

## Chapter 36 - ZONING<sup>(1)</sup>

### Footnotes:

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**Editor's note**— Ord. No. 66, §§ 1, 2, adopted September 14, 2015, repealed the former Ch. 36, §§ 36-1—36-354, and enacted a new Ch. 36 as set out herein. The former Ch. 36 pertained to similar subject matter and derived from Ord. of Nov. 10, 2003 and Ord. No. 60, § 2, 9-10-2012.

### ARTICLE I. - IN GENERAL

#### Sec. 36-1. - Definitions and rules of construction.

(a) *Terminology rules.* For the purpose of this chapter, the following rules shall apply to the terminology in the text:

- (1) In case of any difference of meaning or implication between the text and any caption or illustration, the text shall take precedence. If the meaning of a word or phrase is unclear in a particular circumstance, the zoning board of appeals (ZBA) shall construe the provision to carry out the intent of this chapter if such can be discerned from other provisions of this chapter or law.
- (2) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
- (3) The word "occupied" and the word "used" shall be considered to be followed by the words "or intended, arranged or designed to be used or occupied."
- (4) All words and phrases used in this chapter shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- (5) Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
- (6) The words "person," "proprietor," "property owner," and "operator" shall include any recognized form of legal entity.
- (7) The words "property," "lot," "parcel," "real estate," "premises," "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- (8) The word "road" shall also mean "highway," "street," "alley," "drive," "cul-de-sac," "land" or other public thoroughfare.
- (9) The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
- (10) Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  - a. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- (11) In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the city

or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

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

*Abutting* means two or more lots which share a common property line. Lots which are separated by a right-of-way shall not be considered abutting.

*Accessory apartment* means a single-dwelling-unit apartment located in a residence apparently constructed as, and having the apparent character of, a one-family residence, which apartment does not substantially alter the character and appearance of the residential structure or its conformity with the character of the neighborhood.

*Accessory uses and structures* means uses and structures which are customarily accessory and clearly incidental and subordinate to, and on the same zoning lot as permitted principal or conditional uses and structures in any zoning district.

*Adult foster care family home* means a private residence licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.) for six or fewer adults to be provided with foster care for five or more days a week for two or more consecutive weeks. The adult foster care family home licensee is a member of the household and an occupant of the residence.

*Adult foster care large group home* means a facility licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.) to provide foster care for at least 13 but not more than 20 adults.

*Adult foster care medium group home* means a facility licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.) to provide foster care for at least seven but no more than 12 adults.

*Adult foster care small group home* means a facility licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.) to provide foster care for six or fewer adults.

*Adult uses* means any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting specified sexual activities or specified anatomical areas.

- (1) *Adult entertainment use* shall include, but not be limited to, the following:

- a. An adult motion picture theater is an enclosed building with a capacity of 50 or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- b. An adult mini-motion picture theater is an enclosed building with a capacity for less than 50 persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting specified sexual activities or specified anatomical areas for observation by patrons therein.
- c. An adult motion picture arcade is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe or relate to specified sexual activities or specified anatomical areas.
- d. An adult bookstore is a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has as a significant portion of its content or exhibit matter or actions depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a substantial segment or section devoted to the sale or display of such material.

- e. An adult cabaret is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe specified sexual activities or specified anatomical areas.
  - f. An adult motel is a motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing, or relating to specified sexual activities or specified anatomical areas.
  - g. An adult massage parlor is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with specified sexual activities or where any person providing such treatment, manipulation or service related thereto exposes specified anatomical areas.
  - h. An adult model studio is any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar education institution.
  - i. An adult sexual encounter center is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.
- (2) *Significant portion.* As used in the definitions set forth in subsection (1) of this section, the term "significant portion" means and includes:
- a. Any one or more portions of the display having continuous duration in excess of five minutes;
  - b. The aggregate of portions of the display having a duration equal to ten percent or more of the display; and/or
  - c. The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten percent or more of the display.
- (3) *Display.* As used in the definitions set forth in subsection (1) of this section, the term "display" means any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, computer generated images, video cassettes or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.
- (4) *Specified sexual activities.* As used in the definitions set forth in subsection (1) of this section, the term "specified sexual activities" means and includes:
- a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse or sodomy;
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (5) *Specified anatomical areas.* As used in the definitions set forth in subsection (1) of this section, the term "specified anatomical areas" means and includes:
- a. Less than completely and opaquely covered:
    - 1. Human genitals, pubic region;
    - 2. Buttock; and
    - 3. Female breast below a point immediately above the top of the areola;
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Alley* means any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

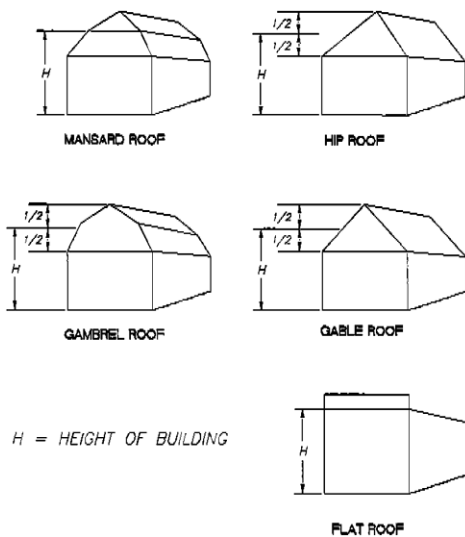
*Alteration* means any change in size, shape or location of a building or structure in accordance with applicable construction codes.

*Body shop* means a place for the repair of automobile bodies, including bumping, painting and frame repair.

*Buffer or buffer zone* means an area established to protect one type of land use from the possibility of undesirable characteristics of another. The purpose is to screen out any potential objectionable features of the more intensive utilization of land from that of the less intensive. Normally, buffers consist of flat or mounded grassy areas, areas planted with hardy shrubs and trees, with fences or walls usually placed to obscure vision by density or height.

*Building* means any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals or property of any kind.

*Building, height of,* means the vertical distance from the grade at the center of the front of the building to the highest point of the roof surface in a flat roof, to the deck line for mansard roofs, and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.



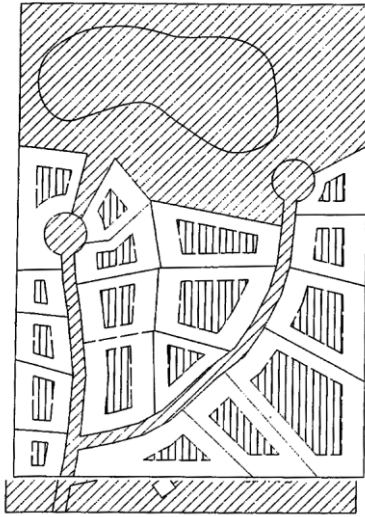
### BUILDING HEIGHT

*Building inspector* means that person duly charged by the appropriate appointing authority with the responsibility for ensuring that buildings comply with the state construction code.

*Conditional use* means a use which, owing to some special characteristics attendant to its operation, is permitted within a given zoning district subject to planning commission review and approval by the village council, and subject to special requirements included in this chapter.

*Condominium.* The following definitions shall apply to all condominium developments:

- (1) *Conventional condominium project* means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in which the condominium unit consists primarily of the dwelling or other principal structure and most of the land in the development is part of the general common area.



## SITE CONDOMINIUM

-  GENERAL COMMON AREAS
-  LIMITED COMMON AREAS
-  CONDOMINIUM UNIT

- (2) *Site condominium project* means a development in which ownership interest is divided under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), and in which the condominium unit consists of a building site, with or without structures, which, along with associated limited common area, constitutes the equivalent of a lot.
- (3) *General common areas* means portions of the condominium development owned and maintained by the condominium association.
- (4) *Limited common areas* means portions of the condominium development other than the condominium unit itself reserved for the exclusive use of less than all of the co-owners of the condominium development.
- (5) *Condominium subdivision plan* means drawings and information prepared pursuant to section 66 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.166).
- (6) *Master deed* means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and including those items required in section 8 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.108).
- (7) *Contractible condominium* means a condominium project from which any portion of the submitted land or building may be withdrawn in accordance with the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).
- (8) *Conversion condominium* means a condominium project containing condominium units, some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.171).
- (9) *Expandable condominium* means a condominium project to which additional land may be added in accordance with the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).

*Dwelling, multiple-family,* means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

*Dwelling unit* means one or more habitable rooms which are occupied or intended for occupancy by one family with facilities for living, sleeping, cooking and eating.

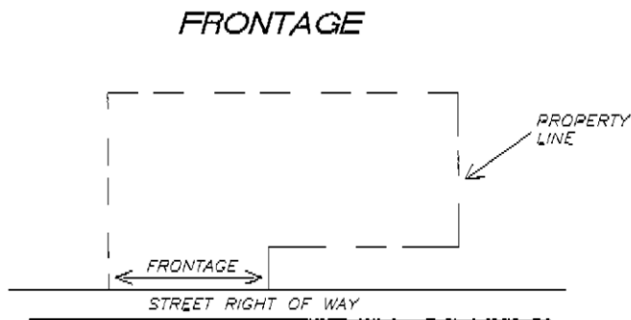
*Family.* A family shall be deemed as one of the following when living in a single dwelling unit:

- (1) A single individual.
- (2) A group of two or more persons related by blood, marriage or adoption.
- (3) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single

nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

*Fence* means a structure serving as an enclosure, barrier, or boundary, usually made of posts, boards, wire, stakes, or rails.

*Frontage (lot)* means the distance thereof of any lot fronting on one side of a street between side lot lines, intersecting or intercepting streets, or between a street and another right-of-way, waterway, end of a dead end street or village boundary measured along the street line.



*Height of a sign* means the vertical distance measured from the ground immediately beneath the sign to the highest point of its structure as defined in Chapter 24 Signs, Section 24.1 of this Code.

*Loading space, off-street*, means space logically and conveniently located for merchandise or passenger pickups and deliveries, located on the same lot with the use which it is to serve for the temporary parking of vehicles which are performing the said pickups and deliveries.

*Lot* means a parcel, tract or portion of land separated from other parcels or portions of land by description on a recorded plat or by metes and bounds description.

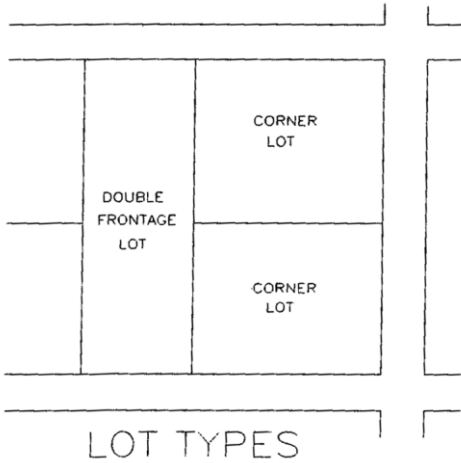
*Lot, corner*, means any lot having at least two contiguous sides abutting upon one or more streets or roads, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

*Lot, double frontage*, means any lot having two or more sides abutting on more than one street or road. Any lot line separating the lot from any street or road shall be construed as being a front lot line.

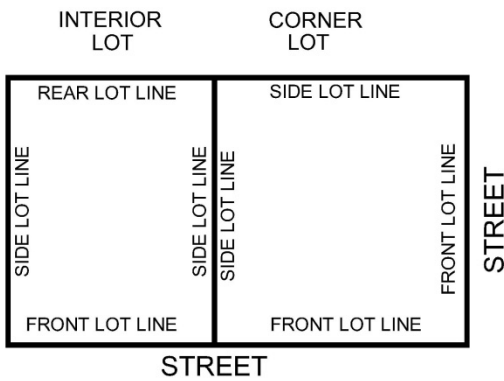
*Lot line* means any line bounding a lot.

- (1) *Front lot line* means the lot line separating the lot from any street or road right-of-way.
- (2) *Rear lot line* means the lot line opposite to and most distant from the front lot line as designated for each lot; in the case of irregularly shaped lots, an imaginary line parallel to the front lot line but not less than ten feet long measured within said lot.
- (3) *Side lot line* means any lot line other than a front or rear lot line.

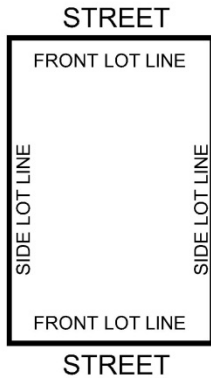
In the case of a corner lot, both lots fronting on the street shall be considered front lot lines, the opposite lot lines shall be considered side lot lines.



LOT LINE DEFINITIONS



DOUBLE FRONTAGE LOT



*Mobile home* means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

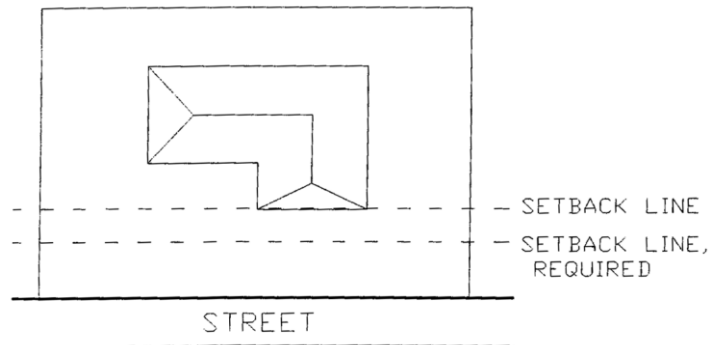
*Nonconforming use or structure* means any use or structure which was lawfully existing immediately prior to the time the ordinance from which this chapter is derived became effective and which does not now comply with the requirements thereof.

*Parking space, off-street*, means any space used for the off-street parking of motor vehicles in all districts in accordance with section 36-273.

*Personal services establishments* means establishments offering services for a fee or other remuneration such as financial institutions, barbershops and beauty shops, clothing repair shops, professional offices and other similar uses.

*Principal use* means the primary or chief purpose for which a lot is used.

*Recreational vehicle* means a vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.



*Setback line* means a line formed by the face of the building, unless the roof eaves overhang more than two feet, in which case the setback shall be to the edge of the eaves.

*Setback line, required.* A required setback line is established by the minimum setback requirements of this chapter.

*Sign.* All of the terms related to signs in this chapter shall have the definitions given to them in chapter 24, pertaining to signs.

*Stacking space* means a space used by patrons waiting for and receiving service at a drive-through window.

*Structure* means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground including buildings and walls.

*Structure, height of,* means the vertical distance measured from the average established grade at the front of the structure to the highest point of the structure whether it be a roof, wall, parapet or similar appurtenance of the structure. The method used for measuring the height of a structure is different than the method used for measuring the height of a building.

*Usable floor area* means the total floor area occupied by a commercial use customarily open to the public for the sale of merchandise or services, or to serve clients or customers. Areas used or intended to be used principally for the storage or processing of merchandise, hallways, mechanical equipment rooms, rooms for heating and cooling equipment, and bathrooms shall be excluded.

*Use* means the purpose or activity for which the land or building thereon is arranged, occupied or maintained.

*Variance* means a departure from the literal provisions of this chapter authorized by the ZBA. Use variances allow uses not specifically listed as permitted uses in a given district. Non-use variances allow for departures from other requirements of this chapter including lot size, depth or width, building setbacks, etc. Use variances are not permitted under the provisions of this chapter.

*Yard, actual* means an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

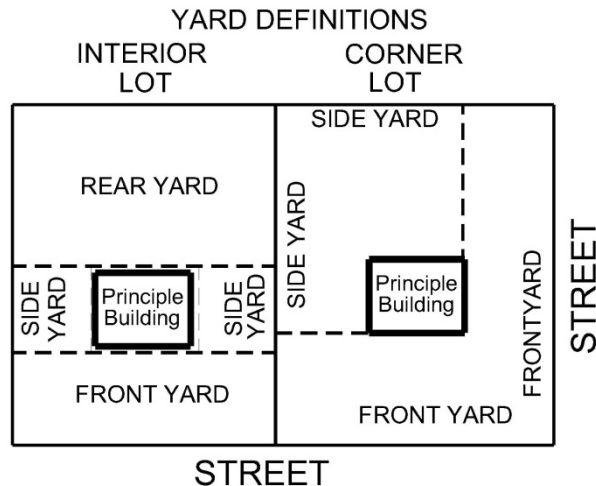


*Yard, front* means an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.

*Yard, required* means an open space on the same land with a building or group of buildings, which open space lies between a lot line and the required setback from that lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

*Yard, rear* means an open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.

*Yard, side* means an open unoccupied area between a main building and the side lot lines, extending from the actual front yard to the actual rear yard. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.



*Zoning administrator* means that person duly charged by the appropriate appointing authority with the responsibility for executing and administering this chapter.

