70.)

1268.23 VOTING PLACES.

The provisions of this Zoning Code shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a Municipal or other public election.

(Ord. 101. Passed 2-20-70.)

1268.24 ESSENTIAL SERVICES.

Essential services, as defined in Section 1240.08, shall be permitted in any zoning district as authorized and regulated by law and other ordinances of the Village of Franklin.

(Ord. 101. Passed 2-20-70.)

1268.25 SIGNS.

The erection, construction or alteration of all outdoor advertising structures, billboards, signs and other notices which advertise a business, commercial venture or name of a person or persons shall be approved by the Building Department as to compliance with Chapter 1474 of these Codified Ordinances and all other applicable Village sign regulations and ordinances. Moreover, there shall be compliance with all specific sign regulations for each zoning district in this Zoning Code.

(Ord. 101. Passed 2-20-70.)

1268.26 ANIMALS.

No livestock shall be kept or maintained in any zone, except that for each dwelling unit the occupant may keep for his or her personal use domestic pets so long as they are not kept or used for commercial or breeding purposes and do not constitute a kennel, subject to all applicable Village ordinances, including Chapter 612 of these Codified Ordinances.

(Ord. 101. Passed 2-20-70; Ord. 159. Passed 10-29-87.)

1268.27 RUBBISH CONTAINERS.

Outside rubbish containers shall be permitted only in the C-1 District, provided that they comply with the following requirements:

(a) Adequate vehicular access shall be provided to such containers for truck pick-up either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.

(b) A solid ornamental screening wall or fence shall be provided around all sides of trash containers, which wall or fence shall be provided with a gate for access and be of such height as to completely screen said containers, the maximum height of which shall not exceed six feet.

(c) The rubbish container(s), the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, waste paper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.

(d) There shall be compliance with all Village, County and State health ordinances and statutes.

(e) No incinerator, garbage receptacle, oil or propane tank, or storage rack shall be exposed on the grounds outside any building without screening specified for rubbish containers and unless adequate safety and sanitary precautions are taken. In residentially zoned districts, rubbish and garbage receptacles and oil or propane tanks may not be exposed on the grounds outside any building without said screening.

(Ord. 101. Passed 2-20-70.)

1268.28 FENCES.

Every fence constructed or erected in the Village shall comply with the regulations in this section. No fence shall be erected, constructed, relocated, or altered until a permit has been issued in accordance with the requirements of this section.

(a) Definitions.

(1) Fence. "Fence" means an artificially constructed, non-vegetative barrier of natural or artificial materials used to prevent or control ingress/egress, confine within, or mark a boundary. A fence may be decorative or ornamental. Gates or barriers to entry and exit, driveway entrance features, screening walls, and other types of boundary protection shall be included in this definition.

(2) Perimeter feature. "Perimeter feature" means a type of fence running along the perimeter of a lot either on or within six feet of a lot line.

(3) Privacy screen. "Privacy screen" means a type of fence that is a substantially opaque barrier intended to screen a selected use or particular area in a private residential yard.

(4) Interior fence. "Interior fence" means a type of fence that is not a perimeter feature or a privacy screen.

(5) Road. "Road" has the same meaning as "street" as defined in Section 1240.08 (b)(69).

(6) Construction fence. "Construction fence" means a temporary artificially constructed fence used to prevent or control entrance or access pursuant to a permit issued by the Village of Franklin Building Official under Section 1268.19 of the Zoning Code.

(7) Garden enclosure. "Garden enclosure" is a type of interior fence that is used to enclose an area used for the growing of vegetables, flowers, etc. used for human consumption but not for commercial sale.

(b) General Requirements Applicable to All Fences.

(1) Ownership. Ownership and responsibility for maintenance of a fence resides in the owner of the property on which the fence is located.

A. Provision for joint ownership. Owners of adjoining properties may jointly apply for a fence permit, in which case the Building Official may permit the fence to be constructed on the common property line. Both property owners shall jointly own the fence and shall be jointly and severally responsible for maintenance of the fence.

(2) Fence materials. In order to protect the beauty and established historic character of the Village, the following standards shall apply:

A. The exterior of a fence shall be constructed primarily of wood, stone, brick, wrought iron, or other material determined by the Zoning Board of Appeals to mimic an above listed material.

B. Fence materials and construction pattern must be consistent along a single lot line.

C. Fences constructed on properties where one did not exist before must be constructed of the same material long any lot line where the fence is proposed to be constructed.

D. Prohibited materials. Razor wire and barbed wire are prohibited on any type of fence. Fences utilizing wire mesh or chain link are also prohibited, except as otherwise expressly permitted (e.g., garden enclosures, tennis court enclosures, dog runs, baseball backstops, cemeteries, fences enclosing public areas, construction fences).

E. Prohibited designs. No permitted fence of any variety may contain decorative fence toppers, finials, spears or other fence toppers which contain a pointed finish if such decorative items are situated along the top of the primary fencing material. Ball finials are permissible but only if they measure not less than three inches each in diameter. A fence topper shall be considered to be pointed if the upper most portion of the topper is not larger than its base, or, if in the opinion of the Building Official, such a fence topper is considered to be capable of impaling or otherwise penetrating the flesh of any person or animal, either intentionally or through accidental or forceful contact with same.

F. Electricity-conducting fences. A fence erected around the perimeter of a pasture where horses or other permitted large animals are restrained may include electrified wire strands around the top or interior of the pasture fence. Other fences which carry electric current are prohibited, except for underground electric fences as defined in Section 1240.08 (b)(23A).

(3) Finished appearance. If, because of design or construction, one side of a fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot. This provision concerning the finished appearance does not apply to jointly owned fences located on a property line.

(4) Height. Except as otherwise expressly permitted herein, fences shall not exceed 48 inches in height. As used in this section, the height of a fence is measured from the surrounding surface of the ground and not from any structure or localized raised surface on which the fence is situated.

A. Fences enclosing public areas. Fences that enclose public parks, playgrounds, or similar public areas located within a residential district shall not exceed 8 feet in height, except that a fence enclosing one or more public tennis courts can extend to 12 feet in height and a protective screening used for a public baseball field backstop can be made at a suitable height and length for its intended purpose. Tennis court fences and baseball backstops can be made of chain link fencing.

(5) Location. A fence shall be located entirely on the private property of the person responsible for the construction and maintenance of the fence.

A. Permitted locations. Except as specifically provided below, fences are permitted only in rear yards and side yards. No fence shall be permitted to extend into the front yard, except as otherwise specifically provided herein. For side yards and rear yards abutting a street, no fence shall be constructed or maintained within any required setback from the street.

B. Path setback. No fence shall be located closer than 12 inches from the edge of a public sidewalk or other public path.

(6) Fence maintenance. Fences shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed. If a fence is found to be in need of repair by the Building Official, he or she shall issue orders to complete such repairs to the owner of the land where the fence is located. Failure to comply with written notice from the Building Official shall be deemed a violation of this Zoning Code.

(7) Obstruction of use of adjoining property. No fence shall be erected where it would prevent or unreasonably obstruct the use of or access to adjacent property. The Building Official may require a fence to be set back up to two feet from a driveway or property line to provide for the safe passage of pedestrians, bicyclists, or vehicular traffic, or for other safety-related concerns.

(8) Driver visibility. No fence shall be erected, established or maintained on any lot which will obstruct the view of drivers in vehicles traveling around sharp curves in the road or approaching an intersection of two roads or the intersection of a road and a driveway.

A. Sharp curves. Fences located along a curve in a road shall provide drivers with an unobstructed sight distance that is reasonable in view of the road curvature and applicable speed limit for the road. The Building Official may restrict or deny a fence permit as necessary to provide this unobstructed sight distance.

B. Intersections. Fences located adjacent to an intersection of two roads or an intersection of a road and a driveway shall not exceed 30 inches in height. An unobstructed triangular area shall be maintained at each intersection of roads and streets and driveways. Fences located in the triangular area shall not be permitted to obstruct cross-visibility above a height of 30 inches above the lowest point of the intersecting road(s) or driveway(s). The unobstructed triangular area shall consist of:

1. In the case of two roads, the triangular area formed at the corner intersection of the two road right-of-way lines, with two sides of the triangular area being 25 feet in length measured along the intersecting right-of-way lines, and the third side being a line connecting the distal ends of the two 25 foot sides; and

2. In the case of an intersecting road and driveway, the triangular area formed at the corner intersection of the road right of way and an edge of the driveway, with one side of the triangular area being ten feet in length measured along the right-of-way line, a second side being 10 feet in length measured along the edge of the driveway, and the third side being a line connecting the distal ends of the two ten foot two sides.

(9) Tennis court enclosures. A private tennis court located on a residential lot may include a chain link fence enclosing each end of the court and extending towards the net no farther than the midpoint between the base line and service line. The chain link fence may have a maximum height of 12 feet and the opacity of such fence shall not exceed 50 percent.

(10) Outdoor dog runs. One fenced pet exercise area ("dog run") may be permitted per residential lot, subject to the following:

A. Location. A dog run shall not be permitted in any required front yard or required street side yard.

B. Setback. A dog run shall be set back a minimum of ten feet from any lot line.

C. Fence height. A fence enclosing a dog run shall not exceed six feet in height.

D. Fence materials. Chain link fencing may be used to enclose a dog run.

E. Maximum dimensions. Dog runs shall not exceed ten feet in width by 25 feet in length.

F. Landscape screening. Dog runs shall be screened from view from adjoining properties with evergreen landscaping sufficient to create a complete visual barrier.

(11) Garden enclosures. Garden enclosures may be placed on the interior of a lot, subject to the following:

A. Location. A garden enclosure shall not be permitted in any front yard nor any required side yard.

B. Height. Garden enclosures shall not exceed eight feet in height, inclusive of any structures on which they sit, including raised planter beds.

C. Materials. Garden enclosures shall be constructed of any combination of treated wood or galvanized or welded wire, which may be coated with vinyl or PVC. The fencing commonly referred to as "chicken wire" is expressly permitted, only so long as it is made of galvanized wire. Chain link fencing is a prohibited material.

D. Opacity. Garden enclosures' opacity shall not exceed 20 percent.

E. Spacing. There shall be a maximum spacing of 1" by 2" between the enclosure wires.

F. Maximum area. Garden enclosures shall surround an area not larger than 1,000 square feet. Multiple garden enclosures may be permitted on one lot, subject to the following allowances:

TABLE OF ALLOWANCES FOR GARDEN ENCLOSURES

Zoning District	R-E	R-L	R-M	R-1	R-2	R-3	R-4
Maximum number of enclosures	3	3	3	3	2	2	1
Maximum size of all garden enclosures in sq. ft.	1,000	1,000	1,000	1,000	1,000	1,000	1,000

(c) Perimeter Features. Typical perimeter features include those devices commonly known as split-rail fences, stone walls, picket fences, and wrought iron-type fences and gates.

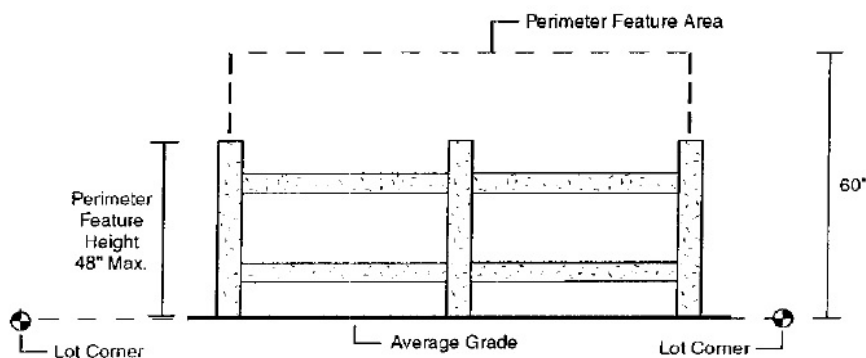
(1) Perimeter feature area defined. For the purposes of this section, "perimeter feature area" shall be defined as the vertical rectangular area having sides defined as follows:

A. Base. The base of the rectangle shall be the existing average ground surface elevation at the nearest perpendicular lot line.

B. Top. The upper side of the rectangle shall be parallel to the base and 60 inches above the base.

C. Sides. The two remaining sides of the rectangle shall be lines extending vertically between the base and top at the ends of the fence.

D. Only one rectangle shall be used to measure each perimeter feature area on a single extent of the property line.



(2) Opacity defined. For the purposes of this subsection, opacity shall be defined as the percentage measurement of the area obstructed by wood, metal, wire, plants, and all other materials used in the creation of a perimeter feature. Opacity equals the area of construction materials divided by the "perimeter feature area".

(3) Maximum opacity. The opacity of a perimeter feature shall not exceed 40 percent, except that the opacity of perimeter features constructed of stone or other natural materials (e.g., stone walls) shall be 50 percent. This maximum opacity limitation shall not apply to driveway entrance features for which the total length does not exceed ten percent of the length of the lot line along which it is located.

(4) Location. In addition to the permitted locations provided in Section 1268.28 (b)(5), perimeter features may be located in the front and side yards, and street side yards under the following conditions.

A. Historic District. Subject to Historic District Commission approval as required by Section 1268.28 (e)(2)(E), a perimeter feature may be located in a front yard or street side yard of a parcel located in the Franklin Village Historic District.

B. Natural stone walls. Perimeter features made from natural stone having a height not exceeding 30 inches can be located in a front yard or street side yard. In the event that a particular architectural element (entrance gate, column, etc.) is included as an integral component of the stone perimeter feature, that architectural element may exceed 30 inches in height. The total horizontal length of such architectural elements shall not exceed the greater of ten feet or ten percent of the total length of the perimeter feature.

(5) Setbacks. A perimeter feature shall be set back at least two feet from all road rights-of-way or public easements.

(6) Materials at a property corner. To reduce the safety hazard to pedestrians and bicyclists, a perimeter feature used at a property corner must be primarily constructed of materials that will be easily visible at night or during other times of low visibility. By way of example, thin strands of wire, cable, or cord shall not be permitted to be attached to standing poles to form a perimeter feature.

(7) Maximum height. The maximum height of perimeter features is 48 inches.

(d) Privacy screens. Privacy screens may be placed on the interior of a lot, subject to the following:

(1) Height. Privacy screens shall not exceed six feet in height.

(2) Location. Privacy screens shall not be located in a required yard setback area.

(3) Limits on enclosure. A privacy screen shall be designed to screen a selected use or area (such as a swimming pool or patio) but not an entire side or rear yard. In no case shall a privacy screen be located in a front yard or both side yards.

(4) Materials. Privacy screens shall be constructed primarily of wood, masonry, or wrought iron.

(e) Construction Fences.

(1) Height. Construction fences shall not exceed seven feet in height.

(2) Location. Construction fences shall be required around any open holes during excavation or construction, and may be located anywhere on public or private property, including in any required yard.

(3) Materials. Construction fences shall be constructed of neutral-colored metal hoarding or wire mesh or chain link.

(4) Duration. Construction fences are permitted for the period of time during which an open hole, pit or well is present associated with excavation or construction, or as otherwise required by the Building Official as deemed necessary to protect the public health, safety, and welfare.

(f) Review and Approval Procedures.

(1) Permit required. No fence shall be erected, constructed, or altered until a permit has been issued in accordance with the provisions of this section.

A. Site plan review. If a fence is proposed in conjunction with a development that requires site plan review, then the fence shall be shown on the site plan, which shall be reviewed in accordance with normal site plan review procedures. No additional permit is required when a fence is approved as part of a site plan. Where a fence is proposed to be added to a property for which a required site plan approval has previously been obtained, the approved site plan must be modified to show the fence and then re-submitted for action by the Building Official according to the application procedure of Section 1268.28 (e)(2).

(2) Application procedure. If a proposed fence is not part of a site plan review as noted above, an application for a permit to construct a fence shall be filed with the Village Clerk. The application shall be accompanied by drawings and other information to illustrate the dimensions, design and location of the proposed fence.

A. Information required. The following minimum information shall be included on the drawing submitted in support of a fence permit application:

1. Fence location;
2. Location of all structures within 25 feet of the proposed fence;
3. Location of all driveways within 25 feet of the proposed fence;
4. Location of all sidewalks within 25 feet of the proposed fence; and
5. Location of all existing fences within ten feet of the proposed fence.

The Building Official may determine if other additional information is reasonably necessary to provide a complete review of the proposed fence. Such additional information shall be provided by the applicant as may be required by the Building Official.

B. Application fee. Each fence permit application shall be accompanied by an application review fee to recover the reasonable costs for review and permit issuance. The amount of the fee shall be fixed by resolution of the Village Council.

C. Survey required. Where a perimeter feature is proposed, the lot lines on the property shall be indicated through placement of permanent stakes located by a licensed surveyor. Lot lines must be located before the fence permit is issued. The Building Official shall withhold issuance of the permit to construct the fence until the lot lines are located and permanent stakes are placed by a licensed surveyor.

D. Review and approval. The Building Official shall review the fence application and supporting data with respect to the standards set forth in this Zoning Code, the adopted Building Code, and any administrative rules which may be established to provide for proper administration of this section. The Building Official shall grant a permit to construct a proposed fence upon finding that it fully complies with all applicable regulations. All fences, including fences approved as part of a site plan, are subject to inspection by the Building Official to assure compliance with the regulations set forth in this Zoning Code and to assure that the fence is constructed with sound materials.

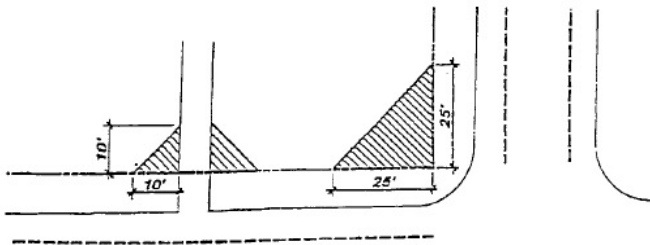
E. Fences in the Historic District Except for construction fences, fences proposed to be erected in the Franklin Village Historic District shall be referred to the Franklin Historic District Commission for review and recommendation prior to issuance of a building permit, consistent with the provisions of Section 1230.05 . The Historic District Commission shall take action on the application consistent with the provisions of Section 1230.05 . In no event shall the Historic District Commission approve a fence that could not be otherwise constructed in accordance with the various provisions of this section.

(3) Appeal of a decision. An applicant may appeal a decision of the Building Official or the Planning Commission concerning a proposed fence or the enforcement of the provisions of this section to the Zoning Board of Appeals. The Zoning Board of Appeals shall review the appeal in accordance with the standards and procedures set forth for a dimensional variance in this Zoning Code.

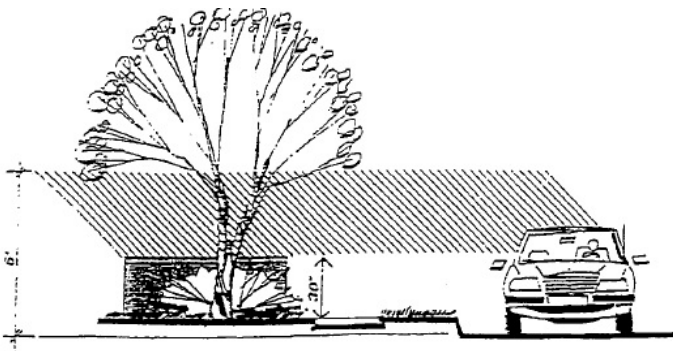
(4) Administrative rules. The Village Council may establish reasonable rules and procedures, consistent with the intentions of this Zoning Code, which may be necessary to provide for the proper administration of this section.