*Zoning board of appeals* means that body authorized under Article VI of the Michigan Zoning Enabling Act PA 110 of 2006 and authorized to hear requests for variances, appeals, interpretations and other powers granted in under this chapter.

*Zoning boundary lines* means lines on the zoning map which indicate the limits of the individual zoning districts. Zoning boundary lines normally will follow the village limits lines, centerlines of roads, streets, alleys, easements, railroads or those centerlines extended or lot lines.

*Zoning districts* means the areas into which the village has been divided and for which the regulations and requirements governing use and size of lots and structures are specified in this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-2—36-20. - Reserved.

## ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. - GENERALLY

Sec. 36-21. - Village council.

- (a) *Establishment and authority.* For the purposes of this chapter, the village council shall appoint a planning commission, zoning board of appeals and a zoning administrator to develop, administer and maintain this chapter according to the provisions outlined herein.

- (b) *Duties and procedures.* For the purposes of administering this chapter, all matters concerning zoning shall be directed to the zoning administrator for referral to the appropriate official, commission or board for proper action. The village council shall have the authority to initiate an amendment to the zoning text or map as detailed in section 36-151. In addition the village council shall have the power of final approval of all zoning ordinance amendments and conditional use permit requests, and shall appoint all members of the planning commission and zoning board of appeals.
- (c) *Schedule of application fees and expenses.*
  - (1) The village council shall establish a schedule of application fees by resolution for conditional use permits, variances, appeals, zoning permits, amendments, and other tools used to administer this chapter, and shall establish a procedure for their collection.
  - (2) The village may also establish procedures either separately or through the provisions of this chapter to levy other charges related to the review of applications.
  - (3) No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-22. - Village planning commission.

- (a) *Appointment and establishment.* The village planning commission is authorized by the provisions of the Michigan planning enabling act, Public Act No. 33 of 2008 (MCL 125.3801 et seq.), which states that the planning commission shall be appointed by the village council. For the purposes of administering this chapter and by authority of the village and the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), the village council may appoint the village planning commission to perform the duties as specified in this chapter and said Act.
- (b) *Duties and responsibilities.* The planning commission is authorized to adopt rules of procedure consistent with the statutes of the state, the provisions of the village charter and the provisions of this chapter. The planning commission is hereby authorized to:
  - (1) Develop and administer this chapter.
  - (2) Consider all matters pertaining to the amendment or the changing of this chapter text or map or for a conditional use permit request. For each request for an amendment or change of this chapter or for conditional use permit, the planning commission shall review the request, conduct a public hearing and forward recommendations for approval, conditional approval or denial to the village council which shall make the final decision on the request.
  - (3) Review those site plans authorized under section 36-57 of this article.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-23. - Zoning administrator.

- (a) *Appointment and authority.* The zoning administrator shall be designated by the village council and charged with administering and enforcing this chapter. He may be provided with the assistance of such other persons as the village council may direct. He may delegate his power with the approval of the village council and notice to the planning commission.
- (b) *Duties and responsibilities.*
  - (1) The zoning administrator shall be responsible for following up on zoning related complaints, accepting applications for zoning permits, zoning amendments, requests for variances and other matters for the zoning board of appeals, and conditional use permits.

- (2) The zoning administrator shall be responsible for the updating and maintenance of the master copy of the zoning ordinance text and map. He shall be thoroughly familiar with the provisions of this chapter in order to administer it adequately.
  - (3) The zoning administrator shall make periodic checks of all properties in the village to ensure compliance with this chapter. If the zoning administrator shall find that any of the provisions of this chapter are being violated, he shall notify, in writing, the person responsible for such violation, or the owner of record of the lot upon which such violation is taking place, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of any lot or structures; removal of illegal structures; or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. Any violations of this chapter shall be reported in writing to the village council.
  - (4) The zoning administrator shall review all applications for zoning permits to ensure that the proposed use is in compliance with the terms of this chapter. The zoning administrator shall receive all requests for rezoning, ordinance amendments, variances, conditional use permits and to forward these requests to the proper official, commission or council. He shall, under no circumstances, be permitted to make changes in any part of this chapter or to vary the terms of this chapter in carrying out his duties as zoning administrator.
  - (5) The zoning administrator shall act as a non-voting advisor to the village council, planning commission and zoning board of appeals. Any information, data or statements presented to these bodies by the zoning administrator shall be purely advisory in nature for the purpose of clarification and coordination and will not restrict decisions made by these bodies.
- (c) *Zoning permits—Required.* A zoning permit shall be required before any of the following activities are undertaken, or a building permit is issued for them:
- (1) Construction of a building or moving a building onto a lot.
  - (2) Additions to an existing building, including porches and decks.
  - (3) Changes in the use of a building or parcel of land. For the purpose of this provision, a change in use would be when the use changes from one of the uses as listed in the Table of Uses to another use listed in the table.
  - (4) Changes to a nonconforming use or a structure housing a nonconforming use including interior remodeling.
  - (5) Construction of a parking lot.
  - (6) Issuance of a conditional use permit.
  - (7) Construction of an accessory structure 100 square feet in size or greater.
- (d) *Same—Information required.* The zoning administrator shall provide a form to be filled out by an applicant for a zoning permit and a list of information required for a plot plan of the site for which the zoning permit is being requested. The permit shall contain the signature of the applicant to verify intent and the signature of the zoning administrator to verify review. Both signatures shall be dated. The plot plan shall consist of a drawing on a sheet of paper no smaller than 8½ inches by 11 inches, prepared by the applicant and showing:
- (1) Dimensions of the parcel of land.
  - (2) Frontages on public or private streets or roads.
  - (3) Location and size (exterior "footprint" and height) of all existing and proposed buildings and parking areas and their distance from each other and the lot lines.
  - (4) Proposed parking space.
  - (5) Name and address of applicant.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-24. - Public hearings.

- (a) Official public hearings shall be conducted by the respective agency, board, commission, zoning board of appeals or legislative body at any time this chapter is amended, supplemented, changed or otherwise altered or in any circumstance in which a public hearing is required by state enabling legislation, village charter or this chapter.
- (b) Each public hearing shall be for the purpose of permitting residents and property owners to state views, opinions, suggestions and questions about the item for which the hearing is being held. Public hearings shall be open for public attendance and participation within the procedures adopted for conducting such hearing.
- (c) Each public hearing shall be conducted in accordance with the procedures adopted by the respective board, commission or council. An official record of each public hearing shall be made by means of a verbatim transcript, a copy of which shall be maintained as a public record.
- (d) Notice for all public hearings shall be provided in compliance with the following:
  - (1) Notice shall be given by publication in a newspaper of general circulation in the village at least 15 days prior to the public hearing.
  - (2) In the case of a hearing involving a particular parcel such as a rezoning or variance request, notice shall be mailed to the owners and occupants of property within 300 feet of the parcel as identified in the most recent tax roll of the village, at least 15 days before the hearing. Owners of property within 300 feet of the parcel located outside the village shall also receive notice. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
  - (3) Notice shall be mailed to each public utility company, airport or railroad company owning or operating any public utility, airport or railroad within zoning districts affected that registers its name and mailing address with the village for the purpose of receiving the notice at least 15 days before the hearing.
  - (4) In the case of a hearing involving a particular parcel such as a rezoning or variance request, notice shall be mailed to the owners of the property that is the subject of the hearing at least 15 days before the hearing.
  - (5) Notice shall be mailed to the applicant at least 15 days before the hearing.
  - (6) An affidavit of mailing shall be maintained.
  - (7) The notices shall include:
    - a. Describe the nature of the request that is the subject of the public hearing.
    - b. Indicate the property in question by street address. If there is no street address for the parcel the tax parcel ID and the closest cross streets shall be used to identify the property location.
    - c. State the time and place where the public hearing will be held.
    - d. Indicate when and where written comments will be received concerning the request.
    - e. Indicate when and where a copy of the request that is the subject of the hearing may be examined.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-25. - Violations and penalties.

- (a) Any owner or agent, and any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any structure, or who shall put into use any lot or land in violation of any detailed statement, or plan submitted hereunder, or who shall refuse reasonable opportunity to inspect any premises, shall be responsible for a municipal civil infraction.
- (b) The owner of any building or structure, lot or land or part thereof, where anything in violation of this chapter shall be placed or shall exist shall be responsible, or any architect, builder, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of such violation shall each be guilty of a separate violation, and upon conviction thereof, shall each be liable to the fine as specified in this section.
- (c) Any violation of this chapter is a nuisance per se and may be abated by the circuit court through injunctive relief. The village reserves the right to institute any other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-26—36-53. - Reserved.

DIVISION 2. - SITE PLAN REVIEW<sup>[2]</sup>

Footnotes:

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**State Law reference—**

Sec. 36-54. - Intent.

The site plan review procedures are instituted to provide an opportunity for the village planning commission or zoning administrator, in the circumstances hereinafter set forth, to review the proposed use of a site in relation to drainage, pedestrian and vehicle circulation, off-street parking, structural relationship, public utilities, landscaping, accessibility and other site design elements which may have an adverse effect upon the public health, safety, morals and general welfare as well as to provide the best interest of the property owner.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-55. - When site plans are required.

All development and changes in use require review of some type. Under this chapter most "simple" development such as construction of a single-family or duplex residence require only review of plot plans and review as outlined for site plans is required for developments of a more complex nature. Site plans are required to be submitted under any of the following circumstances:

- (1) As part of an application for a conditional use permit.
- (2) Prior to construction of any principal structure other than a single-family or duplex residence.

- (3) Prior to construction of an addition of 1,000 square feet or more in size to any principal structure other than a single-family or duplex residence.
- (4) Prior to construction of any accessory structure 1,000 square feet or more in size other than accessory structures related to a single-family or duplex residence. Accessory buildings for single-family or duplex residences require submission of a plot plan prepared in compliance with section 36-23 (d) for approval by the planning commission.
- (5) As part of an application to change a nonconforming use to another nonconforming use.
- (6) Any remodeling of an existing structure other than a single-family or duplex residence that requires construction of ten or more additional parking spaces.
- (7) As part of an application for approval of a condominium development.
- (8) As part of an application for a planned unit development.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-56. - Required information.

Before any building permit shall be issued, eight copies of a site plan to a scale of one inch equals 20 feet and a completed application for site plan approval shall be submitted to the village zoning administrator for review and approval. Said site plan shall contain the following information:

- (1) Statistical data, including number of dwelling units, size of dwelling units (e.g., one bedroom, two bedrooms, three bedrooms), if any, and total gross acreage involved. In the case of mobile home parks, the size and location of each mobile home site shall be shown. In all other cases, the location, type, horsepower, fuel, dimensions, and other data of all machinery to be used on the proposed site (to determine compliance with minimum lot size, maximum lot coverage and density requirements and parking requirements).
- (2) The location of principal and accessory buildings on the lot and the relationship of each structure to another (to determine compliance with setback requirements).
- (3) Vehicular traffic and pedestrian circulation features within and without the site (to determine compliance with traffic access standards including adequacy of access, conflicts between vehicles and pedestrians, turning movement conflicts between the site and other nearby driveways).
- (4) The location and dimensions of all off-street parking areas including maneuvering lanes, service lanes, off-street loading spaces, and other service areas within the development (to determine compliance with parking requirements).
- (5) The location, dimensions, and proposed use of all recreation areas, if any (to determine compliance with planned unit development requirements, if applicable).
- (6) The location of all proposed landscaping, fences or walls (to determine compliance with screening and landscaping requirements).
- (7) The height and dimensions of all structures (to determine compliance with maximum height and lot coverage requirements as well as minimum building size requirements (residential) where applicable).
- (8) Front, rear, and side elevation of any typical structure proposed for development (to determine compliance with maximum height requirements).
- (9) The location and capacity of private or public water, sanitary services and solid waste disposal facilities servicing the site (to ensure compliance with the standard requiring adequate water and sewer service, and to prevent overloading the village's water or sewer system).

- (10) The location, dimensions, type and lighting of all signs (to ensure compliance with sign requirements).
- (11) The location, intensity and orientation of all lights (to determine compliance with requirements regarding lighting being directed off adjacent premises).
- (12) Buildings within 50 feet of the boundary of the site (to determine compliance with any setback standards linked to structures on adjacent lots, or in the case of a conditional use permit, to determine suitability of the site for the proposed use based on proximity of incompatible uses).
- (13) Location of any identified wetlands (to comply with standards relating to protection of natural features and/or compliance with local, state and federal laws).
- (14) Outdoor storage or activity areas (to comply with standards relating to outdoor storage of material or outdoor activities).
- (15) Existing and proposed grades at two-foot intervals (to determine any minimum or maximum grade requirements, clear vision requirements and height requirements).
- (16) Cross section showing construction of drives and parking area (to comply with requirements regarding pavement surface and adequacy of base material).
- (17) Floor plan showing existing and proposed uses (to verify gross versus usable floor area and principal versus accessory uses).
- (18) Location of trash receptacles (to determine compliance with chapter requirements regarding location and screening).
- (19) Designation of fire lanes (to determine compliance with fire code requirements).
- (20) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
- (21) Location of all trees over eight inches caliper (to determine the number of applicable credits received for preserving existing trees on site).
- (22) Location of exterior drains, dry wells, catchbasins, retention/detention areas, sumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes should be specified on the site plan.
- (23) Location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
- (24) Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
- (25) Additional information the individual or body responsible for reviewing and approving a site plan may determine necessary to establish compliance with the requirements of this chapter.
- (26) The individual or body responsible for reviewing and approving a site plan may waive any of the requirements above either on an individual basis or by establishment of an administrative rule when the information is not needed to determine compliance of the site with the requirements of this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-57. - Who reviews site plans.

- (a) Besides having the authority to review and approve plot plans for uses and structures that do not require the detail of a site plan as outlined in section 36-23, the zoning administrator is authorized to review and approve site plans under the following circumstances:

- (1) Prior to construction of an addition of 1,000 square feet or less in size to any principal structure other than a single-family or duplex residence unless the addition increases the size of the principal structure by 50 percent or more, additional parking is required, or the addition substantially changes the character of the site.
- (2) Prior to construction of any accessory structure 1,000 square feet or more in size other than accessory structures related to a single-family or duplex residence.
- (b) The zoning board of appeals is authorized to approve a site plan submitted as part of an application to change a nonconforming use to another nonconforming use, following review and recommendation by the planning commission.
- (c) Site plans submitted as a part of a conditional use permit application shall be reviewed by the planning commission, who upon review shall either recommend approval, denial or approval with conditions. The village council is authorized to approve, deny or approve the site plan with conditions.
- (d) The planning commission is authorized to review and approve all other site plans.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-58. - Site plan review process.

The site plan review process is intended to allow the village the opportunity to review a proposed development prior to its construction to determine compliance with the requirements of this chapter. The village's intention is to handle each application as expeditiously as possible while conducting an appropriately thorough review.

- (1) *Preliminary review (optional).*
  - a. The option of preliminary site plan review is provided in order to allow an applicant for site plan review the opportunity to investigate with village officials the viability of a proposed development prior to preparing a complete site plan. An applicant for site plan review may request a preliminary review of a site plan to obtain information on potential site development issues including setbacks, drainage, access, signage and potential buffering requirements, and in order to request the waiving of particular site plan information requirements. At a minimum, this preliminary site plan should show:
    1. Lot dimensions.
    2. Building dimensions and setbacks.
    3. Proposed parking areas.
    4. Proposed driveways.
    5. Proposed drainage patterns and water and sewer connections.
  - b. The preliminary review should be conducted by the person or body responsible for final review and approval. The review is advisory only and subject to change based on changes to ordinance requirements, changes in conditions or as a result of additional information.
- (2) *Zoning administrator site plan review.* In those instances where the zoning administrator is authorized to review and approve a site plan, he shall have ten working days following receipt of a complete site plan to review, and approve or deny it. This time frame may be extended with the approval of the applicant. Prior to making a determination on a site plan, the zoning administrator shall submit copies to the village police department, fire department and department of public works who shall have five working days to review and submit their comments to the zoning administrator.
- (3) *Planning commission site plan review.* In those instances where the planning commission is authorized to review and approve a site plan, the applicant shall submit the site plan to the zoning administrator at least ten working days prior to the planning commission meeting at which it is to



be reviewed for approval. Prior to the planning commission making a determination on a site plan, the zoning administrator shall submit copies to the village police department, fire department and department of public works, who shall have five working days to review and submit their comments to the planning commission. Following their review of the site plan, the commission shall do one of following:

- a. Approve the site plan;
- b. Approve the site plan with conditions;
- c. Table the site plan pending required additional information;
- d. Disapprove the site plan.

(4) *Village council site plan review.*

- a. For site plans submitted as part of conditional use permit applications, the planning commission reviews the site plan and makes a recommendation to village council. The applicant shall submit the site plan to the zoning administrator at least ten working days prior to the planning commission meeting at which it is to be reviewed for approval. Prior to the planning commission making a determination on a site plan, the zoning administrator shall submit copies to the village police department, fire department and department of public works, who shall have five working days to review and submit their comments to the planning commission. Following their review of the site plan, the commission shall do one of following:
  1. Recommend approval of the site plan.
  2. Recommend approval of the site plan with conditions.
  3. Table the site plan pending required additional information.
  4. Recommend disapproval of the site plan.
- b. The planning commission recommendation shall be forwarded in writing to the village council, who shall do one of the following, after a public hearing on the proposed conditional use permit and a vote by the council to approve that permit:
  1. Approve the site plan.
  2. Approve the site plan with conditions.
  3. Table the site plan pending required additional information.
  4. Disapprove the site plan.

(5) *Consultant review.* In those instances where the planning commission and/or zoning administrator determine it necessary, the village may submit a site plan for review by a professional consultant. The cost of this consultant review shall be paid by the applicant, provided an estimate of the review cost is obtained from the consultant and provided to the applicant in advance. Upon receiving an estimate of the consultant review cost, the applicant may withdraw the application if he wishes.

- (6) *Record of review.* Following a determination of approval or denial of a site plan, the applicant shall be notified by regular mail of the decision of the planning commission or zoning administrator. The notice shall identify any conditions attached to approval, and in the case of denial, it shall identify the basis for denial. A record of the decision shall be filed with the village clerk, including:
- a. A copy of the submitted site plan.
  - b. A copy of the planning commission's determination mailed to the applicant.
  - c. A copy of any meeting minutes related to the site plan.
  - d. A copy of any other relevant records related to the site plan.

- (7) *Appeal of site plan decision.* Any person aggrieved by the decision of the zoning administrator or planning commission in granting or denying a site plan may appeal the decision to the zoning board of appeals. The appeal must be filed within 21 days of the decision and state the basis for the appeal.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-59. - Standards for site plan approval.

All approved site plans shall comply with the appropriate district regulations, parking requirements, general provisions and other requirements of this chapter as they apply to the proposed site plan. In addition, each site plan shall comply with the following requirements:

- (1) Sidewalks and other walkways, driveways, parking areas, loading areas and maneuvering lanes will be designed to promote traffic safety, minimize turning movement conflicts, eliminate the stacking of cars within the public right-of-way, minimize vehicle/pedestrian conflicts, provide adequate access for fire, police, ambulance and other emergency services personnel, minimize the number of driveways with access onto major streets, promote adequate spacing between driveways, ensure adequate geometric design of streets and promote shared access.
- (2) Adequate transition areas or buffers will be provided between land uses to minimize off-site conflicts due to noise, light, smoke, odor or other nuisances and to maintain physical attractiveness.
- (3) Utility service is adequate to serve the needs of the development. Water pressure and capacity are adequate to meet usage and firefighting needs. Sewer lines are adequate to handle the increased flow projected by the land use, and the village has adequate treatment capacity at the wastewater treatment plant. Stormwater facilities are adequate to handle any increased water runoff, which will be minimized through the use of stormwater retention and detention facilities when appropriate. The site shall be designed to ensure that there is no increase in runoff on to adjacent sites and that existing drainage patterns are not harmed.
- (4) Physical improvements including sidewalks, drives and parking areas shall be built to adequate standards to minimize premature deterioration.
- (5) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spill or discharges to the air, surface of the ground, groundwater, streams, drains or wetlands. Secondary containment for above ground storage of hazardous material shall be provided.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-60. - Conditions.

- (a) The planning commission or zoning administrator may condition approval of a site plan on conformance with the standards of another local, county or state agency, such as but not limited to the county drain commission, county health department and the department of environmental quality. They may do so when such conditions:
  - (1) Would ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
  - (2) Would protect the natural environment and conserve natural resources and energy;
  - (3) Would ensure compatibility with adjacent uses of land; and
  - (4) Would promote the use of land in a socially and economically desirable manner.
- (b) In determining appropriate conditions, the planning commission shall ensure that:

- (1) There is a rough proportionality between the scope of a proposed improvement and the impact to be mitigated; and
- (2) There is a reasonable connection between the condition imposed and the impact it is mitigating.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-61. - Performance guarantees.

In the interest of ensuring compliance with the provisions of this chapter, protecting the natural resources and the health, safety and welfare of the residents of the village and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the planning commission or zoning administrator may require the applicant to deposit a performance guarantee as set forth herein. Performance guarantees shall be required in instances where an occupancy permit is requested prior to completion of all improvements on an approved site plan. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this chapter, including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- (1) Performance guarantee, as used herein, shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the zoning administrator.
- (2) Where the planning commission or zoning administrator requires a performance guarantee, said performance guarantee shall be deposited with the village treasurer at the time of the issuance of the zoning permit. The village shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account.
- (3) An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- (4) In the event the performance guarantee deposited is a cash deposit or certified check, the village shall rebate to the applicant 50 percent of the deposited funds when 60 percent of the required improvements are completed as confirmed by the zoning administrator, and the remaining 50 percent of the deposit funds when 100 percent of the required improvements are completed as confirmed by the zoning administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee may be applied by said applicant to ensure compliance with the standards of this chapter and the specifications of the approved site plan.
- (5) Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the zoning administrator, the treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- (6) In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the village, the village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the village to complete the improvements for which it was posted, the applicant shall be required to pay the village the amount by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the village use the performance guarantee or a portion thereof to complete the required improvements, any amount remaining after said completion shall be applied first to the village's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other

than the village to ensure completion of an improvement associated with the proposed project prior to the village's conditional approval, the applicant shall not be required to deposit with the village a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the village and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the village regarding the performance guarantee.

(Ord. No. 66, § 2, 9-14-2015)

**State Law reference—** Performance guarantee, MCL 125.3505.

Sec. 36-62. - Changes to approved site plans.

- (a) All work conducted related to a project with an approved site plan shall be in conformance to that site plan. Minor changes to the site plan may be approved by the zoning administrator, as long as the change does not result in:
- (1) A significant change in the use, intensity or character of the development.
  - (2) A significant increase in lot coverage.
  - (3) A reduction in required off-street parking or loading areas or drainage retention or detention capacity.
  - (4) Reduction in pavement widths or utility pipe size.
- (b) Major changes to a site plan require review and approval as required if the plan were new.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-63. - Expiration of site plan approval.

Approval of a proposed site plan shall expire within one year of approval if a building permit has not been applied for and construction begun based on the site plan. Once construction has begun, the project must be completed within one year. The individual or body responsible for reviewing and approving a site plan may extend site plan approval up to one year prior to application of a building permit and up to two years once construction has begun with a finding that financial, regulatory or other considerations have delayed work on the project.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-64—36-86. - Reserved.

DIVISION 3. - CONDITIONAL USE PERMITS [§](#)

Footnotes:

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**State Law reference—**

Sec. 36-87. - Intent.

The regulation of land uses in the village is accomplished by this chapter which designates zoning districts and sets forth uses allowed in each district. The intent of this division is to recognize and provide for certain uses which are allowable only if they comply with standards which ensure their being harmonious with the general character of the district in which they may be located.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-88. - General provisions.

- (a) Only uses which have been designated as conditional uses in each respective zoning district shall be considered for approval as conditional uses.
- (b) All uses of land or structures which are designated as conditional uses in this chapter shall require the granting of a conditional use permit in accordance with the procedures of section 36-89, prior to the issuance of a zoning permit.
- (c) Reserved.
- (d) The planning commission may recommend and the village council impose additional conditions and stipulations which are deemed necessary for the protection of the neighborhood and the general welfare of the public.
- (e) Approval of a request for a conditional use permit shall not be granted if the village council finds that such conditional use would fail to comply with any of the requirements of this chapter.
- (f) All conditional use permit applications shall require the following:
  - (1) A written application form as approved by the village council. Such form shall indicate in necessary detail the type of use, size, location and estimated time until occupancy of the proposed use. The application shall also state how the proposed development would meet the conditional use permit standards.
  - (2) A conditional use permit fee as established by village council.
  - (3) A site plan meeting the requirements of division 2 of this article.
  - (4) The planning commission or the village council may further require that the applicant furnish any engineering or architectural drawings, specifications, operating plans or any other reasonable data or information deemed necessary to determine the appropriateness of the proposed conditional use.
- (g) In any case, where a conditional use has not begun construction within one year after the granting or approval of the conditional use permit, then the conditional use permit shall become null and void and the zoning permit shall be canceled. The village council may extend conditional use permit approval up to one year prior to application of a building permit and up to two years once construction has begun with a finding that financial, regulatory or other considerations have delayed work on the project.
- (h) Violations of requirements of the conditional use permit or of any other portions of this chapter may result in the holding of a show cause hearing by the village council following the notice requirements in section 36-24 (d) for consideration of cancellation of the conditional use permit. Reinstatement shall require reapplication for the conditional use permit following the procedures in this section.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-89. - Administration and procedure.

- (a) *Initiation of request for conditional use.* Any person owning or having an interest in property in the village may initiate a request to operate or maintain a conditional use in the village by submitting an application for a conditional use permit, as outlined in section 36-88(f).

- (b) *Application for conditional use permit.* An application for a conditional use permit shall be filed with the zoning administrator.
- (c) *Review of application by zoning administrator.* The zoning administrator shall review the application and supporting documents and indicate, by endorsement, that the application has been properly executed. Within 30 days of the completed application being submitted to the zoning administrator, the application shall then be forwarded to planning commission for review and public hearing.
- (d) *Review and hearing by planning commission.* Upon receipt, in proper form of the completed conditional use application, the planning commission shall review said application to ensure that all conditions of this division have been complied with. The planning commission shall hold at least one public hearing on each application for a conditional use permit. A public hearing shall be held by the planning commission within 30 days of receipt of the application from the zoning administrator. Notice of the hearing shall be made as specified in section 36-24(d) of this chapter.
- (e) *Recommendation by planning commission.* For each application for a conditional use permit, the planning commission shall recommend to the village council either approval, conditional approval or denial of the conditional use permit. The planning commission shall state such recommendation in writing, stating reasons and conditions of recommendation, and shall forward this to the village council within 15 days of making the recommendation.
- (f) *Review and decision by village council.* Upon receipt of the application and supporting data and the recommendation with supporting data from the planning commission, the village council shall review said application. Based on this review to determine if all conditions have been complied with, the village council shall approve, approve with conditions, or deny the request for the conditional use permit.
- (g) *Site plan approval.* Conditional use permit approval does not necessitate site plan approval. For site plans submitted as part of a conditional use permit application, the planning commission shall recommend approval, denial, or approval with conditions. The authority to approve the site plan is given to village council, who shall either approve the site plan, deny the site plan or approve the site plan with conditions.
- (h) *Effect of approval of request for conditional use permit.* The conditional use permit shall become effective on the date of the favorable vote by the village council. Approval of the request for the conditional use permit and approval of the site plan shall authorize the zoning administrator to issue the zoning permit.
- (i) *Effect of denial of request for conditional use permit.* In the event that a request for a conditional use permit is denied in whole or in part by the village council, an application for a permit for the same conditional use shall not be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the planning commission.
- (j) *Recordkeeping.* The village clerk shall keep a record of all conditional use permit applications, including a copy of the application form, site plan, minutes from all relevant planning commission meetings (including public hearing) and minutes from all relevant village council meetings.
- (k) *Appeals.* Appeals to conditional use permit decisions made by the village council shall be made to the circuit court.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-90. - Conditional use permit hearings.

For each application for a conditional use permit, the planning commission shall conduct a public hearing in accordance with procedures outlined in section 36-24. Matters to be considered shall be the provisions as stipulated for respective uses in accordance with article IX of this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-91. - Standards for approval.

A request for the approval of a conditional use permit may be considered, provided the following conditions are ensured:

- (a) The proposed use, activities, processes, materials, equipment and conditions of operation will not be detrimental to the public welfare, persons or property by reason of excessive noise, fumes, dust, glare, traffic or objectionable odors.
- (b) Essential public facilities and services such as roads, fire and police protection, drainage facilities, refuse disposal, schools are adequate for the proposed use or are capable of being adequately provided for.
- (c) The proposed use, activities, processes, materials and equipment and conditions of operations shall be consistent with the goals, objectives and policies of the Village Master Plan.
- (d) The proposed land use or activity is compatible with the adjacent uses of land and the natural environment.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-92—36-108. - Reserved.

DIVISION 4. - ZONING BOARD OF APPEALS<sup>41</sup>

Footnotes:

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**State Law reference—**

Sec. 36-109. - Authority to administer.

The zoning board of appeals shall act upon the following questions as they arise in the administration of this chapter:

- (1) The interpretation of the zoning map and this chapter.
- (2) Appeals from an order, requirement, decision or determination made by an administrative official or body charged with the enforcement of this chapter.
- (3) Requests for variance in the non-use requirements of this chapter including height, setback, building size, lot coverage, lot width and lot size as well as street parking and loading requirements, but not including the use requirements of this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-110. - Duties and responsibilities.

The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property nor to make any change in the terms of this chapter. Any decision of the zoning board of appeals, after following correct and lawful procedure, shall take immediate effect. The reasons for all ZBA decisions shall be stated in writing and made available to the general public within seven days after a decision. All decisions by the ZBA are final.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-111. - Creation; membership; term of office.

The zoning board of appeals is hereby established. The standards for membership for that body shall be as follows:

- (1) *Membership.* The zoning board of appeals shall consist of five members. Members shall be appointed by the village council, to serve for a period of three years except the first appointments made hereby; two members shall be appointed for one year, two members for two years, and one member for three years. Thereafter, all appointments shall be made for three years.
- (2) *Alternate members.* The village council shall also appoint two alternate members for the same terms as regular members of the zoning board of appeals. The first member so appointed shall serve for a term of two years and the second alternate member shall serve for a term of three years. Thereafter, all appointments shall be made for three years. The alternate members shall be called on a rotating basis to sit as regular members of the zoning board of appeals in the absence of a regular member. Upon notification of the planned absence of a regular zoning board of appeals member, an alternate member shall be designated to attend the meeting in place of the regular member. If another regular member should also be absent, the other alternate shall be designated to sit in that regular member's place. If only one alternate member is needed for a meeting, the next time an alternate member is needed, the other alternate shall first be designated to serve. Alternate members shall have the same voting rights as regular members of the zoning board of appeals. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in a case until a final decision has been made.
- (3) *Qualifications.* No more than one member of the planning commission or one member of the village council may serve as either a regular or alternate member of the zoning board of appeals.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-112. - Meetings; records.

Meetings of the zoning board of appeals shall be held at the call of the chairman of the zoning board of appeals and at such other times as the board may specify in the rules of procedure. All meetings must comply with the Open Meetings Act, Public Act No. 267 of 1976 (MCL 15.261 et seq.). The board shall maintain a record of its proceedings, which shall be filed in the office of the village clerk and which shall be a public record.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-113. - Procedure.

- (a) *Voting procedures.* The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant in any matter upon which it is required to pass under this chapter or to effect any variation in such ordinance. Members of the zoning board of appeals who are also members of the planning commission or village council may not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission, or village council such as an appeal of a site plan approval. However, the member may consider and vote on other unrelated matters involving the same property such as a variance request.



- (b) *Notice.* When an application for a variance, appeal, interpretation, or other review by the zoning board of appeals has been filed in proper form and with the required date, the zoning administrator shall place that application or appeal on the calendar for a public hearing at the next meeting of the board. Notice of the hearing shall be made as specified in section 36-24 (d) of this chapter.
- (c) *Representation.* At the hearing, any party may be heard in person or by agent or attorney.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-114. - Conditions.

Reasonable conditions may be imposed with any affirmative decision by the zoning board of appeals. The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- (3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-115. - Variances—Granting authority.

- (a) A variance from the provisions of this chapter may be granted by the zoning board of appeals, subject to the provisions of section 36-116 and upon finding by such board of all of the following that:
  - (1) Strict compliance with area, setbacks, frontage, height, bulk, density or other nonuse standard would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome;
  - (2) There are conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district;
  - (3) The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property;
  - (4) The requested variance would do substantial justice to the applicant as well as to other property owners in the same zoning district and a lesser relaxation would not give substantial relief and be more consistent with justice to others; and
  - (5) In granting this variance the ZBA will ensure that the spirit of this chapter is observed, public safety secured and substantial justice done.
- (b) Only non-use variances shall be permitted. A variance granted under this chapter shall not permit a use not otherwise permitted within the zoning district.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-116. - Same—Review procedures.