Summary of Location and Height Regulations (see Ordinance for specific requirements)			
	Interior Fence	Perimeter Feature	Privacy Screen
Permitted Location	<ul style="list-style-type: none"> • Rear yard • Side yard 	<ul style="list-style-type: none"> • Rear yard • Non-street side yard • Front and street side yards in limited cases: <ul style="list-style-type: none"> • Historic District • Stone walls • Within 6 feet of adjacent lot line 	<ul style="list-style-type: none"> • Rear yard • Side yard • not in setbacks
Permitted Height	<ul style="list-style-type: none"> • 48 inches, except: • Dog runs: 6' • Public spaces: 8' • Tennis courts: 12' 	<ul style="list-style-type: none"> • 48 inches, except • architectural elements • as limited by maximum opacity requirements 	<ul style="list-style-type: none"> • 6 feet

(Ord. 95-284. Passed 12-11-95; Ord. 2009-07. Passed 8-10-09.)



PLAN VIEW



Maximum height 30" for walls or solid fences, shrubs, etc.

ELEVATION VIEW

CORNER CLEARANCE

(Ord. 95-284. Passed 12-11-95; Ord. 2017-02. Passed 2-13-17; Ord. 2017-07. Passed 10-9-17; Ord. 2021-03. Passed 7-19-21; Ord. 2021-05. Passed 12-13-21.) Penalty, see Section 1242.99

1268.29 SCREENING.

(a) General Requirements. Screening, as described in this section, shall be required whenever nonresidential uses in RO-1 and C-1 districts abut residentially-zoned districts. Such screening shall be required whenever a new nonresidential use is established, an existing nonresidential use is expanded, or an existing nonresidential use is changed to another nonresidential use, unless screening already exists that conforms to ordinance requirements.

(b) Coordination with Section 1268.28. Screening fence and wall requirements in this section supersede comparable requirements in Section 1268.28, because fences and walls regulated in this section are intended primarily to provide a visual barrier, whereas fences and walls regulated by Section 1268.28 are intended primarily for enclosure or as an aesthetic feature.

(c) Screening Requirements and Options.

- (1) Required screening shall be provided along the entire length of the nonresidential property that abuts the residential property.
- (2) Required screening shall be located on the nonresidential property.
- (3) Required screening shall be maintained in perpetuity by the property owner or his or her designee. Maintenance shall include replacement of dead or diseased plant material.
- (4) An applicant may select one of the following screening options, or a combination thereof, subject to Village Council approval, upon receiving a recommendation from the Planning Commission:
 - A. A "living fence," consisting of trees, shrubs, or hedges, with a minimum height of four and one-half feet.
 - B. A wooden fence, consisting of cedar, treated wood, or a material similar in appearance to wood, with a minimum height of four and one-half feet and a maximum height of six and one-half feet. Stockade fences are not permitted.
 - C. A masonry wall, consisting of stone or having face brick, with a minimum height of four and one-half feet and a maximum height of six and one-half feet.

(d) Specifications. Proposed screening shall be shown on a site plan or landscape plan in sufficient detail and at an appropriate scale to allow evaluation by the Planning Commission and Village Council. Specifications required for each screening option follow.

(1) Living Fence. The plan shall identify each proposed plant by common and scientific name. A schedule shall be provided on the plan that indicates the total number of each plant, spacing, and size at time of planting. Plants shall be chosen that can be reasonably expected to form a visual barrier having minimum opacity of 80% at least four and one-half feet above ground level within two years of planting.

(2) Wooden Fence. The plan shall specify the type of wood to be used, the style of fence, the proposed color or shade of stain, dimensions, and construction details (e. g., depth and method of anchoring posts). To form a visual barrier, a fence style shall be selected that provides as near to 100% opacity as possible. Fences shall have a finished appearance on both sides. However, a fence that is has a finished appearance on only one side may be permitted provided landscaping is provided to screen the side that does not have a finished appearance.

(3) Masonry Wall. The plan shall indicate brick color, cap design and material, dimensions, and construction details.

(e) Approval Options.

(1) Site Plan Review. If the proposed screening is part of a development that requires site plan review, then the screening shall be considered in conjunction with the overall site plan, and therefore shall require review by the Planning Commission and approval by the Village Council.

(2) Independent of Site Plan Review. If screening is proposed but site plan review is not otherwise required, then only Planning Commission approval shall be necessary.

(3) Option to Waive or Modify Requirements. The Village Council, upon receiving a recommendation from the Planning Commission, may waive or modify the screening requirements in this section upon making one or more of the following findings:

- A. Existing natural vegetation or plantings on the nonresidential parcel already provide sufficient screening.
- B. The areas, buildings, or uses to be screened are at least 200 feet from the nearest residential district.
- C. Because of the juxtaposition of existing and/or proposed buildings, screening would provide no discernible benefit.
- D. Because of aesthetic qualities of buildings or uses on the nonresidential parcel it is reasonable to waive or modify screening requirements.

(f) Penalty. All violations of this section shall be municipal civil infractions and upon a determination of responsibility therefor shall be punishable by a civil fine of not more than five hundred dollars (\$500.00).

(Ord. 101. Passed 2-20-70; Ord. 2013-03. Passed 5-13-13.)

1268.30 SITE PLAN REVIEW.

The site plan review requirements in this section are intended to provide a uniform method of review of proposed development plans, to ensure full compliance with the regulations in the zoning ordinance, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining and nearby properties. Site plan review is required prior to the establishment, construction, expansion, or structural alteration of any structure or land use involving office or commercial uses; single family planned residential development; any site condominium; and, construction or expansion of an institutional use. Site plan review shall not be required for construction, moving, relocating, or structurally altering a single family residential structure, including any accessory structure thereto.

(a) Pre-Application Conference. A pre-application conference with Village staff and the Village Planner shall be required to facilitate processing of a site plan in a timely manner. The purpose of a pre-application conference is to provide information and guidance to the applicant that will assist in the preparation of the site plan. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no decisions or action shall be taken on a site plan at a pre-application conference. The applicant shall pay the costs incurred for a pre-application conference.

(b) Optional Conceptual Review by the Planning Commission. An applicant may file a written request for one conceptual review of a preliminary site plan by the Planning Commission, prior to submission of a site plan to the Planning Commission for formal review. A site plan submitted for conceptual review shall be drawn to scale, and shall show site development features in sufficient detail to permit the Planning Commission to evaluate the following:

- (1) Relationship of the site to nearby properties.

- (2) Density of the development (if residential).
- (3) Adequacy of landscaping, open space, vehicular drives, parking areas, parking calculations, drainage and proposed utilities.
- (4) Conformance with Village development policies and standards.

The applicant shall pay the costs incurred for a conceptual review in accordance with the fee schedule adopted by resolution of the Village Council.

Formal action shall not be taken on a site plan submitted for conceptual review. Neither the applicant nor the Planning Commission shall be bound by any comments or suggestions made during the course of conceptual review.

(c) Submission of Site Plan for Formal Review. The applicant shall submit 15 copies of the application and site plans to the Village Clerk along with any other information deemed necessary to demonstrate compliance with zoning ordinance requirements.

At minimum, the following information shall be provided:

- (1) A legal description of the subject parcel.
- (2) Proof of ownership of the subject parcel.
- (3) A survey prepared by a registered professional surveyor, indicating the gross land area of the development, the present zoning classification thereof and the zoning classification and land use of the area surrounding the proposed development.
- (4) The natural assets and feature of the property such as, but not limited to, woodlands, wetlands, marshes, heritage trees, endangered plant species and wildlife on a fully dimensioned map of the land showing topographic information at a contour interval of not less than two feet, prepared by a registered professional surveyor.
- (5) A vicinity map showing the location of the area in relation to surrounding properties, streets, freeways, parks, schools, and other significant features of the community.
- (6) A fully dimensioned development plan with at least the following details shown to scale:
 - A. The location of existing and proposed structures in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between buildings and between buildings and lot lines, required setback lines and the location of entrances and loading areas.
 - B. The location, layout, dimensions and area of all lots to be subdivided.
 - C. All streets, driveways, service drives and parking areas, including the layout and design of parking lot spaces.
 - D. All pedestrian walks, and open areas for parks and/or recreation to be dedicated to the public or to be retained by a property owner's association.
 - E. A detailed landscaping plan to include, but not be limited to, the location and height of all fences and walls; the species (Latin and common names), number, height or size at time of planting, and proposed locations of all proposed plant materials; the method by which landscaping is to be installed; and, the methods by which landscaping will be maintained.
 - F. Architectural sketches, at an appropriate scale, showing building heights, elevations, and other features of the development.
 - G. Surface materials, such as paving, turf or gravel to be used at the various locations.
 - H. The method of servicing the area with sanitary sewer facilities, including the location of lines, manholes, pump stations, and other appurtenances.
 - I. A grading plan for the proposed development site, which shall be coordinated with the landscaping plan and topographic map referred to above.
 - J. A plan for dealing with stormwater drainage, including use of detention or retention ponds where deemed necessary by the Village Engineer.
- (7) Other information deemed necessary by the Planning Commission to determine compliance with the regulations herein.

(d) Public Hearing. Upon receipt of a site plan, the Planning Commission shall schedule a public hearing. Notices of public hearings must be published in a newspaper of general circulation within the Village not less than 15 days prior to the date of the hearing. Notices must be mailed to owners and occupants of all properties and structures within 1,000 feet of the subject site, including those outside the Village (if applicable). Notices must be postmarked not less than 15 days prior to the date of the hearing.