- (a) *Intent.* These variance review procedures are instituted to provide an opportunity for the relaxation of the terms of this chapter through a non-use variance, where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, or his predecessors in title, a literal enforcement of the chapter would result in practical difficulty. As used in this chapter, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces or any other provision of this chapter other than those that regulate the use of a parcel or building; establishment or expansion of a use otherwise prohibited shall not be allowed by use variance, nor shall a use variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
- (b) *Procedures.*
  - (1) An application for the approval of a non-use variance shall be made, by an owner of an interest in the parcel, to the village clerk accompanied by the necessary fees and documents as provided in this chapter.
  - (2) The application shall be accompanied by a plot plan drawn to the scale of one inch equals 20 feet and placed on a standard sheet and containing the following information:
    - a. Dimensional elements for which a variance is requested.
    - b. Dimensional relationships of the subject parcel to the structures on all adjacent parcels.
  - (3) The application shall be accompanied by an affidavit by the applicant explaining how the proposed variance complies with all of the standards for approval listed in section 36-155(a).
  - (4) The board shall consider the application for a variance at its next regular meeting, which provides sufficient time for notice, as required heretofore, or within not more than 35 days after receipt of the application by the village clerk, and hear and question any witness appearing before the board. This time line can be extended if the applicant asks for an extension.
  - (5) The board shall approve with or without conditions, or disapprove the application and shall communicate its action in writing to the zoning administrator. The zoning administrator shall then communicate this decision to the applicant, the village council, the building official, and the village planning commission within 14 days from the time of the meeting at which it considered the application.
    - a. The board shall not approve an application for a non-use variance unless it has found positively that the proposed variance complies with all of the standards for approval listed in section 36-155(a).
  - (6) The zoning administrator shall, upon receipt of the notice of approval and upon application by the applicant, accompanied by a receipt duly executed by the village treasurer attesting to the payment of all required fees, issue a zoning permit or such other approval permitting the non-use variance, subject to all conditions imposed by such approval.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-117. - Appeals procedures.

- (a) *Intent.* These appeals procedures are instituted to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this chapter.
- (b) *Procedures.* An appeal shall be filed with the officer from whom the appeal is taken and with the zoning board of appeals specifying the grounds for the appeal.

- (1) Appeals of administrative actions shall be taken to the zoning board of appeals within 30 days of the date of such actions by the filing of a notice of appeal with the zoning administrator.
- (2) The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the appeal is taken.
- (3) An appeal stays all proceedings in furtherance of action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board, or by the circuit court, on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- (4) Such appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the village, county, or state.
- (5) Notice of the hearing of the appeal shall be given in compliance with section 36-113.
- (6) The zoning board of appeals shall hear the appeal within 35 days of the application being filed in its proper form. The board of appeals shall decide the appeal within 14 days of the public hearing for which the appeal was held. The zoning board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make an order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to the end shall have all the powers of the officer or body from whom the appeal is taken. The zoning board of appeals shall reverse an order of an administrative official or body only if it finds that the action or decision appealed meets one or more of the following conditions:
  - a. The action or decision was arbitrary or capricious, or
  - b. The action or decision was based on an erroneous finding of a material fact, or
  - c. The action or decision constituted an abuse of discretion, or
  - d. The action or decision was based on erroneous interpretation of this chapter or zoning law.
- (7) Any action by the board shall be stated in writing.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-118. - Interpretation of zoning ordinance and map.

- (a) The ZBA shall have the authority to interpret the provisions of this chapter when a requirement, standard, or other text is unclear. When determining if a particular use is included in the definition of a type or group of uses permitted in a district, it shall not interpret a use specifically listed in one district as being inferred as permitted in another district.
- (b) In interpreting the boundaries of zoning district boundaries, the ZBA shall assume, unless there is information indicating otherwise, that zoning district boundaries follow lot lines, the centerline of creeks, streets, or alleys, railroad rights-of-way, section lines one-quarter or one-eighth section lines, or corporate boundary lines as they existed when the zoning boundary line was established.
- (c) Interpretation of the ordinance may be requested by the planning commission, village council, or village staff. A member of the general public may request an interpretation following submission of an application and any fee established by the village council.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-119—36-149. - Reserved.

DIVISION 5. - AMENDMENTS<sup>6</sup>

Footnotes:

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**State Law reference—**

Sec. 36-150. - Classification types.

The zoning ordinance can be amended through a text amendment or a map amendment. A map amendment is commonly referred to as a "rezoning".

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-151. - Initiation.

- (a) Any proposal for an amendment to the zoning ordinance text or map may be initiated by any qualified resident voter in the village upon the filing with the village zoning administrator of a petition containing the proposed text or map change and endorsed by village electors numbering not less than five percent of the number of village electors voting for the office of the governor at the last election at which a governor was elected, and accompanied by any necessary documents.
- (b) Any proposal for an amendment to the zoning ordinance map may be initiated by any owner of an interest in the parcel as to the rezoning of such parcel upon the filing with the village zoning administrator of a petition proposing the zone change, accompanied by a map at a scale of not less than one inch equals 50 feet showing the subject parcel in relation to adjoining parcels of land, and the necessary fees for such zone change.
- (c) Any proposal for an amendment to the zoning ordinance text or map may be initiated by the village council or the village planning commission, upon filing with the village zoning administrator a resolution duly adopted and proposing an amendment.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-152. - Procedures.

- (a) The village clerk shall give notice of the hearing as specified in section 36-24(d) of this chapter.
- (b) At the meeting where an application for a rezoning is considered, the village planning commission shall consider the request in accordance with the following standards:
  - (1) The zoning district requested shall be consistent with and promote the intent and purpose of this chapter.
  - (2) The proposed zoning district and the uses permitted in that district are compatible with adjacent land uses, the natural environment, and the capabilities of public services affected by the proposed district.
  - (3) The zoning district sought is consistent with the public health, safety, and welfare of the village.
  - (4) The proposed zoning district is consistent with the village land use plan or a determination is made that the plan is not applicable due to a mistake in the plan, changes in relevant conditions or changes in relevant plan policies.

**OPTIONAL STANDARDS:**

- (1) In the case of a proposal to amend the zoning ordinance text the village shall find:

- a. The change is necessary to clarify a provision of the ordinance, or
  - b. The change is necessary to correct a mistake in the ordinance, or
  - c. The change is necessary to implement a goal or policy of the village master plan, or
  - d. The change is necessary to improve administration of the ordinance or to better serve the community
  - e. In addition to one or more of the above findings, the village must determine that the requested amendment is in compliance with the village master plan or that a mistake in the plan or changes in conditions or village policy have occurred that are relevant to the request. If the village planning commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
- (2) In the case of a proposed zoning map amendment (rezoning) the village shall find one of the following:
- a. The requested amendment is in compliance with the village master plan or that a mistake in the plan or changes in conditions or village policy have occurred that are relevant to the request. If the village planning commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
  - b. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the master plan.
- (c) Following such hearing, the commission shall submit its recommendation, along with a summary of the comments submitted at the public hearing in a report to the village council.
- (d) Following the receipt of the report, the ordinance shall be presented to the village council for consideration.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-153. - Voting requirements.

- (a) A zoning text or map amendment shall require a majority vote of the village council members elected to be approved.
- (b) If, prior to voting on a rezoning, the village council is presented with a protest petition signed by one of the following:
  - (1) The owners of at least 20 percent of land, excluding publicly owned land proposed to be rezoned;
  - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the rezoning, excluding publicly owned land.

Then a zoning text or map amendment shall require a two-thirds majority vote of the village council to be approved.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-154. - Notice of adoption.

Following adoption of the zoning amendment, one notice of adoption shall be published in a newspaper of general circulation in the village within 15 days of adoption. The notice shall include:

- (1) A summary of the regulatory effect of the amendment or the actual text of the amendment.

- (2) The effective date of the amendment.
- (3) The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-155. - Conditional rezoning.

- (a) *Section 10.4.1 Purpose.* It is recognized that there are certain instances where it would be in the best interests of the village, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (PA 100 of 2006) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- (b) *Application and offer of conditions.*
  - (1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
  - (2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
  - (3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
  - (4) Approval of a conditional rezoning does not guarantee approval of any special use permit which may be required as part of the conditional rezoning project, and review of the special use permit must follow the procedures outlined in article 9 before development can begin.
  - (5) Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in article 5 before development can begin.
  - (6) Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of the site plan must follow the procedures outlined in article 11 before development can begin.
  - (7) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the village council provided that, if such withdrawal occurs after the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing and a new recommendation, with notice as required by this article.
- (c) *Planning commission review.* After public hearing and consideration of the factors for rezoning set forth in section 10.03 of this chapter, the planning commission may:
  - (1) Recommend approval of the conditional rezoning.
  - (2) Recommend approval of the conditional rezoning with changes.
  - (3) Recommend denial of the conditional rezoning.
  - (4) Provided, however, that any recommended changes to the offer of conditions are acceptable to and offered by the owner.

- (d) *Village council review.* After receiving the planning commission's recommendation, the village council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The village council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in section 10.03 of this chapter. Should the village council propose amendments to the proposed conditional rezoning and amendments are acceptable to and offered by the owner, then the rezoning application shall be referred to the planning commission for a new public hearing and a new recommendation, with notice as required by this article.
- (e) *Approval.*
- (1) If the village council finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions provided said conditions conform with this section. The statement of conditions shall be incorporated into the ordinance adopted by the village council.
  - (2) The statement of conditions shall:
    - a. Be prepared as a notarized affidavit prepared and signed by the owner.
    - b. Contain a legal description of the land to which it pertains.
    - c. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land unless otherwise specified by this section.
    - d. Include any diagram, plans or other documents submitted that are necessary to illustrate the implementation of the statement of conditions.
    - e. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
  - (3) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The zoning map shall also include a listing of all lands rezoned with a statement of conditions.
- (f) *Compliance with conditions.*
- (1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall be deemed a nuisance per se and shall constitute a violation of this zoning ordinance and be punishable accordingly.
  - (2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.
- (g) *Time period for establishing development or use.* Unless another time period is specified in the Ordinance rezoning the subject land, the site plan for approved development shall be submitted within two years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one year unless another time period is specified in the ordinance rezoning the subject land. These time limitations may upon written request be extended by the village council if:
- (1) It is demonstrated to the village council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion.
  - (2) The village council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
  - (3) All applicable project completion deadlines in this chapter related to site plans, special use permits and variances shall apply.

- (h) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection 10.4.7 above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the village council requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.
- (i) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection 10.4.8 above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. If a statement of conditions has been recorded, upon the owner's written request, the village clerk shall record with the Tuscola County Register of Deeds a notice that the statement of conditions is no longer in effect.
- (j) *Amendment of conditions.*
  - (1) During the time period for commencement of an approved development or use specified pursuant to subsection 10.4.7 or during any extension granted by the village council, the village shall not add to or alter the conditions in the statement of conditions.
  - (2) The statement of conditions may be amended in the same manner as was prescribed for the original rezoning and statement of conditions.
- (k) *Village right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the village from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act.
- (l) *Failure to offer conditions.* The village shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-156—36-176. - Reserved.

### ARTICLE III. - DISTRICT REGULATIONS

Sec. 36-177. - Zoning districts established.

The following zoning districts are hereby established and the purpose or intended use of each district is stated. Permitted uses in each district are listed in this article.

R-1	Low density single-family residential district
R-2	Medium density single-family residential district
R-3	Multiple-family residential district
R-4	Mobile home park family residential district
C-1	Commercial district



I-1	Light industrial district
I-2	Heavy industrial district

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-178. - Zoning map.

The areas comprising the zoning districts and the boundaries of said districts are hereby established as shown on the official zoning map entitled "Zoning Map, Village of Reese, Tuscola County, Michigan."

- (1) The zoning map, which together with any explanatory matter thereon is hereby adopted by reference and declared to be a part of this chapter.
- (2) The zoning map shall be maintained in the village hall and shall show all changes which are made in district boundaries according to procedures set forth in this chapter.
- (3) District boundary lines as shown on the zoning map, unless otherwise indicated, shall be construed as following lot lines, village limit lines, centerlines of highways, streets, roads, alleys, easements, railroads, streams or these centerlines extended or projected.
- (4) Questions concerning district boundary lines as shown on the zoning map shall be decided by the zoning board of appeals.
- (5) Should a property be zoned with more than one zoning classification, each separately zoned portion of the property shall meet the applicable zoning district regulations.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-179. - Uses.

- (1) In each zoning district, a "permitted use" shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, plus applicable requirements found elsewhere in this chapter. A use by "conditional use permit" shall be a use of land or buildings which may be permitted in that district only after following special procedures designed to ensure site and use compatibility with existing or proposed surrounding land uses. An "accessory use" shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, and shall only be allowed in conjunction with the principal use of the property, whether a permitted or conditional use.
- (2) Uses not specifically permitted are prohibited until such time as the use is allowed through a determination by the planning commission that it is a use compatible with the intent of the district, by interpretation of the ordinance by the ZBA or by amendment of the ordinance by the village council to specifically allow the use. Agricultural uses are specifically prohibited within the village.

<b>TABLE OF USES</b>		
<b>#</b>	<b>Type of Use</b>	<b>P = Principle Permitted Uses,</b>

		A = Accessory Uses, C = Conditional Uses						
		R-1	R-2	R-3	R-4	C-1	I-1	I-2
<b>Residential</b>								
R-1	Accessory apartments	C	C					
R-2	Adult Foster Care Family Homes	P	P					
R-3	Adult Foster Care Large Group Homes (13-20)			C				
R-4	Adult Foster Care Large Group Homes (7-12)			C				
R-5	Adult Foster Care Small Group homes	P	P					
R-6	Bed and Breakfast operations as an accessory use to a single-family dwelling	C	C					
R-7	Duplex Housing Units	C	P					
R-8	Dwelling units located above first floor commercial principal uses			P		P		
R-9	Family Day Care Homes	P	P					
	Foster family group home	P	P					
	Foster family home	P	P					
R-10	Group Day Care Homes	P	P					
R-11	Home Occupations	P	P					
	Home Occupations - Intensive	C	C					

R-12	Long term outside storage of privately owned major recreational equipment	A	A					
R-13	Mobile Home Parks				P			
R-14	Multiple-family dwellings				P			
R-18	Rooming houses				C			
R-19	Senior Citizen Housing				C			
R-20	Single-family detached dwellings	P	P	P				
R-21	Temporary dwelling units				C			
	<b>Institutional</b>							
I-1	Cemeteries	P	P					
I-2	Governmental administrative and service buildings	P	P	P	P	P	P	P
I-3	Playground equipment.	A	A	A	A			
I-4	Public libraries	C	C			P		
I-5	Public medical and health facilities.	C	C			P		
I-6	Public parks	P	P					
I-7	Religious institutions; churches, synagogues, temples, etc	P	P					
I-8	Schools, either public or private not operated for a profit	C	C					

	<b>Commercial</b>								
C-1	Automotive body shops						C	P	P
C-2	Adult Uses						P		
	Bus station						P		
C-3	Car washes, automatic or self-service						C		
	Child care center						P		
C-4	Clinics						P		
C-5	Clubs or lodges	C	C				P		
C-6	Commercial recreational activities						P		
	Drive-thru						C		
	Dry Cleaners						P		
	Financial institution						P		
	Funeral Home						C		
C-7	Gasoline service stations						C	P	
C-8	Kennels and veterinary clinics with outdoor runs							C	C
	Laundromat						C		
C-9	Motels, hotels						P		
C-14	Offices						P	P	

C-15	Other uses compatible with the intent of the district	C	C	C	C	C	C	C
	Outdoor seating					C		
C-16	Personal services establishments					P		
	Private ambulance service					P		
	Restaurants, taverns and bars					P		
C-17	Retail lumber sales and storage					C		
C-18	Retail sales establishments					P		
	Sale and service of new and used automobiles, agricultural implements, mobile homes and recreational vehicles					P		
C-19	Security buildings or construction offices	P	P	P	P	P	P	P
C-20	Service garages					C		
C-21	Theaters					P		
	<b>Industrial</b>							
	Automobile recycling						P	
I-1	Industrial plants for manufacturing, processing and assembling							C
I-2	Industrial research facilities						P	P

I-3	Junk Yards								C
I-4	Machine shops and welding shops							P	P
I-5	Mini-Warehouse - self storage facilities						C	P	
I-6	Petroleum products storage							P	P
I-7	Public utilities facilities	C	C	C	C	P	P	P	
I-8	Public utility facilities without storage yards	C					P	P	P
I-9	Storage yards								P
I-10	Trade contractors, building materials suppliers and wholesalers						C	P	P
I-11	Transportation, maintenance and servicing facilities							P	P
I-12	Truck washes							P	P
I-13	Warehousing							P	P
I-14	Warehousing and self-storage yards							P	P
	<b>Miscellaneous</b>								
M-1	Accessory uses and structures	A	A	A	A	A	A	A	A
M-4	Planned Unit Developments	C	C	C					