(e) Site Plan Considerations. Upon receipt of a site plan and application, the Village Clerk shall forward it to the Planning Commission for review and to make a recommendation to the Village Council. The Village Clerk shall also forward the plan to the Village Planner, Building Official, and Historic District Commission (if applicable) for review. The Planning Commission shall consider the following standards:

- (1) The proposed development shall be of such location, size, and character as to be consistent with the zoning regulations and standards contained herein. Furthermore, the development shall not be detrimental to the orderly development of the zoning district in which it is located or of the adjacent zoning districts.
- (2) The location and size of the proposed development, the nature and intensity of the principal use and all accessory to it, shall be such that traffic to and from the use or uses, and the assembly of persons in connection therewith, will not be hazardous or inconvenient to the neighborhood nor conflict with the normal traffic of neighborhood. In applying this standard, the Planning Commission shall consider, among other things, convenient routes for pedestrian traffic, the relationship of the proposed project to freeways, main traffic thoroughfares and street and road intersections; and existing and potential development of the neighborhood.
- (3) Where appropriate, the Planning Commission shall determine whether noise, vibration, odor, light, glare, heat, electromagnetic or other external effects, from any source whatsoever which is connected with the proposed use, will have a detrimental effect on neighboring property or the neighborhood in general.
- (4) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping of the site shall be such that they will not hinder or discourage the proper development and use of adjacent land and buildings.
- (5) The location and size of the proposed development and the nature and intensity of the principal use and accessory use(s) shall not unduly threaten or jeopardize any natural asset or heritage tree. Upon evidence of a threat to any natural asset or heritage tree, the Planning Commission may require an environmental impact statement to be prepared by the applicant. The Planning Commission shall set forth the basis for requiring an environmental impact statement and the particular concern or concerns need to be addressed in the statement. The environmental impact statement shall be filed as an amendment to the site plan application and be made part of the site plan record.
- (6) The environmental impact statement shall be prepared by a person qualified to advise the Planning Commission and Village Council with regard to the particular area of environmental concern. The Planning Commission may designate the expertise, training, certification or licensure of such person as part of its action requiring an environmental impact statement. Fifteen copies of the environmental impact statement shall be submitted. Where applicable, the environmental impact statement shall include the following information with regard to each area or designation of environmental concern:

A. Anticipated impacts on the community resulting from the project including, but not limited to:

1. Social changes.
2. Economic changes.
3. Changes in the constructed environment.
4. Changes in the natural environment.

B. Possible benefits (positive effects) and detriments (negative effects) of the project.

C. Alternatives considered to either increase benefits or decrease detriments to the community and the immediately surrounding area.

D. Planned solutions included in the project to assure the greatest benefits possible from the project.

E. Planned solutions included in the project to assure the fewest detriments possible from the project.

F. Summary of unavoidable, detrimental effects of the project, including a list of the lost of natural resources irreversibly and irretrievably lost as a result of the project.

(7) Greenbelt and Wall Screening Requirements. The Planning Commission may permit the modification or waiver of greenbelt and/or wall screening requirements as specified in Section 1268.29 where such screening would serve no good purpose, where other methods of screening would be suitable or where alternative solutions achieve the intent and purpose of this Zoning Code.

(f) Planning Commission Action. The Planning Commission is authorized to take the following action on the site plan, subject to the guidelines in the zoning ordinance: recommend approval, approval with conditions, or denial to the Village Council. The Planning Commission may also table the site plan.

(1) Approval. Upon determination that a site plan contains the information required by the Zoning Ordinance and is in compliance with the standards, conditions and requirements of this section, other statutorily authorized and adopted Village planning documents, other applicable ordinances, and state and federal statutes, the Planning Commission shall recommend approval.

(2) Approval Subject to Conditions. Upon determination that a site plan is in compliance except for minor modifications, the Planning Commission may recommend approval subject to conditions. The motion to recommend approval shall identify the conditions of approval, which may include by way of example, the need to obtain variances or obtain Historic District Commission approval.

(3) Denial. Upon determination that a site plan does not comply with the standards and regulations set forth in this section or other applicable ordinances, the Planning Commission shall recommend denial. A motion to recommend denial shall state the reasons for such a recommendation.

(4) Table. Upon determination that a site plan is not ready for approval or denial, or upon request of the applicant, the Planning Commission may postpone or table consideration of a site plan until a future meeting.

(g) Village Council Action. The Village Council shall review the application for site plan approval, together with the public hearing findings and reports and recommendations from the Planning Commission, Historic District Commission, Village Planner, Building Official, and other reviewing agencies. The Village Council is authorized to approve, approve with conditions, or deny the site plan as follows:

(1) Approval. Upon determination that a site plan contains the information required by the Zoning Ordinance and is in compliance with the standards, conditions and requirements of this section, other statutorily authorized and adopted Village planning documents, other applicable ordinances, and state and federal statutes, the Planning Commission shall recommend approval.

(2) Approval Subject to Conditions. Upon determination that a site plan is in compliance except for minor modifications, the Village Council may approve subject to conditions. The motion to approve shall identify the conditions of approval.

(3) Denial. Upon determination that a site plan proposal does not comply with the standards and regulations of this section, the site plan shall be denied. A motion to deny shall state the reasons for denial.

(h) Fees. Applications for site plan approval shall be accompanied by a filing fee, which shall be established by resolution of the Village Council. This filing fee may include a deposit toward the costs of any consultants retained by the Village for reviewing the application, such as consulting planning services, consulting engineering services, legal services, court reporters services, public hearing publication and notification costs, and similar services. The filing fee and deposit shall be paid before the approval process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of this section shall suspend further review of application until the account is brought up-to-date.

Any portion of the fee not needed to pay expenses shall be refunded without interest to the applicant after final action on the application.

(i) Revocation of Site Plan Approval. Site plan approval may be revoked if construction is not in conformance with the approved plans, in which case the Village Council shall give the applicant notice of intention to revoke approval at least ten days prior to review at a public meeting by the Village Council. Upon conclusion of such review, the Village Council may revoke its approval of the plan if the Council feels that a violation in fact exists and has not been remedied prior to such hearing. If the building has already been occupied and the applicant fails to abide by any restrictions after due notice, the certificate of occupancy may be revoked.

(j) Period of Validity. Site plan approval granted under this section shall be effective for a period of one year. If a building permit has been obtained pursuant to an approved site plan, then the effective period for such site plan approval shall be automatically extended to coincide with the expiration of any such building permit. If a building permit issued pursuant to an approved site plan is cancelled, terminated or otherwise expires, then any extension of the site plan by virtue of such building permit shall otherwise be terminated; if the site plan would otherwise have expired, it shall be deemed to have thus expired. Notwithstanding any provision of this division (j), the Village Council may, on proper application, grant an extension or extensions of any approved site plan for good cause shown. No such extension shall be granted unless there is full compliance with all applicable site plan requirements which may be in effect at the time of the application for extension.

(Ord. 2010-03. Passed 4-12-10; Ord. 2017-02. Passed 2-13-17.)

1268.31 APPROVAL OF PLATS.

No proposed plat of a new subdivision shall hereafter be approved by the Village Council unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this Zoning Code, and unless such plat fully conforms with the statutes of the State and the ordinances of the Village.

(Ord. 101. Passed 2-20-70.)

1268.32 SPECIAL APPROVAL USES.

Where a particular use of land or structures is designated as a special approval use within any zoning district, then such special approval use shall be permitted within that zoning district only upon the approval of the Village Council and in accordance with the following procedures:

(a) Application for approval of a special approval use shall be filed with the Village Council for the Village of Franklin on a form provided by the office of

the Village Clerk. The application for approval shall be accompanied by an application fee in the amount of one hundred dollars (\$100.00) plus reimbursement for costs of professional review.

(b) The application for special use approval shall be signed by the owner or owners of the property being proposed for such special use, and shall be accompanied by the following information:

- (1) A legal description of the property under consideration.
- (2) A map indicating the gross land area of the development, the present zoning classification thereof and the zoning classification and land use of the area surrounding the proposed development.
- (3) A vicinity map showing the location of the area in relation to surrounding properties, streets, freeways, parks, schools, school sites and other significant features of the community where appropriate.
- (4) A general development plan with at least the following details shown to scale and dimension:

A. The location of each existing and each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between buildings and between buildings and lot lines, setback lines and the location of entrances and loading points.

B. All streets, driveways, service aisles and parking areas, including the general layout and design of parking lot spaces.

C. All pedestrian walks, malls and open areas for parks, recreation and light and air to be dedicated to the public or to be retained by an acceptable property owner's association.

D. Architectural sketches, at an appropriate scale, showing building heights, elevations and other features of the development.

E. A general grading plan of the proposed development with a brief narrative description.

(c) The Village Council shall refer the application for special use approval to the Village Planning Commission. The Village Planning Commission may request additional information to assist in the review of the request. Such additional information may consist of floor plans, proposed signing, detailed building elevations, traffic studies or other information.

The Village Planning Commission shall hold a public hearing upon the proposed special use request. Notice of the hearing shall be given in accordance with Section 1242.08.

(d) In reviewing a proposed special use, the Planning Commission shall consider the following in its evaluation for report and recommendation to the Village Council:

(1) The proposed building or buildings shall be of such location, size and character as to be in harmony with the specific regulations and standards, and the appropriate and orderly development, of the zoning district in which situated and shall not be detrimental to the orderly development of adjacent zoning districts.

(2) The location and size of the proposed use or uses, the nature and intensity of the principal use and all accessory uses, and the site layout and its relation to streets giving access to it, shall be such that traffic to and from the use or uses, and the assembly of persons in connection therewith, will not be hazardous or inconvenient to the neighborhood nor conflict with the normal traffic of the neighborhood. In applying this standard, the Village Planning Commission shall consider, among other things, convenient routes for pedestrian traffic, particularly of children; the relationship of the proposed project to freeways and main traffic thoroughfares and to street and road intersections; and the general character and intensity of the existing and potential development of the neighborhood. In addition, where appropriate, the Planning Commission shall determine that noise, vibration, odor, light, glare, heat, electromagnetic or radioactive radiation, or other external effects, from any source whatsoever which is connected with the proposed use, will not have a detrimental effect upon neighboring property or the neighboring area in general.

(3) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping of the site shall be such that they will not hinder or discourage the proper development and use of adjacent land and buildings nor impair the value thereof.

(4) Where a use is of a temporary nature, the duration of the proposed use and any conditions for restoration of premises or property in which or upon which such use is to be conducted.

(e) In its report to the Village Council, the Planning Commission shall make specific findings with regard to each of the following, based upon the information furnished by the applicant and information received at the public hearing and by applying those standards and considerations set forth in subsection (d) hereof:

- (1) The effect of the proposed use on surrounding properties;
- (2) The effect of the proposed use on traffic or pedestrian safety and traffic safety;
- (3) The environmental impact of the proposed special use;
- (4) Effects of noise generated by the proposed use;
- (5) The impact of the proposed special use on the Historic District or historic structures;
- (6) Whether the location, size and other conditions regarding the proposed special approval use are in furtherance of the spirit and intent of the particular zoning district in which such proposed use is to be located; and
- (7) The suggested length or duration of any proposed use if such proposed use is to be less than permanent in nature.

(f) Upon completion of its findings and conclusions, the Village Planning Commission shall prepare and file its report with the Village Council. In addition to its findings and conclusions, the Village Planning Commission, where appropriate and necessary, may also recommend to the Village Council any conditions which should be imposed upon a proposed special approval use, or it may recommend additional information which may be necessary for consideration by the Village Council.

(g) Upon receipt of the conclusions and report of the Village Planning Commission, the Village Council shall place upon its agenda the application for special approval use. Such application shall be considered at a regularly scheduled meeting of the Village Council. In the discretion of the Village Council, the matter of a particular special use application may be scheduled for a public hearing to be held at a designated time and date before the Village Council. In such event, the Village Clerk shall give notice of the public hearing in accordance with Section 1242.08. The Village Council, in considering approval or rejection of an application for special use, shall take into account the report and conclusions received from the Planning Commission, together with additional information which may have been received by the Village Council. Nothing herein shall be deemed to preclude the Village Council from requesting any additional information which it may deem necessary or essential to consideration of a special use application.

(h) Upon the conclusion of deliberations and consideration by the Village Council, the Village Council shall adopt a resolution by a majority of the members then present and constituting a quorum, either approving or rejecting the application for special approval use. The Village Council may, in its conclusions and resolution, adopt the findings and recommendations of the Planning Commission, may adopt some of the findings and conclusions of the Planning Commission, may adopt and/or modify any of the conclusions or recommendations of the Planning Commission, or may make its own findings.

(1) Approval of such proposed special use may provide for certain specific seasonal, fundraising, charitable or other events of a defined and limited nature;

(2) Nothing herein shall preclude the Village Council, on application made in writing, and for good cause shown, to permit other specific events as part of such proposed special use, provided that such an event is not of a regularly recurring nature, is consistent with the special use approval, is harmonious with surrounding land uses and is of a defined and specific nature. The Village Council may impose requirements on such additional events as will insure compliance with this Zoning Code. No approval of any such event or activity shall be deemed to assure approval of any additional events or activities, nor shall any such permit in any way expand or enlarge the special use approval.

(i) In the event of rejection by the Village Council of an application for special approval use, no application for the same special use shall be filed for the same property within a period of twenty-four months from the date of action by the Village Council.

(j) Upon expiration of any time period established for such special approval use, such use shall immediately cease and may not continue. Such time period may not be extended except by re-application consistent with the provisions of this section.

(k) Where a special approval is also a use for which site plan review is required in accordance with Section 268.30, the applicant may elect at the time of application for special use approval to file a joint application for special use approval and site plan approval. In such event, the requirements of this section for special use approval as well as each and every requirement for site plan approval shall be applicable in accordance with this section as well as Section 1268.30. In the event of a joint application for special use approval and site plan approval, no special use shall be approved unless it shall meet each and every requirement for site plan approval, and no site plan approval shall be granted unless such proposed use shall meet each and every requirement for special use approval.

(Ord. 157. Passed 10-12-87; Ord. 2006-03. Passed 11-13-06.)

1268.33 OUTDOOR DINING AND OUTDOOR CAFES.

(a) Purpose. The Village Council of the Village of Franklin has determined the establishment of outdoor dining, including outdoor cafes and sidewalk cafes, will promote the public interest by creating an attractive pedestrian environment for businesses during the day and evening and will foster a pleasant and distinctive ambience within the Village. The purpose of this section is to establish appropriate regulations to regulate this activity to ensure that the public health, safety, and welfare is protected.

(b) Definitions. As used in this section:

(1) Outdoor dining. Any outdoor café, sidewalk café, outdoor eating area or similar food service accessory to a restaurant or business serving food and drink.

(2) Outdoor café. An outdoor food service area operated adjacent to and in conjunction with a restaurant or business serving food and drink.

(3) Sidewalk café. An outdoor café on the public sidewalk and/or public right-of-way.

(c) Permitted Uses. Outdoor dining is a permitted use when accessory to a restaurant, subject to site plan review. Retail food establishments that do not provide table service may have outdoor dining in which patrons carry their food from inside the premises to tables located outside.

(d) Application.

(1) An application for permission to have outdoor dining shall be on a form provided by the Village and shall include at least the following:

A. The name, mailing address, and telephone number of the applicant and the owner of the property (if different from the applicant).

B. A detailed drawing to scale of the site indicating the following: the layout and dimensions of the proposed outdoor dining area; the points of ingress and egress; and the proposed locations of tables, chairs, serving equipment, railings, awnings, umbrellas, trash receptacles and other facilities to be used. If electricity is to be provided, the locations of electrical lines and fixtures shall be noted. For a sidewalk café, the drawing must also include the location of existing nearby public improvements, including street signs, street lights, mail boxes, trees, planting boxes, etc.

C. A copy of a valid Health Division permit.

D. If alcohol is to be served, a copy of a valid State of Michigan liquor license.

E. The application fee (and Village license fee, if applicable).

(2) The Building Official shall review the site plan and related documents to determine compliance with the Building Code and Zoning Ordinance.

(3) A permit may be issued by the Building Official upon approval of a site plan by the Village Council. The site plan shall be prepared in accordance with this sub-section.

(4) In addition to site plan approval, proposed outdoor dining facilities shall require approval by the Historic District Commission.

(e) License. Anyone applying for permission to have outdoor dining on the public sidewalk or right-of-way must execute a license agreement approved by the Village Council.

(f) Indemnification, Insurance. The owner of a sidewalk café shall indemnify and hold harmless the Village and its agencies and employees from any liability arising from the existence of the outdoor dining area on the public right-of-way and shall provide insurance protecting the Village and the public from such claims as required by the license.

(g) Public safety and access.

(1) An outdoor dining area shall not obstruct any fire exit, fire escape, or other required means of ingress and egress.

(2) Outdoor dining areas within the public sidewalk or right-of-way, without limitation any signage, furnishings and display items, must maintain an unobstructed sidewalk width of five feet and shall not be closer than five feet to the edge of the road.

(3) Outdoor dining areas shall not obstruct the line of sight of vehicular or pedestrian traffic.

(4) Outdoor dining areas shall not interfere with any public service facility, such as a mailbox or a bench, located on a sidewalk.

(h) Barrier-free access. An outdoor dining area shall at all times comply with applicable Federal, State, and Village laws, ordinances and regulations concerning accessibility and non-discrimination of service.

(i) Hours of operation. Outdoor dining must cease at the close of business, or by 11:00 p.m., whichever is earlier.

(j) Alcohol consumption. The sale and consumption of alcoholic beverages in an outdoor dining establishment shall be restricted by the liquor license governing the restaurant. Any seating area where alcoholic beverages are to be served, sold, or consumed shall be enclosed by a railing and shall be supervised at all times by an employee of the restaurant. No alcoholic beverages may be removed from the outdoor dining area, except to the interior of the restaurant.

(k) Quality of furnishings. Outdoor furnishings, objects and finishes shall be of quality design, materials, and workmanship, in keeping with the

historic district guidelines, both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the environment, subject to approval of the site plan.

(l) Signs. No sign shall be allowed at any outdoor dining facility except for:

(1) The name of the establishment on an awning or umbrella fringe, and

(2) One menu board sign, not to exceed six square feet, which may be displayed within the outdoor dining area. The sign can be mounted permanently (for example, on a wall), but if it is mounted on an easel or other easily removable fixture, then it must be stored indoors each night.

(3) The menu board sign shall be constructed of durable, weather-resistant materials, such as but not limited to: stainless steel or aluminum frame, Lexan or Plexiglass cover, and a slate or porcelain board. Cardboard signs are prohibited.

(m) Public health measures. Refuse containers must be provided and serviced. All outdoor dining areas shall be cleared of trash, debris and litter at the time of closing each day. No soiled food service equipment, utensils or tableware may be kept in the outdoor dining area.

(n) Seasonal removal. Tables, chairs and other furnishings and accessories may be left in place overnight during seasonal operation but shall be removed and stored indoors whenever outdoor dining is not in seasonal operation.

(o) Exterior lighting. Exterior lighting shall be subdued and downward directed. No wall pack fixtures shall be used. Lighting shall be shut off each night when outdoor dining is concluded.

(p) Miscellaneous provisions. Outdoor dining areas shall be located on an impervious surface or on an approved pervious paving surface. Outdoor dining shall not occupy required parking areas.

(Ord. 2009-01. Passed 5-11-09.)

1268.34 LANDSCAPING.

(a) Off-Street Parking Requirements.

(1) Whenever a wall, as provided in Section 1262.02, is required, all land between said wall and the boundaries of the P-1 District shall be kept free from refuse or debris and shall be landscaped. The landscaped area adjacent to the wall shall be planted with deciduous shrubs, evergreens and/or ornamental trees.

(2) Fruit trees shall not be used. Where the arrangement of plant material will result in exposure of the walls, said walls shall be covered with ivy, spirea border or similar plant material. The remainder of the landscaped area which is not planted with the aforementioned stock shall be in well-kept lawn. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.

(3) All planting plans shall be first submitted to the Building Official for approval as to suitability of planting materials and arrangement thereof in accordance with the provisions of the preceding paragraph and the requirements of Section 1262.02.

(b) Greenbelts.