M-5	Communication antennae affixed to existing structures					C	C	C
M-6	Communication Towers						C	C
	Parking lot					C		
M-7	Signs, in accordance with applicable regulations	A	A	A	A	A	A	A
	Temporary use	C	C	C	C	A	A	A

TABLE OF USE REQUIREMENTS			
Type of Use	Definition	Parking (a) [6-6]	Design Standard
<b>Residential</b>			
Accessory apartments	A single-dwelling-unit apartment located in a residence apparently constructed as, and having the apparent character of, a one-family residence, which apartment does not substantially alter the character and appearance of the residential structure or its conformity with the character of the neighborhood.	Dwelling: Two spaces per family or dwelling unit.	<p>a. All health requirements affecting the provisions of water and sanitary sewer services are complied with and approved by the building inspector.</p> <p>b. The planning commission shall require a performance guarantee from the applicant to ensure that at the time the person for whom the accessory apartment is permitted no longer resides in the accessory apartment, that the accessory apartment shall be reconverted to a part of the single-family</p>

			<p>home.</p> <p>c. The owner of the dwelling in which an accessory apartment is located must reside within the unit as the permanent legal resident, except for bona fide temporary absences not to exceed six months at any one time. The resident of the accessory apartment, on whose behalf the conditional use permit is issued must be an immediate member of the family residing in the principal residence through blood, marriage or adoption and must have a medical condition requiring constant supervision, or must be at least 65 years of age.</p> <p>d. One additional off-street parking space shall be provided for the accessory apartment.</p> <p>e. The usable floor area of the accessory apartment shall have a minimum of 400 square feet and a maximum of 800 square feet, except that the area of the accessory unit shall not exceed 35 percent of the usable floor area of the main building.</p> <p>f. The architectural treatment of the structure shall be such as to portray the character of a single-family dwelling that is aesthetically compatible with</p>
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			<p>homes in the surrounding area. Only one main entrance will be permitted on the front side of the building; all other entrances shall be at the side or in the rear.</p> <p>g. The zoning administrator shall conduct an annual review of all accessory apartments granted permits to determine if all of the conditions for which the permit was granted continue to be met. If all of the conditions are no longer being met on behalf of the person for whom the permit was issued, the permit shall be considered void and the accessory apartment discontinued.</p>
Adult Foster Care Family Homes	<p>A private residence licensed under PA 218 of 1979 for six or fewer adults to be provided with foster care for five or more days a week for two or more consecutive weeks. The adult foster care family home licensee is a member of the household and an occupant of the residence.</p>	<p>Adult foster care facilities: One space per two residents plus one per employee on largest working shift.</p>	<p>State licensed required.</p>
Adult Foster Care Large Group Homes (13-20)	<p>A facility licensed under PA 218 of 1979 to provide foster care for at least 13</p>	<p>Adult foster care facilities: One space per two residents plus one</p>	<p>State licensed required.</p>

	but not more than 20 adults.	per employee on largest working shift.	
Adult Foster Care Large Group Homes (7-12)	A facility licensed under PA 218 of 1979 to provide foster care for at least seven but no more than 12 adults.	Adult foster care facilities: One space per two residents plus one per employee on largest working shift.	State licensed required.
Adult Foster Care Small Group homes	A facility licensed under PA 218 of 1979 to provide foster care for six or fewer adults.	Adult foster care facilities: One space per two residents plus one per employee on largest working shift.	State licensed required.
Bed and Breakfast operations as an accessory use to a single-family dwelling	Primarily a family dwelling where lodging with or without meals is furnished for compensation, chiefly on an overnight basis and mainly to transients.	One space for each lodging room plus one space per three full time employees.	<p>a. Shall be operated in its entirety within the principal dwelling and not within any garage or accessory building located upon the premises, except for incidental storage in use of a residential type garage.</p> <p>b. Is only conducted by persons owning and living within the premises.</p> <p>c. Has no exterior evidence, other than a permitted sign, to indicate same is being utilized for any purpose other than a dwelling. Said permitted sign not to exceed four square feet in area and to be placed no further than four feet from the dwelling.</p> <p>d. Does not involve alteration or construction not customarily found in dwellings.</p> <p>e. Is clearly incidental and subordinate to the principal</p>

			<p>use of the premises for residential purposes.</p> <p>f. Does not constitute an annoyance or nuisance to adjoining residents by reason of noise, smoke, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.</p> <p>g. Does not use more than three bedrooms of the dwelling.</p> <p>h. A smoke detector is placed in each sleeping room designated for the bed and breakfast.</p> <p>i. Must provide for one-off-street parking space for each bedroom designated as bed and breakfast.</p> <p>j. Each operator shall keep a guest register which contains a list of names of all persons staying at the bed and breakfast operation.</p> <p>k. The maximum stay for any occupants of the bed and breakfast shall be 14 consecutive days.</p>
<p>Duplex Housing Units</p>	<p>A residential building designed for or occupied by two families, with the number of families in residence not exceeding the number of dwelling units provided.</p>	<p>Dwelling: Two spaces per family or dwelling unit.</p>	<p>The following standards apply to duplexes allowed by CUP in the R-1 district</p> <p>a. The site, lot or parcel accommodating a duplex shall have a minimum area of 12,000 square feet and a minimum width of 110 feet.</p> <p>b. Any permitted structures as permitted as accessory uses in section 303:2 in this</p>

			<p>ordinance shall be located not less than 30 feet from front lot lines, five feet from rear lot lines and not less than five feet from side lot lines. The maximum height of said structures shall be 35 feet.</p> <p>c. Any parking in the required front yard shall be in a designated driveway only. Any parking in the rear or side yard shall be screened with a fence, wall or planted barrier which shall obscure the parking area from adjacent properties.</p>
Dwelling units located above first floor commercial principal uses	Dwelling Unit: One or more habitable rooms which are occupied or intended for occupancy by one family with facilities for living, sleeping, cooking and eating.	Dwelling: Two spaces per family or dwelling unit.	
Family Day Care Homes	<p>A private home in which not more than six children are received for care and supervision for a period of less than 24 hours per day. The six child limitation includes children under seven years old in the resident family and shall not include more than two children under one year old.</p>	Two spaces per family or dwelling unit plus one space for drop-offs and pick ups.	State licensed required.

<p>Foster family group home</p>	<p>A private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.</p>	<p>Two spaces per family or dwelling unit.</p>	<p>State licensed required.</p>
<p>Foster family home</p>	<p>A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are given care and supervision for 24 hours a day, for 4 or more days a week, for two or more consecutive weeks, unattended by a parent,</p>	<p>Two spaces per family or dwelling unit.</p>	<p>State licensed required.</p>

	legal guardian, or legal custodian.		
Group Day Care Homes	A private home in which not less than seven or more than twelve children are received for care and supervision for a period of less than 24 hours per day, and shall not include more than two children under two years old.	Two spaces per family or dwelling unit plus three spaces for drop-offs and pick ups.	State licensed required.
Home Occupations	Any occupation conducted within a dwelling unit by its occupants as a subordinate use.	Two spaces per family or dwelling unit plus one space for home occupation and one space for non-resident employee.	<p>a. No stock in trade may be kept or article sold or offered for sale in the dwelling except such as are produced by such home occupation.</p> <p>b. No display of goods are visible from any public way. One unlighted sign no larger than 6 square feet may be erected.</p> <p>c. One person other than dwelling occupants may be employed.</p> <p>d. No such home occupation shall require interior or exterior alterations or the use of mechanical equipment except that are customarily utilized for residential or office purposes.</p> <p>e. The use may not be conducted from an accessory building.</p> <p>f. No traffic shall be generated by such home occupation in greater volumes than would</p>

			normally be expected in a residential neighborhood.
Home Occupations— Intensive	Any occupation conducted on the same lot as a dwelling unit by its occupants and others as a subordinate use.	Two spaces per family or dwelling unit plus one space for home occupation and one space for non-resident employee.	<p>a. No stock in trade may be kept or article sold or offered for sale in the dwelling except such as are produced by such home occupation.</p> <p>b. No display of goods are visible from any public way. One unlighted sign no larger than 6 square feet may be erected.</p> <p>c. One person other than dwelling occupants may be employed.</p> <p>d. Any interior or exterior alterations or the use of mechanical equipment not customarily utilized for residential or office purposes shall be located and operated in a manner that is not detrimental to the character of the area.</p> <p>e. The use may be conducted from an accessory building</p> <p>f. Traffic generated by such home occupation shall be consistent with the existing traffic patterns in the area.</p>
Long-term outside storage of privately owned major recreational equipment	The storage for 30 or more consecutive days recreational equipment including or similar to campers, boats, travel trailers, snowmobiles, etc. provided that said equipment shall be unoccupied and shall not	N/A	The equipment shall be unoccupied and shall not be located in a front yard.

	be located in a front yard or required side and rear yards.		
Mobile Home Parks	A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street equipment, or facility used or intended for use incident to the occupancy of a mobile home.	Established by the Manufactured Housing Commission.	Subject to the requirements established by the Mobile Home Commission Act.
Multiple-family dwellings and condominiums	Dwelling, Multiple-family: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.	Dwelling: Two spaces per family or dwelling unit.	
Rooming houses	Also referred to as a boarding home, lodging house, fraternity house, sorority house or dormitory. A dwelling having one kitchen and used for the purpose of providing lodging or lodging and meals for pay or compensation of any	Two spaces per family or dwelling unit plus one per room of rooming house.	<p>a. The site, lot or parcel accommodating a rooming house shall have a minimum area of 12,000 square feet and a minimum width of 80 feet.</p> <p>b. Any permitted structures shall be located not less than 40 feet from front and rear lot lines and not less than ten</p>



	kind, to more than two persons other than members of the family occupying such dwelling.		feet from side lot lines. The maximum height of said structures shall be 35 feet.
Senior Citizen Housing	Housing for the Elderly: An establishment other than a hospital or nursing home which provides room and board or housekeeping facilities for non-transient persons 55 years of age or older.	One space per two living units.	None Listed.
Single-family detached dwellings	A detached residential dwelling unit designed for and occupied by one family only.	Dwelling: Two spaces per family or dwelling unit.	See section 36-213.
Temporary dwelling units	An attached or detached accessory structure as a dwelling to provide supervision of an aged individual or an individual with a medical hardship.	Dwelling: Two spaces per family or dwelling unit.	A permit may be issued to the owner at the time of destruction by the zoning administrator for not more than six months for the use of a mobile home as temporary housing. The zoning board of appeals may grant an extension for a period of not more than one additional year. The ZBA may require the posting of a bond to ensure removal of the mobile home at the end of the extension period. The extension may be granted when the following standards are met: a. A good faith effort has been shown to rebuild the destroyed structure. b. The time extension is

			<p>reasonably necessary considering the practical difficulties associated with actual construction.</p> <p>c. Occupancy of the structure being rebuilt is reasonably possible within the time extension.</p> <p>d. Granting of the time extension to the applicant and other similarly-situated parties will not prohibit enforcement of any provisions of this ordinance, unduly overburden administration and enforcement resources, or adversely affect general health, welfare and safety of adjacent properties or the general community.</p>
<b>Institutional</b>			
Cemeteries	Land used or intended to be used for the burial of the deceased, and dedicated for cemetery purposes, including columbarium, crematories, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.	One space per four seats of chapel or assembly area.	The lanes in the cemetery should be wide enough to allow parallel parking.
Governmental administrative	Buildings that house public services and uses usually in offices; but not	Provide adequate parking facilities as	

and service buildings	including "utility and public service installations" or schools. Examples include post offices, libraries and governmental administrative offices.	approved by the planning commission.	
Playground equipment	Recreational structures and apparatus designed for use primarily by pre-school and elementary school children.	N/A	
Public libraries	A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.	Provide adequate parking facilities as approved by the planning commission.	
Public medical and health facilities.	An institution where sick or injured persons are given medical care and, in the course of same, are housed overnight, fed, and provided nursing and related services. This definition shall not include drug rehabilitation facilities, halfway houses, convalescent or nursing homes, institutions for mentally ill individuals, or other similar facilities.	One space for each 50 square feet in the waiting room plus one space for each examining room plus one space per employee.	Minimum side yard shall be 30 feet.
Public parks	A noncommercial, not-for-profit facility designed to serve the recreation needs of the residents of the community.	Provide adequate parking facilities as approved by the planning commission.	

<p>Religious institutions; churches, synagogues, temples, etc.</p>	<p>A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.</p>	<p>Churches: One space for each three seats.</p>	
<p>Schools, either public or private</p>	<p>An educational facility including elementary and secondary schools, colleges and universities including satellite facilities, and business and technical schools.</p>	<p>Provide adequate parking facilities as approved by the planning commission.</p>	<p>a. Public and charter elementary and secondary schools are exempt from zoning. b. colleges and universities including satellite facilities, and business and technical schools are permitted only in commercial and industrial districts.</p>
<p><b>Commercial</b></p>			
<p>Automotive body shops</p>	<p>Body Shop: A place for the repair of automobile bodies, including bumping, painting and frame repair.</p>	<p>One space for each 500 square feet of floor area.</p>	<p>a. No driveway or curb cut for a driveway shall be located within ten feet of an adjoining property line as extended to the curb or pavement, or within 20 feet of any exterior lot line as extended. b. The entire service area shall be paved with a permanent surface of concrete or asphalt. c. All equipment, including</p>

			<p>hydraulic hoists, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building.</p> <p>d. There shall be no outdoor storage of merchandise such as tires, lubricants, and other accessory equipment, except that outdoor trash storage may be provided in a properly screened container.</p> <p>e. All vehicles, upon which work is performed, shall be located entirely within a building.</p> <p>f. There shall be no above-ground tanks for the storage of gasoline, liquefied petroleum gas, oil, or other inflammable liquids or gas.</p>
<p>Adult Uses</p>	<p>See Article 2 pages 2-4.</p>		<p>a. The adult use shall be located at least 300 feet from any residential district, as measured from the boundary of the residential district or parcel to the structure housing the adult use.</p> <p>b. The adult use shall be located at least 1,000 feet from another adult use.</p> <p>c. The adult use shall be licensed by the Village of Reese as provided for under the adult use licensing ordinance.</p>

<p>Bus station</p>	<p>Any premises for the transient housing or parking of motor driven buses, and the loading and unloading of passengers.</p>	<p>One for each four seats of seating capacity in waiting area.</p>	
<p>Car washes, automatic or self-service</p>	<p>A building or portion thereof, containing facilities for washing more than two automobiles, using production line methods with a chain conveyor, blower, steam cleaning devices or other similar mechanical devices or providing individual bays for cleaning automobiles</p>	<p>Three stacking spaces per bay / stall, plus one space per employee for a self-service establishment; one space per employee, plus six stacking spaces per bay / stall for an automated establishment. A bay / stall is not a parking space.</p>	<p>a. Only one ingress/egress driveway shall be permitted on any single street.  b. Where adjacent to a residential district, a solid wall or fence six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained and in good condition.  c. All washing facilities shall be located within an enclosed building.  d. All cars required to wait for access to the facilities shall be provided stacking spaces fully off of the street right-of-way which does not conflict with vehicle maneuvering lanes to on-site facilities.  e. Truck washes shall not be permitted.</p>
<p>Child care center</p>	<p>Facilities (publicly or privately operated), other than a private home, having as their principal function the receiving of one or more preschool or school age children (under the age of 18) for care, maintenance, and supervision for periods of</p>	<p>One per employee, plus one per ten children.</p>	

	<p>less than 24 hours a day, where the parents, relatives, or legal guardians are not immediately available. Child care centers are also commonly known as day care centers, day nurseries, child care facilities, nursery schools, parent cooperative preschools, play groups, or drop-in centers.</p>		
Clinics	<p>An institution for the medical treatment of humans on an outpatient basis.</p>	<p>One space for each 100 square feet in the waiting room plus one space for each examining room plus one space per employee.</p>	
Clubs or lodges	<p>The room, building or other facilities used for the meetings of a group of people organized for a common purpose such as a fraternal organization or a society.</p>	<p>One space per four persons allowed by relevant codes.</p>	
Commercial recreational activities	<p>Indoor entertainment establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality that may include food service or accommodations, but does not include drive-thru establishments.</p>	<p>One space per four persons allowed by relevant codes.</p>	

	Examples include: Bowling alleys, billiard halls, arcade or video game rooms, archery range (indoor) and other indoor entertainment establishments similar to and compatible with the above establishments.		
Drive-thru	Any restaurant, bank or business with an auto service window.	N/A	<p>a. The main and accessory buildings shall be set back a minimum of 40 feet from any adjacent right-of-way line or residential property line.</p> <p>b. Six stacking spaces per window, may be reduced by planning commission during site plan review based on use.</p>
Dry Cleaners	A retail establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry including operation of laundry or dry-cleaning equipment or machinery on the premises.	One space per 300 square feet of floor area.	
Financial institution	<p>An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies,</p> <p>Examples include banks, savings and loans, and credit unions.</p>	One space per 100 square feet.	