(1) Greenbelts intended to serve as a buffer between residential and nonresidential land uses and as beautification for land uses in other places shall not be less than 20 feet wide, unless a smaller width is found to be appropriate to the size and scale of the lot upon which the greenbelt is to be placed.

(2) Plantings shall be designed and arranged in accordance with the minimum requirements specified below and shall be so maintained that within two years after being planted, they shall form a complete screen not less than four feet in height.

A. An evergreen tree of one or more of the following types shall be placed every ten feet:

1. Medium Evergreens

- a. Black Spruce (*Picea mariana*)
- b. Eastern Red Cedar (*Juniperus virginiana*)
- c. White Cedar (*Thuja occidentalis*)

2. Columnar Evergreens

- a. Columnar Juniper (*Juniperus chinensis*)
- b. Irish Juniper (*Juniperus communis*)
- c. Pyramidal Arborvitae (*Thuja occidentalis* "Pyramidalis")

B. Interspaced among the evergreen trees shall also be a selection of the following shrubs:

1. Ornamental Trees (two-year-old varieties spaced at least six feet apart)

- a. Eastern Redbud (*Cercis Canadensis*)
- b. Flowering Cherry (*Prunus*)
- c. Flowering Crabapple (*Malus*)
- d. Flowering Dogwood (*Cornus kousa*)
- e. Magnolia
- f. Mountain Ash (*Sorbus (Americana)*)
- g. River Birch (*Betula nigra*)
- h. Rose-of-Sharon (*Hibiscus syriacus*)
- i. Russian Olive (*Elaeagnus angustifolia*)
- j. Serviceberry (*Amalanchier*)
- k. Tree Lilac (*Syringa reticulata*)

2. Large Deciduous shrubs (two-year-old varieties spaced at least three feet apart)

- a. Burning Bush (*Euonymus*)
- b. Butterfly Bush (*Buddleia*)

- c. Forsythia
- d. Honeysuckle (Lonicera)
- e. Lilac (Syringa vulgaris)
- f. Mockorange (Philadelphus x virginalis)
- g. Ninebark (Physocarpus opulifolius)
- h. Smoke Bush (Cotinus coggygria)
- i. Viburnum.

(Ord. 2017-02. Passed 2-13-17.)

APPENDIX A

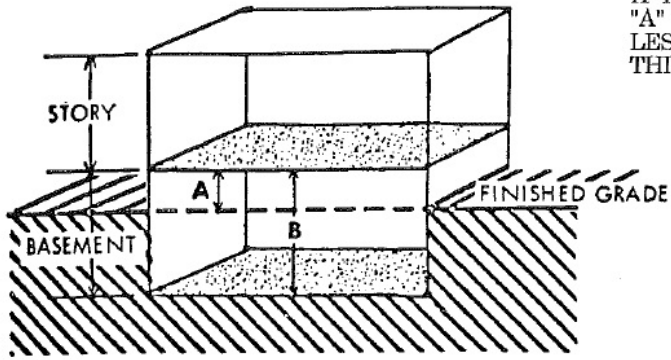
NON-PROTECTED TREES

Botanical Name	Common Name
<i>Ailanthus altissima</i>	Tree-of-Heaven
<i>Alnus glutinosa</i>	Black Alder
<i>Caragana arborescens</i>	Siberian Peashrub
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Kalopanax septemlobus</i>	Kalopanax
<i>Madura pomifera</i>	Osage-orange
<i>Morus alba</i>	White Mulberry
<i>Populus alba</i>	White Poplar
<i>Prunus avium</i>	Sweet Cherry
<i>Prunus mahaleb</i>	Perfumed Cherry
<i>Phamnus cathartica</i>	Common Buckthorn
<i>Robinia pseudoacacia</i>	Black Locust
<i>Salix alba</i>	White Willow
<i>5 alix fragilis</i>	Crack Willow
<i>5 alix purpurea</i>	Basket Willow
<i>Ulmus pumila</i>	Siberian Elm
<i>Acer negundo</i>	Box Elder
<i>Praxinus americana</i>	White Ash
<i>Praxinus nigra</i>	Black Ash
<i>Praxinum pennrylvatica</i>	Green Ash
<i>Praxinus quadrangulata</i>	Blue Ash

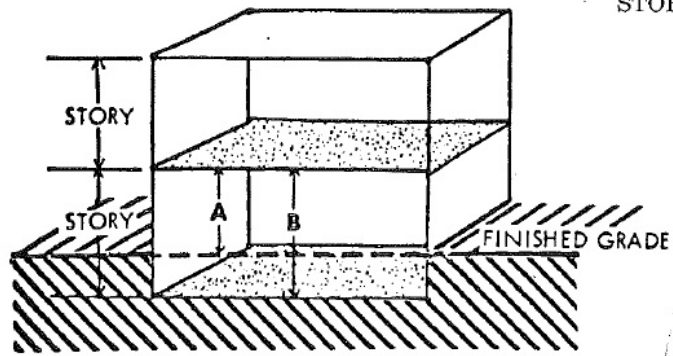
(Ord. 2010-04. Passed 5-10-10.)

APPENDIX A-1

BASEMENT & STORY DEFINITION



IF THE AVERAGE OF "A" IS EQUAL TO OR LESS THAN 1/2 OF "B", THIS IS A BASEMENT.

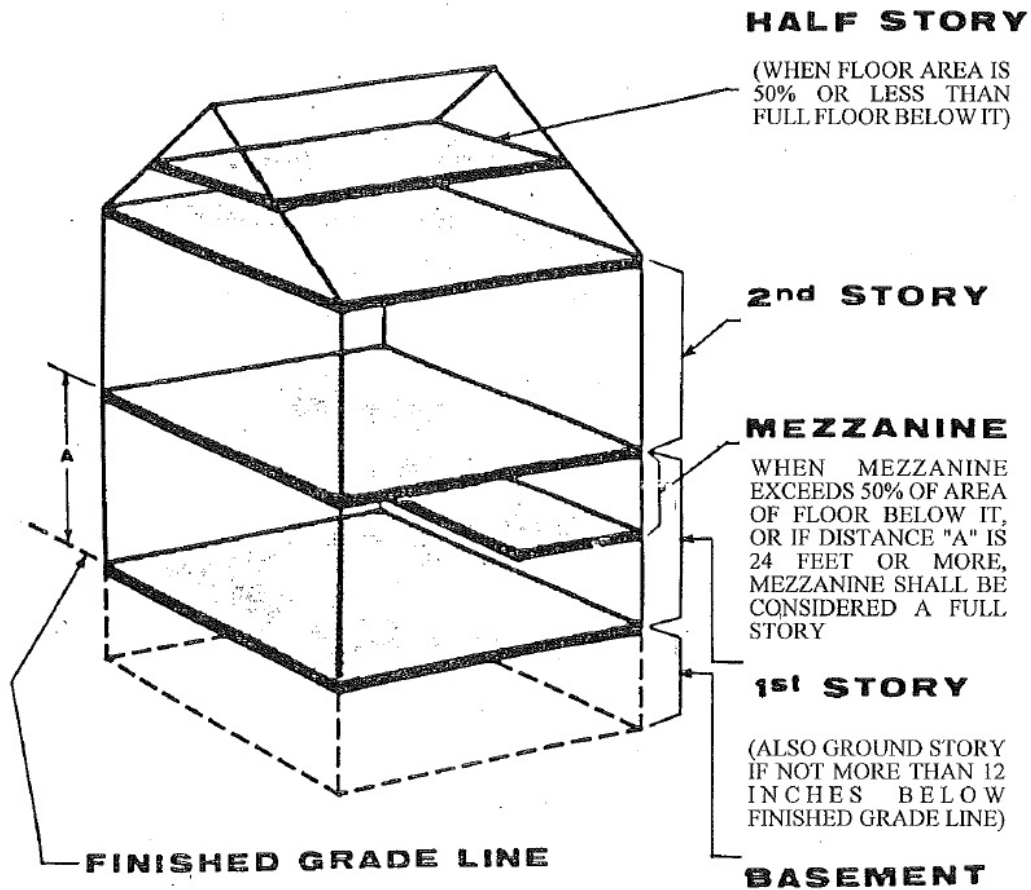


IF THE AVERAGE OF "A" IS GREATER THAN 1/2 OF "B", THIS A STORY.

(Ord. 101. Passed 2-20-70.)

APPENDIX A-2

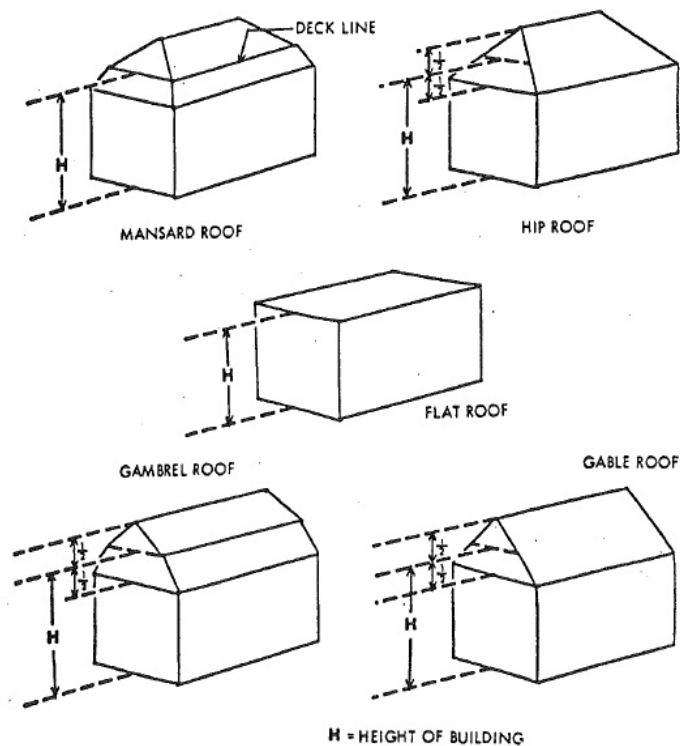
BASIC STRUCTURAL TERMS



(Ord. 101. Passed 2-20-70.)

APPENDIX A-3

BUILDING HEIGHT REQUIREMENTS



APPENDIX A-4

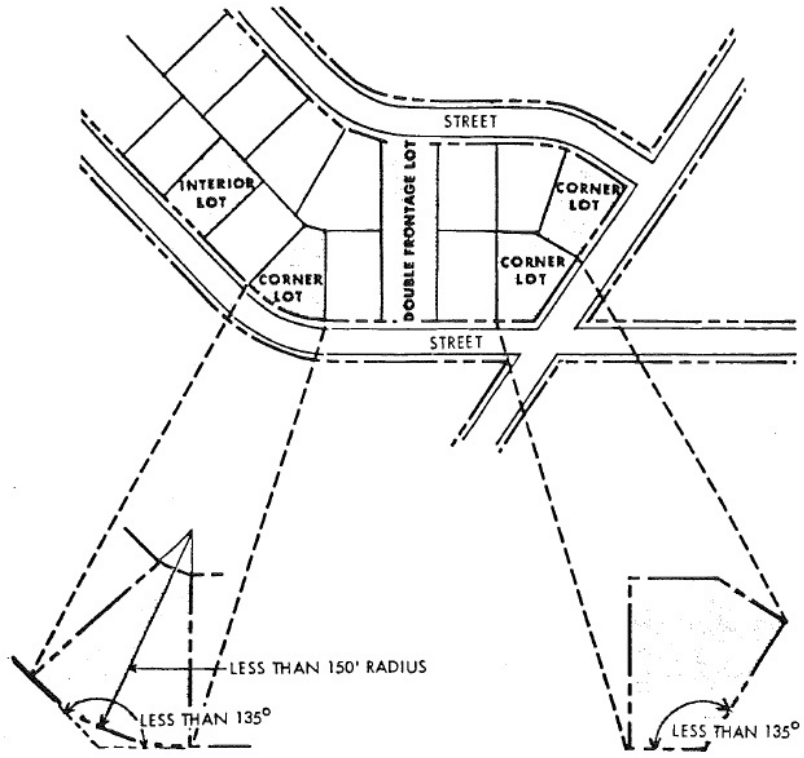
HERITAGE TREE LIST

<u>Species</u>		<u>Diameter</u> <u>at 4 ft. 6 in.</u> <u>(inches)</u>
<u>(Common Name)</u>	<u>(Scientific Name)</u>	
American Hornbeam, Ironwood	Carpinus caroliniana	8
Arborvite	Thuja occidentalis/T. orientalis	18
Ash	Fraxinus spp.	24
Basswood	Tilia Americana	24
Beech, American	Fagus grandifolia	18
Beech, Blue	Carpinus caroliniana	8
Birch	Betula spp.	18
Black Walnut	Juglans nigra	24
Butternut	Juglans cinerea	24
Catalpa	Catalpa speciosa	24
Cedar, Red	Juniperous virginiana	12
Crabapple/Hawthorne	Malus spp./Crataegus spp.	8
Dogwood, Flowering	Comus florida	8
Elm	Ulmus Americana	24
Fir	Abies sp. (Douglas Fir=Pseudotsuga menzieslii)	18
Ginkgo	Ginkgo biloba	18
Hackberry	Celtis occidentalis	24
Hemlock	Tsuga Canadensis	18
Hickory	Carya ovata	18

<u>Species</u>		<u>Diameter</u> <u>at 4 ft. 6 in.</u> <u>(inches)</u>
<u>(Common Name)</u>	<u>(Scientific Name)</u>	
Honey Locust	Gleditsia tricanthos	24
Horsechestnut	Aesculus carnea	24
Kentucky Coffeetree	Gymnocladus dioicus	18
Larch/Tamarack	Larix deciduas	12
London Plane/Sycamore	Platanus acerfolia/P. occidentalis	24
Maple	Acer sacharum/A. rubrum	18
Oak	Quercus spp.	18
Pine	Pinus spp.	18
Princess Tree or Royal Paulownia	Paulownia tomentosa	18
Redbud	Cercis Canadensis	8
Sassafras	Sassafras albidum	18
Serviceberry	Amelanchier arborea	8
Spruce	Picea pungens	18
Sweetgum	Nyssa sylvatica	16
Tulip Poplar	Liquidambar tulipifera	24
Wild Cherry	(Black) Prunus serotina (Pin Cherry = P. pensylvanica)	18
Witch Hazel	Hamamelis virginiana	8

APPENDIX A-5

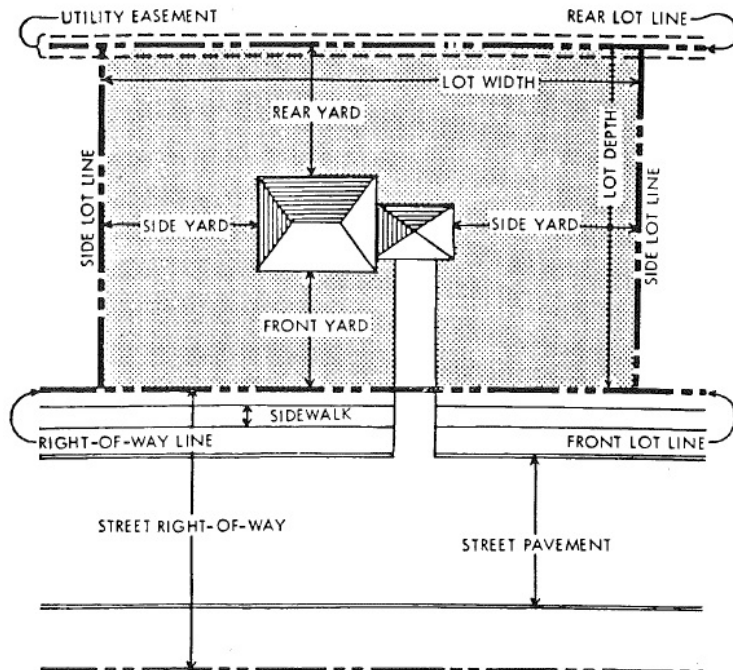
CORNER, INTERIOR AND DOUBLE FRONTAGE LOTS



(Ord. 101. Passed 2-20-70.)

APPENDIX A-6

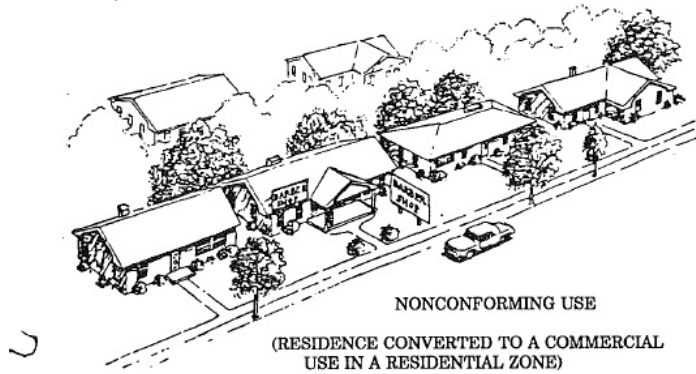
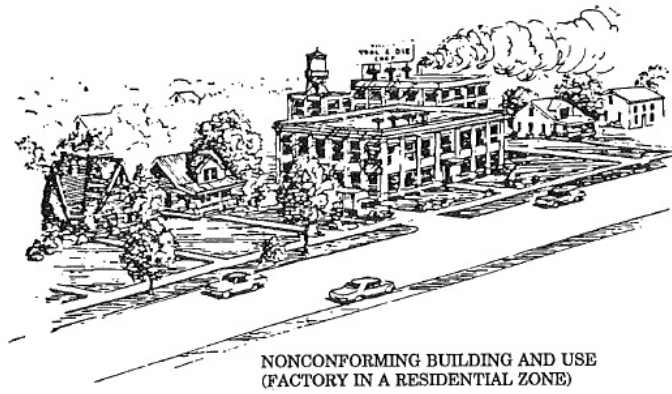
LOT TERMS



(Ord. 101. Passed 2-20-70.)

APPENDIX A-7

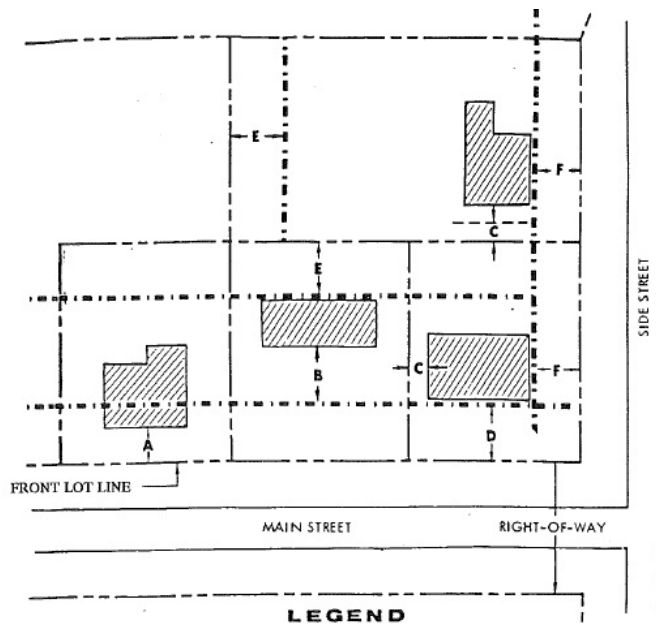
NONCONFORMING USE



(Ord. 101. Passed 2-20-70.)

APPENDIX A-8

YARD REQUIREMENTS



- A ----- DEFICIENT FRONT YARD
- B ----- FRONT YARD IN EXCESS OF MINIMUM FRONT YARD REQUIRED
- C ----- MINIMUM SIDE YARD REQUIRED
- D ----- MINIMUM FRONT YARD REQUIRED ALSO BUILDING SETBACK LINE
- E ----- MINIMUM REAR YARD REQUIRED
- F ----- MINIMUM YARD REQUIRED ON SIDE STREET WHEREON HOMES FRONT

(Ord. 101. Passed 2-20-70.)