<p>Funeral Home</p>	<p>A building used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in the preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles; facilities for cremation and human funeral services</p>	<p>One space per 25 square feet of floor area in slumber rooms, chapels and assembly rooms.</p>	<p>a. The conduct of all aspects of activities related to such uses shall take place within the principal building and not in an accessory building.  b. A caretaker's residence may be provided within the principal building.  c. The proposed site shall front upon a major street and all ingress and egress points to the site shall be directly from the major street.</p>
<p>Gasoline service stations</p>	<p>Any structure or premises arranged, designed or used for the retail sales of fuels, lubricants, air, water and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in such vehicles and for the washing or polishing of such vehicles but not including the use of space or facilities for the refinishing of motor vehicles or for the dismantling for the purpose of reuse or resale of motor vehicles or parts thereof or for the outdoor</p>	<p>Service stations: one space for each two employees plus one space for owner or manager plus one space for each service stall.</p>	<p>a. The lot accommodating a gasoline service station shall have a minimum area of 12,000 square feet with a minimum width of 80 feet.  b. Buildings shall not be located closer than 30 feet from the front and rear lot lines and not closer than ten feet from side lot lines.  c. Parking and underground storage areas and drives may be located within any required yard.  d. All sales, services and storage shall be within an enclosed building, with the exception of parking and loading areas.  e. Drives shall be located so as not to create a traffic hazard between vehicles</p>

	storage or repair of motor vehicles or parts thereof.		entering or leaving the service station and, vehicles traveling on adjacent streets.
Kennels and veterinary clinics with outdoor runs	<p>Kennel: Any premises on which dogs, cats or other household pets are maintained, boarded, bred or cared for, in return for remuneration or are kept for the purpose of sale.</p> <p>Veterinary Clinic: An establishment for the care and treatment of small animals, including household pets and may include incidental overnight boarding.</p>		Buildings wherein animals are kept, animal runs, and/or exercise areas shall not be located nearer than 100 feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear, or side yard setback area.
Laundromat	A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.	One space per three machines	
Motels, hotels	<p>Hotel: A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five sleeping rooms and in which rooms there is no provision for cooking</p> <p>Motel: A series of attached, semi-detached or detached rental units providing overnight</p>	One space for each lodging room plus one space per three full time employees.	

	lodging for transients, open to the traveling public for compensation		
Offices	A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government, where retail sales are a minor part of the business	One space for each 200 square feet of floor area.	
Other uses compatible with the intent of the district	Uses not otherwise provided for in this ordinance that are determined to be similar to uses permitted in a given district, generates similar off-site impacts than uses allowed in that district and are consistent with the purpose of that district.	Parking requirements is to be determined based on the closest similar use.	Determination made after review and approval in accordance with the provisions as set forth in Section 1001.
Outdoor seating	The outdoor use of tables and chairs, picnic tables or benches to serve the needs of clients of a restaurant, tavern, bar or other business.	One space for every four seats.	
Personal services establishments	Establishments offering services for a fee or other remuneration such as financial institutions, barber and beauty shops, clothing repair shops, professional offices and other similar uses.	One space for each 200 square feet of floor area.	None Listed.

Private ambulance service	A privately-owned facility for the dispatch, storage, and maintenance of emergency medical care vehicles.	One space per person of the largest shift plus parking for all emergency vehicles plus one space.	
Restaurants, taverns and bars	A structure in which the principal use is the preparation and sale of food and beverages.	One space for every four seats.	
Retail lumber sales and storage	A retail facility of more than 30,000 square feet gross floor area, selling lumber and other large building materials, where most display and sales occur indoors or any establishment selling such material where a large proportion of the display and storage is outdoors or in open sheds.	One space per company vehicle, plus one space per employee, plus one space per each 1,000 square feet of floor area open to the public, plus one space for each 10,000 square feet of open storage area.	
Retail sales establishments	Establishments offering goods for sale such as food stores, drug stores, clothing sales, gift shops, hardware and appliance sales, restaurants and drinking places, variety stores and other similar uses.	One space for each 200 square feet of floor area.	None Listed.
Sale and service of new and used automobiles, agricultural implements, mobile homes	Establishments involved in the sale or rental of automobiles, recreational vehicles and mobile homes. These establishments may have outdoor storage.	One space per 1,000 square feet of outdoor display area plus one space per 200 square feet of indoor display area.	<p>a. All areas subject to vehicular use shall be paved with durable dust-free surfacing, with appropriate bumper guards where needed.</p> <p>b. Lighted parking areas shall</p>

<p>and recreational vehicles</p>	<p>Examples include: Automobile and truck (used and new) sales, automobile rental, automobile wash establishments, rental equipment (commercial), trailer sales, and other business establishments that typically have large outdoor displays and other uses similar and compatible with the above establishments.</p>		<p>not create a nuisance for nearby properties.</p>
<p>Security buildings or construction offices</p>	<p>Accessory buildings designed to house people and equipment during construction of a building or to provide security on a permanent basis for a site.</p>		<p>a. The site has adequate toilet facilities as determined by the building inspector. b. No accessory structure shall be occupied unless there is a clear unoccupied space of at least ten feet on all sides thereof. c. No accessory structure shall at any time be located between the established setback line and the lot line. d. The maximum floor area of an accessory structure shall be 400 square feet. e. The accessory structure shall be removed from the site within one week of the date of the issuance of the occupancy permit for the principal structure.</p>
<p>Service garages</p>	<p>A facility used for the storage or care of motor vehicles where such</p>	<p>Two spaces per stall plus one per employee.</p>	<p>a. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists</p>

	<p>vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale providing that there be no outside storage of parts or inoperable vehicles.</p> <p>The term covers such uses as quick oil change facilities, tire repair and replacement and muffler/brake replacement facilities provided no major repairs as described above are undertaken.</p>		<p>and pits shall be enclosed within a building.</p> <p>b. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six foot screening fence and shall comply with requirements for location of accessory buildings. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted.</p>
Theaters	A building or structure arranged for the presentation of motion pictures, plays or operas indoors	One space for each four seats plus one space for each two employees.	
<b>Industrial</b>			
Automobile recycling	<p>A business that receives salvageable automobiles; dismantles the vehicles, stores the parts for sales and ships out the remaining vehicle shell for processing off-site.</p> <p>Storage of vehicles waiting dismantling or shipment as an accessory use.</p>	One and a half spaces for each employee on the largest working shift plus one space for each 200 square feet of floor area.	
Industrial plants for	The mechanical or chemical transformation	Manufacturing and industrial uses: One and	

<p>manufacturing, processing and assembling</p>	<p>of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials.</p>	<p>a half spaces for each employee on the largest working shift.</p>	
<p>Industrial research facilities</p>	<p>A structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.</p>	<p>Manufacturing and industrial uses: One and a half spaces for each employee on the largest working shift.</p>	
<p>Junk Yards</p>	<p>An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles and also including an auto wrecking yard but not including uses established entirely within enclosed buildings.</p>	<p>Manufacturing and industrial uses: One and a half spaces for each employee on the largest working shift.</p>	<p>a. Minimum lot size shall be ten acres.  b. The setback from the front property line to the area upon which junk materials are stored shall be not less than 50 feet and shall be provided with a greenbelt buffer.  c. Junk yards shall be screened from the roadway and from any adjoining property by an obscuring fence eight feet in height. Said fence shall be kept uniformly painted, neat in appearance, and shall not have any signs or symbols painted on it. A solid masonry wall at least eight feet in height, shall be required when adjacent to a street or highway.  d. All activities and materials shall be kept within the enclosed area formed by the</p>

			<p>obscuring fence. Material shall not be stacked or piled above the plane established by the top of the obscuring fence.</p> <p>e. All structures, off-street parking, fencing and used material storage yards shall be set back not less than 50 feet from any street or highway right-of-way.</p> <p>f. All roads, driveways, and parking lots used by the general public shall be paved, and loading and unloading areas within any junk yard shall be paved, oiled, watered or chemically treated so as to limit for adjoining lots and public roads, the nuisance caused by wind borne dust.</p>
Machine shops and welding shops	<p>Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used to fabricate or modify products.</p> <p>Examples include: tinsmith, welding, and sheet metal shops; and plumbing, heating, and electrical repair shops.</p>	Manufacturing and industrial uses: One and a half spaces for each employee on the largest working shift.	
Mini-Warehouse—Self storage facilities	A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers	Parking shall be provided in the ratio of one space for each 2,000 square feet of gross building area. At a	<p>a. The minimum size of the site devoted to such use shall not be less than one acre.</p> <p>b. Building setbacks shall be as follows: front yard not less</p>



	<p>are rented out to different tenants for the dead storage of customers' goods and wares vs. a conventional warehouse used for the storage of material for later wholesale distribution.</p>	<p>minimum, two parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two spaces for the resident manager, and one additional space for each additional employee shall be provided adjacent to the rental office.</p>	<p>than 20 feet; side and rear yard not less than ten feet.</p> <ul style="list-style-type: none"><li>c. Building separation between self-storage buildings on the same site shall be 15 feet, as measured from side to side or front to rear, or equal to the building height, whichever is greater.</li><li>d. The total lot coverage of all structures shall be limited to 50 percent of the total lot area.</li><li>e. A barrier shall be provided around the rear and side perimeter of the development. Said barrier shall be located at the setback line and may consist of either the solid facades of the storage structures or a fence. If a fence is provided, it shall be constructed of products which are determined by the zoning administrator to be durable and weather resistant.</li><li>f. A landscaped greenbelt shall be provided between the property line and required barrier along all street frontages. A landscaped green belt shall be provided between the property line and barrier where the site abuts any residential district. All materials shall be planted in conformance with the provisions of the Landscape Standards article (Article 11).</li></ul>
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		<p>g. Internal driveway aisles shall be a minimum of 20 feet in width.</p> <p>h. All points of ingress/egress shall be paved from the street to the edge of the property line. All off street parking areas and driveways shall be hard surfaced and drained in accordance with Article 8.</p> <p>i. Building height shall not exceed one story or 15 feet, except that a caretaker or resident manager's unit may be allowed a building height of two stories 25 feet.</p> <p>j. No single storage building shall exceed 5,000 square feet.</p> <p>k. All storage on the property shall be kept within an enclosed building.</p> <p>l. The use of the premises shall be limited to storage only, and shall not be used for any auction other than two auctions per year held by the owner of the mini-storage facility for the purpose of disposing of material forfeited by clients of that facility. Nor shall it be used for sales or storage and transfer business; for the servicing, repair or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns or similar</p>
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			<p>equipment.</p> <p>m. Limited sales to tenants of products and supplies incidental to the principal use, such as packing materials; identification labels, rope, locks, tape, etc. shall be permitted on the site devoted to this use.</p> <p>n. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials are expressly prohibited.</p>
Petroleum products storage	A facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers, regardless of ownership.	One per employee on the largest working shift*, plus two per fuel distribution point, plus one per vehicle maintained on the premises.	<p>a. Minimum lot size shall be five acres.</p> <p>b. Above ground storage tanks shall not be less than 300 feet from a property line and shall be mounted on a solid concrete slab to prevent overturn and spilling, according to EPA specifications</p> <p>c. A pollution incidence prevention plan shall be submitted and approved as part of site plan approval.</p>
Public utilities facilities	Electric transformer stations, gas regulator stations, gas valve houses, booster stations, telephone exchange buildings and telephone repeater buildings, and other similar utility uses.	Provide adequate parking facilities as approved by the planning commission.	<p>a. The public utilities facility may be located within the district when operating requirements are necessary to serve the immediate vicinity.</p> <p>b. The site, lot or parcel accommodating each public utilities facility shall have a</p>

	<p>Also referred to as essential services.</p>		<p>minimum area of 12,000 square feet.</p> <p>c. Any buildings or structures shall be located at least 35 feet from all property lines.</p> <p>d. Surrounding grounds may be used for the temporary parking of service or maintenance vehicles or for parking of employees or attendance vehicles while driver is on the premises but shall not be used for the storage of equipment, supplies or construction materials.</p> <p>e. Any property line abutting a residential lot or parcel shall be screened with an ornamental fence, wall or planted materials. Said screen shall obscure vision and provide separation between the two uses.</p>
<p>Public utility facilities without storage yards</p>	<p>Public utilities facilities: Electric transformer stations, gas regulator stations, gas valve houses, booster stations, telephone exchange buildings and telephone repeater buildings, and other similar utility uses. Also referred to as essential services.</p>	<p>Provide adequate parking facilities as approved by the planning commission.</p>	<p>a. The public utilities facility may be located within the district when operating requirements are necessary to serve the immediate vicinity.</p> <p>b. The site, lot or parcel accommodating each public utilities facility shall have a minimum area of 12,000 square feet.</p> <p>c. Any buildings or structures shall be located at least 35 feet from all property lines.</p> <p>d. Surrounding grounds may be used for the temporary</p>

			<p>parking of service or maintenance vehicles or for parking of employees or attendance vehicles while driver is on the premises but shall not be used for the storage of equipment, supplies or construction materials.</p> <p>e. Any property line abutting a residential lot or parcel shall be screened with an ornamental fence, wall or planted materials. Said screen shall obscure vision and provide separation between the two uses.</p>
Storage yards	An area for the open storage of equipment and supplies	N/A	
Trade contractors, building materials suppliers and wholesalers	Businesses for the display, fabrication, modification and sale of merchandise, both wholesale and retail, of building-related products and the storage and maintenance of equipment for the installation of such products.	One parking space for each employee plus one space per 200 square feet of sales area.	None Listed.
Transportation, maintenance and servicing facilities	A facility intended to provide services to the trucking industry, including dispensing of fuel and repair shops.	Provide adequate parking facilities as approved by the planning commission.	None Listed.
Truck washes	A facility intended to provide automated	One space per employee, plus six	a. The truck wash shall be at least 100 feet from all

	washes for commercial trucks	stacking spaces per bay / stall. A bay / stall is not a parking space.	<p>property lines.</p> <p>b. Only one ingress/egress driveway shall be permitted on any single street.</p> <p>c. Where adjacent to a residential district, a solid wall or fence six feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained and in good condition.</p> <p>d. All washing facilities shall be located within an enclosed building.</p> <p>e. All trucks required to wait for access to the facilities shall be provided stacking spaces fully off of the street right-of-way which does not conflict with vehicle maneuvering lanes to on-site facilities.</p>
Warehousing	A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive.	Two parking spaces for each employee.	
Warehousing and self-storage yards	A facility consisting of land, with or without buildings in a controlled-access compound, where space is rented out to different tenants for the outdoor storage of	Two parking spaces for each employee.	<p>a. The site, lot or parcel accommodating any warehousing facilities or storage yards shall have a minimum area of one acre.</p> <p>b. Any buildings, or structures used for the containment of stored</p>

	customers' goods and wares.		<p>materials shall be located no closer than 50 feet from any property line.</p> <p>c. Any scrap, waste, junk or refuse material and any inoperable mechanical equipment shall be stored in a building.</p> <p>d. Any operable mechanical equipment and any materials not classified as scrap, junk or waste may be stored in open yards on the premises providing such storage is no closer than 20 feet from any property line.</p> <p>e. Storage yards shall be graded to provide adequate drainage but not to adjoining properties and shall lie surfaced with compacted stones or gravel or with a hard surfaced material.</p> <p>f. There shall be no burning of any waste, scrap, junk or any other similar materials on the premises.</p> <p>g. Any open storage areas shall be completely shielded from surrounding property by a solid fence or wall at least eight feet in height.</p>
<b>Miscellaneous</b>			
Accessory uses and structures.	Accessory uses and structures: Uses and structures which are customarily accessory and	Depends on the use. See other categories.	a. Private swimming pools shall meet the building code and electrical code standards adopted by the Tuscola

	<p>clearly incidental and subordinate to, and on the same zoning lot as permitted principal or conditional uses and structures in any zoning district.</p> <p>Examples include private garages and private swimming pools.</p>		<p>County Building Department.</p> <p>b. Pools shall be treated as an accessory structure for the purposes of determining location on a lot.</p>
<p>Planned Unit Developments</p>	<p>A project consisting of a variety of uses which are combined into a functional unit to provide a more desirable living environment by retaining the natural character of the village through the preservation of open spaces, woodlands, streams, ponds, water frontage, hills, and similar natural assets. Planned unit developments are an alternative to lot-by-lot development for the purpose of encouraging a more creative approach to residential development.</p>	<p>Depends on the use. See other categories.</p>	<p>See Article 16 Pages 9-12.</p>
<p>Communication antennae affixed to existing structures</p>	<p>Any system of wires, poles, rods, reflecting disks, or similar devices used for the provision of cellular, broadband PCS, wide-area SMR, satellite system and other wireless transmitting and receiving services. Communication antennae may be attached</p>		<p>a. The antenna will be aesthetically compatible with the surrounding area.</p> <p>b. The antenna and any associated structures and guy wires shall be inaccessible to the general public.</p>



	to the top of a structure or to a communication tower which is affixed to the ground.		
Communication Towers	A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.	Two parking spaces.	<p>a. The tower is located no closer to any residential district any structure not associated with the operation of the tower than the height of the tower. This requirement can be modified by the planning commission if it can be demonstrated by the applicant that the tower is collapsible.</p> <p>b. All wiring between the tower and other structures shall be placed underground whenever possible.</p> <p>c. The tower, any accessory structures and any guy wires which are fixed to the ground shall be completely enclosed by appropriate fencing as determined by the planning commission.</p> <p>d. In order to maximize the efficiency of the telecommunications services, while also minimizing the impact of such facilities on the village, co-location, or the provision of more than one facility in a single location shall be encouraged by the planning commission.</p> <p>The planning commission shall be provided information regarding the</p>

			<p>feasibility of co-location at proposed sites. Further the applicant may be required to provide a letter of intent to lease excess space on a facility and commit itself to:</p> <ul style="list-style-type: none"> <li>i) Respond to any requests for information from another potential shared use applicant;</li> <li>ii) Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically possible,</li> <li>iii) Make no more than a reasonable charge for a shared use lease,</li> <li>iv) Collocation on an existing tower shall be permitted by right provided that it is in compliance with the SUP approval for the original tower,</li> <li>v) Consideration of communication tower SUPs shall be in compliance with Section 3514 of the Michigan Zoning Enabling Act.</li> </ul>
Parking lot	An off-street, surfaced, ground level open area, for the temporary storage of motor vehicles.	N/A	
Signs, in accordance with applicable regulations	Any device designed or intended to inform or attract the attention of any person.	N/A	None Listed.