APPENDIX B

SCHEDULE OF REGULATIONS										
For Area, Height, Bulk and Placement Requirements										
Zoning District	Maximum Lot Coverage (percentage)	Minimum Size of Lot		Maximum Height of Building In Feet	Minimum Yard Setbacks In Feet (Unobstructed)					Minimum Cubic Content per Dwelling Unit in Cubic Feet
		Area per Dwelling Unit in Sq. Feet	Width In Feet		Front	At Least One Side	Total of Two Sides	Side Yard Adjacent to a Street	Rear	

SCHEDULE OF REGULATIONS										
For Area, Height, Bulk and Placement Requirements										

Zoning District	Maximum Lot Coverage (percentage)	Minimum Size of Lot		Maximum Height of Building In Feet	Minimum Yard Setbacks In Feet (Unobstructed)					Minimum Cubic Content per Dwelling Unit in Cubic Feet
		Area per Dwelling Unit in Sq. Feet	Width In Feet		Front	At Least One Side	Total of Two Sides	Side Yard Adjacent to a Street	Rear	
R-E	10	130,000	120	(a)(c)	50	(b)	(b)	50	(c)	30,000
R-L	15	65,000	120	(a)(c)	50	(b)	(b)	50	(c)	30,000
R-M	25	42,000	120	(a)(c)	50	(b)	(b)	50	(c)	30,000
R-1	25	30,000	120	(a)(c)	50	(b)	(b)	50	(c)	30,000
R-2	30	22,500	100	(a)(c)	40	(b)	(b)	40	(c)	22,500
R-3	35	15,000	80	27	30	10	25	30	40	20,000
R-4	35	12,000	80	27	20	10	25	20	30	15,000
RO-1	30	*	*	14-1/2	40	12	35	40	35	*
C-1	*	*	*	14-1/2	*	*	*	*	*	*
PI	*	*	*	29	*	*	*	*	*	*

* Site Plan Review required for those items. Also for P-1 and H Districts (see Chapters 1258 and 1230).

** The minimum cubic content shall be calculated as defined herein (see Section 1240.07(20)).

(a) The maximum building height in the R-E, R-L, R-M, R-1, and R-2 districts shall be determined in accordance with the following graphic representation 1 or mathematical representation 2:

Graphic representation 1: In the appropriate location and at the proper scale on the front elevation, draw a 15' x 20' "measurement triangle" as illustrated below. Extend the dashed line to 35 feet high. No portion of the building may extend into the setback or above the dashed line.

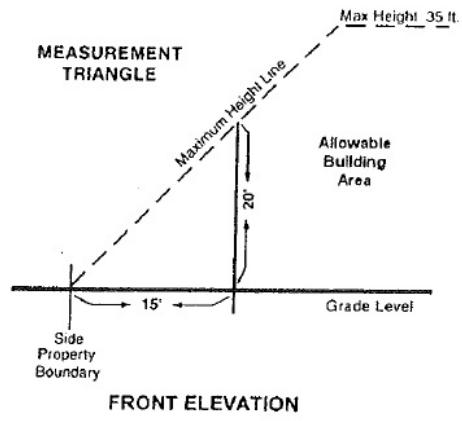
Mathematical representation 2: The maximum permitted height relative to the side property line is equal to: (1.33 x side setback measured in feet), up to a maximum height at the peak of roof of 35 feet.

(b) The total of both side setbacks shall not be less than one-third (1/3) of the lot width. The smaller of the side setbacks shall be equal to or greater than 37% of the total of both side setbacks.

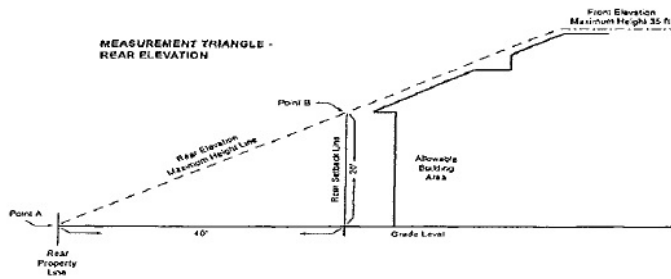
(c) In the R-E, R-L, R-M, R-1, and R-2 districts, the maximum height measured at the rear of the building shall be determined using a measurement triangle, in accordance with the following guidelines (see graphic 2):

- (1) Extend the average grade line horizontally from the rear face of the house to the rear property line (point A).
- (2) Mark the 40-foot rear yard setback (35-foot in the R-2 district) on the horizontal grade line.
- (3) At the 40-foot mark (35-foot mark in the R-2 district), extend a 20-foot long line upward and perpendicular to the horizontal grade line. The top of the perpendicular line is point B.
- (4) Connect points A and B and extend the line until it intersects the maximum height line established for the front elevation.
- (5) No portion of the building may extend into the setback or above the rear elevation maximum height line.

Graphic representation 1:



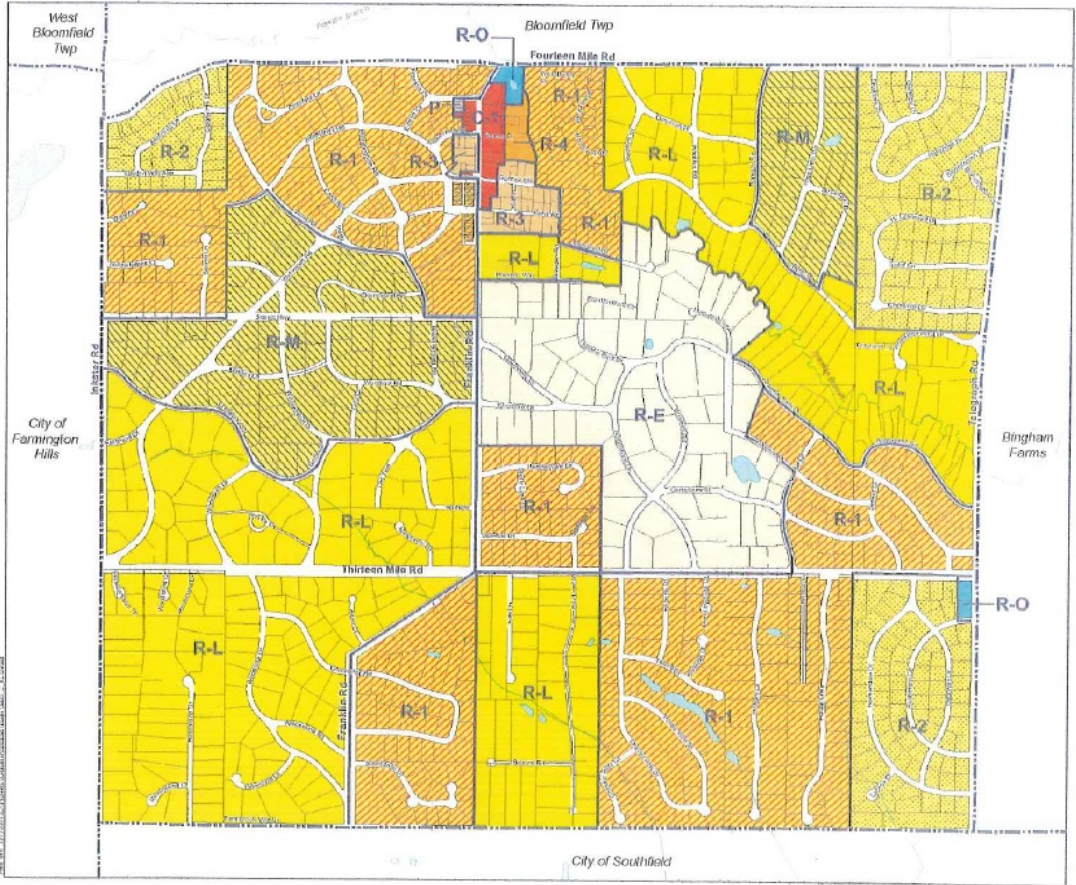
Graphic 2:



(Ord. 171. Passed 11-19-90; Ord. 2005-01. Passed 1-10-05; Ord. 2005-05. Passed 1-10-05; Ord. 2005-10. Passed 11-14-05; Ord. 2008-01. Passed 1-14-08; Ord. 2020-07. Passed 11-9-20; Ord. 2021-02. Passed 7-19-21.)

ZONING MAP

To view Zoning Map as a PDF document, [CLICK HERE](#)



Zoning Map

Village of Franklin,
Oakland County, Michigan
August 20, 2013

ZONING DISTRICTS

- R-E Estate Residential District (130,000 sq.ft.)
- R-L Large Lot Residential District (85,000 sq.ft.)
- Modified Low Density Residential District (42,000 sq.ft.)
- Low Density Residential District (30,000 sq.ft.)
- Medium Low Density Residential District (22,000 sq.ft.)
- R-3 Medium Density Residential District (15,000 sq.ft.)
- R-4 Medium High Density Residential District (12,000 sq.ft.)
- Restricted Office District
- Local Business District
- P Vehicular Parking District
- Franklin Village Boundary

Note:

The lot lines on this map are representative of the actual lot lines and are not a substitute for an official survey and are not to be used to resolve boundary or area issues. Secure a survey or, consult county or Village of Franklin records for lot dimensions, area, and boundaries

CERTIFICATION

I, EILEEN PULKER, CLERK OF THE FRANKLIN VILLAGE, OAKLAND COUNTY, DO HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE MAP ADOPTED BY THE VILLAGE COUNCIL OF FRANKLIN VILLAGE ON 08/20/13 AS OF REVISION DATE.

Eileen Pulker
EILEEN PULKER, VILLAGE CLERK

Scale: 0 500 1000 FEET
McKenna ASSOCIATES

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