<p>Temporary use</p>	<p>Temporary building and use: A structure or use permitted by this zoning ordinance to exist during periods of construction of the main building or for special events.</p> <p>Temporary uses allowed are:</p> <p>Temporary use of a camper, travel trailer, recreational vehicle or mobile home as an office, storage unit or residence.</p>	<p>Parking as required by the use type.</p>	<p>Temporary use of a camper, travel trailer, recreational vehicle or mobile home:</p> <p>a. The location shall conform to the provisions governing yard requirements of standard dwellings in the district where located.</p> <p>b. The use shall be for the purpose of providing dwelling facilities for the owner of the premises, as a construction office, for storage during the period in which a structure is in process of erection and completion, but not to exceed 12 months. One additional 12 month extension may be obtained from the zoning administrator. The substandard dwelling shall be removed upon completion of construction of structure.</p> <p>c. The temporary structure is used as a dwelling unit it shall be required to be connected to the village water and sewer systems upon payment of connection fees.</p> <p>d. Application for the erection and use of a temporary structure that is allowed as an accessory use shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the</p>
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			<p>zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the village, that he/she has full knowledge of the limitations of the permit and the penalty pertaining thereto. No such permit shall be transferable to any other person.</p> <p>e. No annexes or additions shall be added to temporary substandard dwellings.</p>
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(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-180—36-185. - Reserved.

Sec. 36-186. - Schedule of regulations.

The schedule of regulations is as follows:

<b>Zoning District</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>	<b>Minimum Front Yard</b>	<b>Minimum Rear Yard</b>	<b>Minimum Side Yard</b>	<b>Maximum Building Height</b>	<b>Maximum Lot Coverage</b>
R-1 district <sup>i</sup>	12,000 sq. ft.	80 ft.	30 ft.	40 ft.	10 ft.	35 ft.	50%
R-2 district <sup>i</sup>	8,000 sq. ft.	66 ft.	25 ft. <sup>(f)</sup>	30 ft.	10 ft. <sup>(g)</sup>	35 ft.	50%
R-3 district <sup>ij</sup>	2 acres	150 ft.	40 ft.	40 ft.	20 ft.	35 ft.	50%
R-4 district	15 acres	-	-	-	-	35 ft.	-

C-1 district	-	-	-	-	- <sup>(d)</sup>	40 ft.	-
I-1 district	-	-	50 ft. <sup>(a)</sup>	25 ft. <sup>(b)(h)</sup>	30 ft. <sup>(c)(h)</sup>	40 ft.	-
I-2 district	-	-	50 ft. <sup>(a)</sup>	25 ft. <sup>(b)(h)</sup>	30 ft. <sup>(c)(h)</sup>	40 ft.	-

Footnotes to schedule of regulations (separated from each district and added as footnotes to schedule of regulations):

<sup>a</sup> Front yard setbacks shall be 50 feet, except for off-street transient or customer parking which may be located in the required front yard no closer than 25 feet from the front lot line.

<sup>b</sup> Rear yard setbacks shall be 25 feet, except for off-street parking which may be located no closer than ten feet from the rear lot line.

<sup>c</sup> Side yard setbacks shall be 30 feet each side, which may also be used for access drives and fences but may not be used for parking or the storage of vehicles and other equipment including supplies and products.

<sup>d</sup> If abutting a residential zoning district, the side yard shall have a width not less than that required for the adjacent residential district. This requirement does not apply where the adjacent residentially zoned parcel was zoned C-1 prior to June 1, 2012.

<sup>e</sup> Mobile home park development in the R-4 district shall meet the minimum development requirements as established by the Mobile Home Commission Act.

<sup>f</sup> The minimum setback shall be equal to the average of the setbacks of all of the existing homes on the block face, or 25 feet, whichever is less.

<sup>g</sup> If the lot is a legal nonconforming lot existing as of the effective date of the ordinance from which this chapter is derived, and the width of the lot is less than 66 feet, the side yard may be less than ten feet but no closer than 6.5 feet.

<sup>h</sup> For parcels in the I-1 or I-2 district that are adjacent to the railway right-of-way, the minimum setback for that yard shall be at least ten feet from the edge of the right-of-way. If the back of the parcel has access to a spur line, the setback can be reduced to zero feet.

<sup>i</sup> The maximum size of an accessory structure shall be 1,000 square feet.

<sup>j</sup> The minimum separation between buildings shall be 1.5 times the average height of the two buildings, but not less than 30 feet.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-187—36-210. - Reserved.

#### ARTICLE IV. - SUPPLEMENTAL REGULATIONS

##### Sec. 36-211. - Scope of chapter regulations.

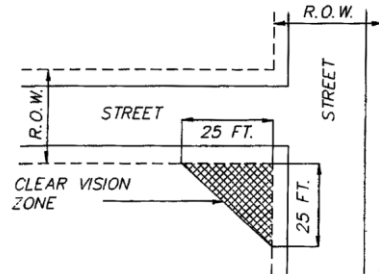
- (a) The provisions of this chapter shall be held to be the minimum requirements and shall apply uniformly to each kind or class of structure or land.
- (b) Where the conditions imposed by any provisions of this chapter upon the use of structures or land are either more or less restrictive than comparable conditions imposed by the provisions of any other lawful ordinance or of any law, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.
- (c) This chapter is not intended to nullify or lessen any easement, covenant or any other private agreement, provided that where the regulations of this chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements, the regulations of this chapter shall govern.
- (d) Structures or uses which were unlawfully existing at the time of the adoption of the ordinance from which this chapter is derived shall not be lawful solely by reason of adoption of the ordinance from which this chapter is derived.
- (e) All structures erected hereafter, all uses of land or structures established hereafter all structural alterations or relocations of existing structures occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such structures, uses or land shall be located.
- (f) Nothing contained in this chapter shall in itself be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to conduct any trade, industry, occupation, or activity.
- (g) Any building permits issued prior to the effective date of the ordinance from which this chapter is derived shall be considered valid, and any structure may be completed and used or occupied in accordance with plans, provided that use or occupancy is on the basis for which building permit was originally designated and provided that construction is begun within 60 days. Any such use, which would become nonconforming by virtue of the passage of the ordinance from which this chapter is derived, shall thereafter be considered nonconforming and subject to the provisions of this chapter.
- (h) Any structure or use lawfully existing at the time of adoption of the ordinance from which this chapter is derived may be continued except as hereinafter provided in the regulations concerning nonconforming uses in this chapter.
- (i) All land, property or territory hereafter to be annexed to the village shall be considered to be in an R-1 district until otherwise classified.
- (j) Uses not expressly permitted are prohibited unless interpreted as permitted by the ZBA under its authority in section 36-118 of this chapter.
- (k) Uses regulated under this zoning ordinance that are contrary to federal, state or local laws or ordinances are prohibited.

(Ord. No. 66, § 2, 9-14-2015)

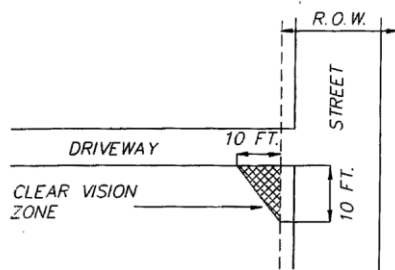
##### Sec. 36-212. - Scope of district regulations.

- (a) No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements of this chapter.

- (b) No part of a yard or other open space or off-street parking or loading space required about or in connection with any structure for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other structure or use.
- (c) No part of any required front yard shall be occupied for any accessory use or structure or for the storage of vehicles unless otherwise provided in this chapter.
- (d) Sight distance.
  - (1) When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, the corner triangular areas described in subsection (d)(2) of this section shall permit unobstructed cross visibility.
  - (2) The triangular areas referred to in subsection (d)(1) of this section are as follows:
    - a. The area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle area being ten feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides.
    - b. The area formed at a corner intersection of two public right-of-way lines, the two sides of the triangular area being 25 feet in length measured along the abutting public rights-of-way lines and the third side being a line connecting these two sides.



INTERSECTION OF  
TWO (2) PUBLIC RIGHTS-OF-WAY



INTERSECTION OF  
DRIVEWAY AND PUBLIC RIGHT-OF-WAY

- (e) On double frontage lots, a front yard as prescribed for the district as herein established shall be provided on both streets.
- (f) Every structure hereafter erected or relocated shall be on a lot adjacent to a public street or with access to an approved private street and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- (g) In residential zoning districts one principal structure is permitted per lot except in the case of conventional condominiums, planned unit developments and multiple-family dwellings.

- (h) In any R-1 or R-2 district, a permitted dwelling and permitted accessory structure may be constructed or altered on any single lot of record at the effective date of adoption of the ordinance from which this chapter is derived, provided they meet the limitations imposed by other provisions of this chapter, including minimum setback requirements.
- (i) Any uses or buildings permitted in this chapter as accessory buildings or uses shall be clearly incidental to and on the same zoning lot as the principal use to which they are accessory. No accessory building shall be higher than the principal building. Accessory uses or buildings may be located no closer than five feet from either a side lot line or a rear lot line, no closer than ten feet from a principal or another accessory building, and unless otherwise specified in this chapter an accessory use or building shall not be located within a required front yard. The combined area of all permitted principal and accessory buildings or structures shall occupy no more than that proportion of the yard as specified in the schedule of regulations.
- (j) The combined maximum square footage of all accessory structures on a residential lot in the R-1 and R-2 zoning districts shall be 1,000 square feet. However, if the lot exceeds 12,000 square feet the combined maximum square footage may be increased by 4% of the lot area that the property exceeds 12,000 square feet. (For example; if a lot in the R-2 District is 30,000 square feet in area.  $30,000 - 12,000 = 18,000$ .  $18,000 * .04 = 720$ . The combined maximum square footage may be a maximum of 1,720 sq. ft.). In no case shall the combined maximum square footage of accessory structures in the R-1 or R-2 district exceed 2,500 square feet. The maximum number of accessory buildings shall be limited to 3 in the R-1 district and 2 in the R-2 district. In any case the lot must still comply with the maximum lot coverage requirements in the R-1 and R-2 districts in section 36-186 schedule of regulations.
- (k) For all commercial, industrial and multifamily developments, any lighting on the premises for parking areas, yard lighting, sign lighting or other similar types of exterior lighting shall be a steady light with the source which does not impair visibility or cause distraction for pedestrians or drivers off the premises.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-213. - Single-family dwelling regulations.

A one-family dwelling and any additions or alterations thereto, erected or placed in the village, other than mobile home park, shall conform to the following regulations in addition to all other regulations of this chapter:

- (1) It shall comply with all pertinent building, construction and fire codes for single-family dwellings.
- (2) The plan outline of the dwelling, including only heated living area, shall be large enough to contain within it a square of 20 feet on a side. This size requirement shall not make any houses existing at the date of amendment nonconforming so that they cannot be enlarged or improved.
- (3) It shall be firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the same permitted dimensions of the dwelling and constructed of such materials and type as required in the state construction code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.
- (4) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- (5) It shall be connected to a public sewer and water supply, if available or if connection is required by the village sewer or water ordinances, otherwise they may be connected to private facilities approved by the county health department.



- (6) It shall comply with all pertinent zoning, subdivision, and other ordinances regulating use, floor area, lot size, setback, yards, etc. in the zoning district in which it is located.
- (7) It shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the mobile home construction and safety standards as promulgated by the United States Department of Housing, as amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (8) It shall be aesthetically compatible in design and appearance to homes in the neighborhood in which it is located. In the first instance, it shall be the responsibility of the zoning administrator to determine whether this standard is met. The village zoning administrator may, at his discretion, refer the matter to the zoning board of appeals for the determination. Any party aggrieved by an adverse decision by the village zoning administrator may appeal to the zoning board of appeals, which board shall make the determination, with findings, based upon its independent judgment, without reference to the standards for the granting of variances. The determination of compatibility shall be based upon the character, design and appearance of residential dwellings located outside of mobile home parks within 300 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within said area; or where said area is not so developed, by the character, design, and appearance of the residential dwellings generally found throughout the village. The determination of compatibility shall also be based upon compliance with the following standards:
  - a. The dwelling shall have a combination of roof overhang and pitch comparable to the overhang and pitch of homes typically found in the neighborhood in which it is to be located.
  - b. If the dwelling has a chimney, the chimney shall be constructed of a material and style similar to those of other dwellings typically found in the neighborhood in which it is to be located.
  - c. The dwelling shall have steps and/or porches which provide access to exterior doors, which are permanently attached to the ground and to the structure, and which are comparable to steps and/or porches of homes typically found in the neighborhood in which it is located.
  - d. The dwelling and roof shall be covered with a material which is in composition, color, texture, malleability, direction of joints, and method of fastening to the structure comparable to those typically found in the neighborhood in which it is to be located.
  - e. The dwelling shall have windows located on the front sides, and exterior doors either on the front and rear or front and side as generally found in homes in the neighborhood in which it is to be located.
  - f. The dwelling shall not have a detached garage, if attached garages are typically found in homes in the neighborhood in which it is to be located.
  - g. The orientation of the dwelling's front entrance shall be similar to the orientation of homes in the neighborhood in which it is located.
  - h. A dwelling may be approved as aesthetically compatible in design and appearance to homes in the neighborhood in which it is to be located, even if all of the above conditions do not exist, provided it is determined that the dwelling and/or its site has other design features which make it aesthetically compatible to homes in the district. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as energy conscious devices such as solar energy, view, unique land contour or relief from the common or standard designed home.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-214. - Fees.

The village council shall establish fees related to the administration of this chapter to offset associated costs. Such fees shall include but not be limited to variance application fee, zoning permit fee, zoning ordinance amendment fee and site plan review fee.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-215. - General exceptions.

- (a) *Voting place.* The provisions of this chapter 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 elections.
- (b) *Height limit.* The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flagpoles, public monuments or wireless transmission towers.
- (c) *Architectural features.* Normal architectural features such as chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves gutters, aprons and similar features may project into a required front yard.
- (d) The owner of a parcel in the C-1 district may build to the side lot line where the adjacent residentially zoned parcel was zoned C-1 prior to June 1, 2012.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-216. - Grading and drainage.

- (a) All structures shall be constructed or located with a ground elevation such as to provide a sloping grade to cause the surface drainage to flow away from the walls of such structures.
- (b) Grades on any lot upon which new construction or earth movement is to be carried out shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems, shall not increase drainage on to adjacent parcels and shall be approved by the village engineer.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-217. - Performance standards.

No use otherwise allowed shall be permitted within any use district which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained within said area:

- (a) *Smoke*—It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringlemann Chart; provided that the following exceptions shall be permitted; smoke, the shade or appearance of which is equal to, but not darker than No. 2 of the Ringlemann Chart for a period, or periods, aggregating four minutes in any 30 minutes.

*Method of measurement:* For the purpose of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the Umbrascop readings of smoke density may be used when correlated with Ringlemann's Chart Grades.

*Dust, Dirt and Ash*—No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using said process or furnace or combustion device or contrivance to reduce the quantity of gas-borne or air-borne solids

or fumes emitted into the open air, which is operated in conjunction with said process, furnace or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit, as measured by the A.S.M.E. Test Code for dust-separating apparatus.

- (b) Storage—In all commercial and manufacturing districts, the open storage, not including display, of any equipment, vehicles and all materials, including wastes, shall be screened from public view, from a street and from adjoining properties by an enclosure consisting of a wall equal in height to the equipment, vehicles and all materials to be stored. In no instance shall said wall be less in height than 4'-6" measured from the surface of the adjacent building flooring. In all residential districts, the storage of dismantled vehicles shall be within completely enclosed accessory structures.
- (c) Glare and Radioactive Materials—Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be performed in such a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
- (d) Noise—At no point on the boundary of any nonindustrial district shall the sound pressure level of any operation exceed the described levels in the designated octave bands below:

Table IV-1	
Octave Band in Cycles per Second	Maximum Permitted Sound Level in Decibels
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1200 to 2,400	40
2400 to 4,800	34
Above 4,800	32

- (e) Vibrations—No vibration which is discernable to the human sense of feeling shall be perceptible without instruments at any point beyond the lot line.

- (f) Odor—The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-218. - Lot depth/lot width ratio.

For all lots created after the effective date of this chapter, the lot depth to lot width ratio shall not exceed 4:1. That is, the length of the lot shall not exceed four times the width of the lot.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-219. - Prohibited dwellings.

Only principal buildings and accessory dwellings which have been issued a conditional use permit for a temporary dwelling shall be used as dwelling units. Garages, recreational vehicles, tents, trailers, sheds, and other similar structures shall not be used as dwelling units.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-220. - Satellite dishes.

Satellite dishes shall be considered accessory structures for the purposes of the administration of this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-221. - Permissive zoning.

Land uses are specifically permitted in the various zoning districts of this chapter. Where not specifically permitted, uses are thereby specifically prohibited. No land contained within any zoning district shall be used for any purpose other than those uses specifically permitted in the district in which the building or land is located, except as otherwise provided herein.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-222. - Walls and fences.

- (a) Wall or fences shall require review and approval of the zoning administrator through the issuance of a zoning permit. Wall or fences required as screening under the provisions of article VIII of this chapter shall comply with the requirements of section 36-319(b).
- (b) Walls or fences may be located on the lot line except where underground utilities interfere and or where this chapter requires conformance with yard setback lines.
- (c) Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and may extend toward the front of the lot in the required minimum front yard, at a height not exceeding three feet in height. Fences must be located within property lines.

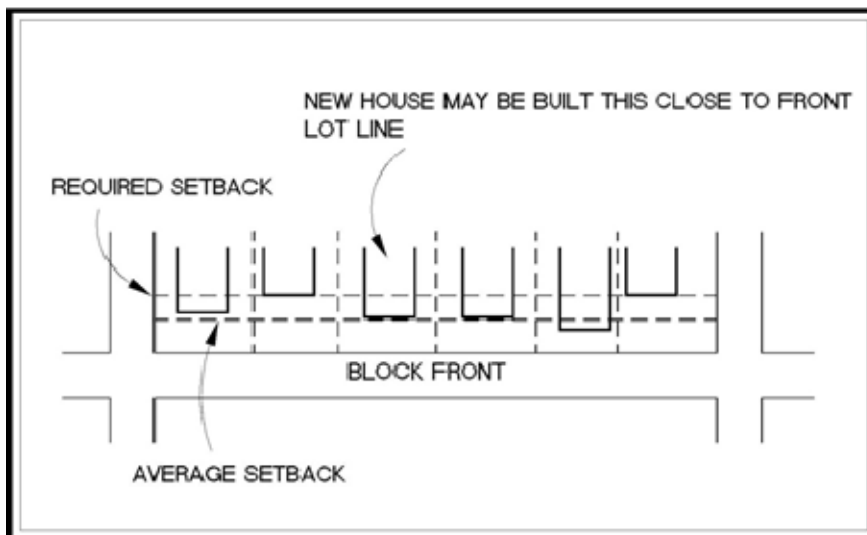
- (d) Split rail fences are permitted in the front yard up to the front property line provided it does not significantly obstruct the vision of motorist, pedestrians or other users of the sidewalks or streets.
- (e) Fences and other decorative landscaping not more than three feet in height may be permitted in the front setback provided it does not significantly obstruct the vision of motorists, pedestrians or other users of the sidewalks or streets.
- (f) All fencing shall be constructed with materials that are esthetically pleasing, consistent with the neighborhood using current day residential grade or better building materials. The finished side to face neighboring property. Chain link fence shall be constructed with the post on the inside.
- (g) Walls or fences must be maintained in good condition by the property owner.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-223. - Side and front yard setback exceptions.

- (a) When a legal nonconforming lot does not meet the minimum requirements for lot width in this ordinance, the side yard setback requirements for that lot shall be reduced by a percentage equal the percentage the lot meets the minimum lot width requirement. For example a lot 80 feet wide in a district requiring a minimum width of 100 and a side yard setback of 10 feet would have a side yard setback of eight feet. In no instance shall a side yard setback be reduced to less than five feet under the terms of this exception.
- (b) The front yard setback of a lot on a block where 80 percent of the lots are built on may be reduced to the average setback of the existing buildings (See Figure 4-2).

Figure 4-5



Secs. 36-224—36-238. - Reserved.

ARTICLE V. - NONCONFORMING USES AND STRUCTURES<sup>[6]</sup>

Footnotes:

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**State Law reference—**

**Sec. 36-239. - Purpose.**

Within the districts established by this chapter or amendments that later may be adopted, there exist lots, structures, uses of land and structures and characteristics of use or improvements such as parking or landscaping which were lawful before the ordinance from which this chapter is derived was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival.

(Ord. No. 66, § 2, 9-14-2015)

**Sec. 36-240. - Nonconforming uses of land.**

Where, at the time of passage of the ordinance from which this chapter is derived, lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use of land 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 the ordinance from which this chapter is derived, or increase its nonconformity by changing its use;
- (2) No such nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived;
- (3) A use that the ZBA has determined is abandoned following the standards in section 36-249 of this chapter shall not be re-established and any new use must comply with the zoning ordinance.
- (4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

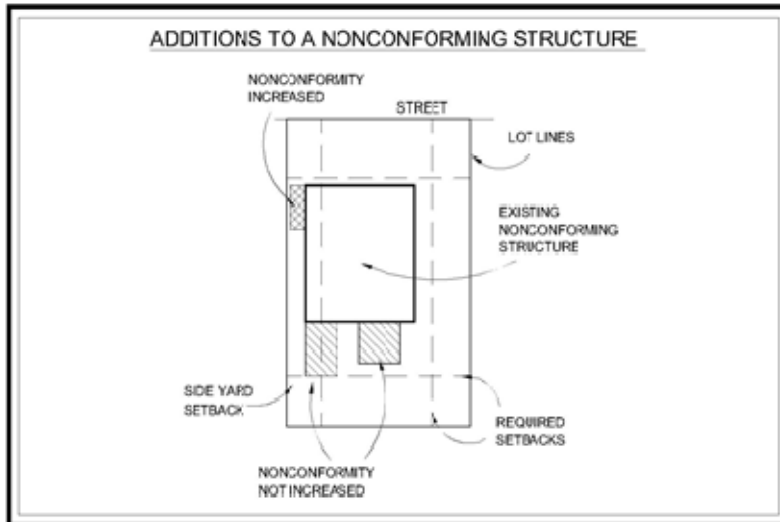
(Ord. No. 66, § 2, 9-14-2015)

**Sec. 36-241. - Nonconforming structures.**

Where a lawful structure exists or is lawfully under construction at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered in a manner that does not increase the nonconformity. (See Figure 5-1).

Figure 5-1



- (2) Any such nonconforming structure which has been damaged or destroyed by an act of God in an amount up to and including 75 percent of the value of the structure (as determined by calculating twice the building's assessed value), may be reconstructed providing its reconstruction does not increase its nonconformity. If the structure is damaged beyond this, it must be rebuilt in conformance with the provisions of this chapter.
- (3) Should such nonconforming structure be moved for any reason for any distance whatever, it shall thereafter be required to comply with the requirements of the zoning district in which it is located after it is moved.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-242. - Nonconforming uses of structures or of structures and premises in combination.

If a lawful use involving individual structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that would not be allowed in the district under the terms of this chapter, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter 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 or by decision of the zoning board of appeals following a public hearing.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance from which this chapter is derived but no such use shall be extended to occupy any land outside such building.
- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the zoning board of appeals, in considering the specific case, shall find that the proposed use is equally conforming or less nonconforming to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.
- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district and the nonconforming use may not thereafter be resumed.

- (5) A use that the ZBA has determined is abandoned following the standards in section 36-249 of this chapter shall not be re-established and any new use must comply with the zoning ordinance.
- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure in itself shall eliminate the nonconforming status of the land. If the structure is rebuilt and this previous use continued, the nonconforming status shall remain.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-243. - Nonconforming improvements.

Where a lawful improvement that does not constitute a structure such as parking or landscaping exists or is lawfully under construction at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter such improvement may be continued so long as it remains otherwise lawful, subject to the provisions for addressing such nonconformity within the relevant section including article VI off-street parking and loading facilities and article VIII landscape standards.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-244. - Repair or replacement.

Repair or replacement of non-bearing walls, fixtures, wiring or plumbing may be performed in or on a nonconforming structure or portion of a structure containing a nonconforming use, provided:

- (1) During any consecutive 12-month period extent of repair or replacement shall not exceed ten percent of this current replacement cost of the nonconforming structure;
- (2) Cubic contents of the structure shall not be increased except in conformance with section 36-241(1); however, nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe, by any official charged with protecting the public safety, upon order of such official.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-245. - Change of ownership.

Change of ownership between private parties does not remove the nonconformity nor extend time limits.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-246. - Replacement cost.

Replacement cost as used in any above provision is the value of the structure as determined by calculating twice the buildings assessed value.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-247. - Removal of nonconforming status.



- (a) Any nonconforming structure or premises may be made conforming by appropriate action or modifications which cause the structure or premises to fulfill the requirements of the district in which it is located.
- (b) In case of a nonconforming use which is a use designated as a conditional use by this chapter, the nonconforming status may be removed upon issuance of a conditional use permit after the appropriate action has been taken in accordance with the provisions of this chapter. It shall be the responsibility of the owner or person requesting the conditional use permit to initiate the request in accordance with this chapter.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-248. - Repair and restoration.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition any structure or part thereof declared to be unsafe by any official charged with protecting the public safety upon such order of such official.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-249. - Standards for determining abandonment.

If the planning department identifies a legal nonconforming use that they believe has been abandoned, they shall submit the property to the ZBA for a determination of abandonment. The ZBA shall hold a public hearing, following notice as outlined in section 7.22.08 of this notice. The ZBA shall determine whether or not intent to abandon the nonconforming use was demonstrated based on a preponderance of the following factors.

- (a) Reports such as from the building inspection or health department indicating the property is or has not been suitable for occupation.
- (b) Disconnection of utilities.
- (c) Evidence that the use was relocated to a new site.
- (d) Evidence of a "going out of business" sale.
- (e) Signs advertising the business has been removed.
- (f) The use has been discontinued for 12 consecutive months (1 year), except where government action such as road construction has prevented access to the premises, or where a clear intent to discontinue has not been demonstrated.
- (g) Removal of the equipment or fixtures necessary for the operation of the nonconforming use.
- (h) Request by the property owner for changes in their property tax designation inconsistent with the nonconforming use.
- (i) Other actions by the property owner or lessee that demonstrates an intent to abandon the nonconforming use.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-250—36-270. - Reserved.

#### ARTICLE VI. - OFF-STREET PARKING AND LOADING FACILITIES

Sec. 36-271. - Scope of article.

For all structures erected and all uses of land established after the effective date of the ordinance from which this chapter is derived, accessory parking and loading facilities shall be provided as required by this article.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-272. - Shared points of ingress/egress.

To minimize the number of "curb cuts" and therefore the number of points where turning movements can disrupt the flow of traffic on roads, adjacent uses shall be encouraged to share points of ingress/egress.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-273. - Minimum parking standards.

- (a) *Number of spaces required* . The minimum number of off-street parking spaces shall be provided as required in the definition/parking/design standards table. The planning commission may reduce or eliminate off-street parking for uses in the C-1 district based on the availability of on-street or public off-street spaces.
- (1) Adult foster care facilities: one space per two residents plus one per employee on largest working shift.
  - (2) Automobile sales and service garages: one space for each 500 square feet of floor area.
  - (3) Barbershops and beauty shops: three spaces for each chair or booth.
  - (4) Car washes: three stacking spaces per bay/stall, plus one space per employee for a self-service establishment; one space per employee, plus six stacking spaces per bay/stall for an automated establishment. A bay/stall is not a parking space.
  - (5) Churches: one space for each three seats.
  - (6) Commercial amusements (outdoor): 25 percent of lot area, but in no case less than ten spaces.
  - (7) Dancehall, assembly hall, exhibition hall (without fixed seats): one space for each 100 square feet of floor area.
  - (8) Drive-through facilities.
    - a. Restaurants: six stacking spaces for each ordering station and four stacking spaces for each drive-through service window (stacking space requirements are in addition to the spaces required for indoor seating).
    - b. Banks (and similar financial institutions): four spaces for each drive-in window.
    - c. Dry cleaners, drugstores (and other retail services with drive-in service facilities): three stacking spaces for each drive in window.
  - (9) Dwelling: two spaces per family or dwelling unit.
  - (10) Funeral home or mortuaries: one space for each 25 square feet in service parlors or chapels plus one space for each funeral vehicle maintained on the premises.
  - (11) Furniture sales (retail): one space for each 500 square feet of floor area.
  - (12) Hotels, motels, bed and breakfasts: one space for each lodging room plus one space per three full-time employees.
  - (13) Launderette: one space per two washer units.

- (14) Libraries, museums, governmental administration buildings: provide adequate parking facilities as approved by the planning commission.
  - (15) Manufacturing and industrial uses: 1.5 spaces for each employee on the largest working shift.
  - (16) Medical clinics (including veterinary): one space for each 50 square feet in the waiting room plus one space for each examining room plus one space per employee.
  - (17) Office buildings including banks, business and professional offices: one space for each 200 square feet of floor area.
  - (18) Restaurants, bars (and similar establishments): one space for each three seats provided for patron use plus one space for each two employees. For uses with non-drive-through outdoor service windows and no indoor seating, one space per employee plus five spaces per service window.
  - (19) Retail sales and personal services (except supermarkets and self-service stores): one space for each 200 square feet of floor area.
  - (20) Schools: one space for each two employees (staff and faculty) plus one space for each five fixed or bleacher seats in the auditorium or gymnasium.
  - (21) Senior housing: one space per two living units.
  - (22) Service stations: one space for each two employees plus one space for owner or manager plus one space for each service stall.
  - (23) Supermarket or self-service store: one space for each 100 square feet of floor area.
  - (24) Theaters and auditoriums (not incidental to schools): one space for each four seats plus one space for each two employees.
  - (25) Video stores: one space per employee plus one space per 300 square feet of floor area open to the public.
  - (26) Warehouses, storage buildings: two parking spaces for each employee.
  - (27) Lumberyards and supply yards, wholesale outlets: one space per company vehicle, plus one space per employee, plus one space per each 1,000 square feet of floor area open to the public, plus one space for each 10,000 square feet of open storage area.
- (b) *Minimum loading space required.* The minimum amount of off-street loading space shall be required in all districts as accessory to permitted uses as follows:
- (1) Industrial and commercial uses.

Floor Area (in square feet)	No. of Spaces
10,000—20,000	1
20,000—50,000	2
50,000—100,000	3

- (2) Schools: provide adequate space for safe loading and unloading of students from vehicles as approved by the planning commission.

- (3) Medical facilities: provide adequate space for safe loading and unloading of patients as approved by the planning commission.
- (c) *Minimum standards for off-street parking facilities.* Parking or storage of motor vehicles shall be required in all districts and for all uses, except single-family dwellings, subject to the following standards and regulations:
- (1) Any person desiring to establish, maintain or alter an off-street parking area shall submit plans to the zoning administrator showing the location, design size, shape, landscaping, surface material, marking, lighting, drainage, curb cuts, entrances, exits, and any other pertinent features of the parking facility. Any curb cuts, entrances, exits and drainage design shall require a zoning permit.
  - (2) In the case of a structure or premises which is not specifically mentioned in subsection (a) of this section, the provisions of a structure or use which is most similar shall be determined by the zoning administrator.
  - (3) In the case of mixed or combined uses in the same structure or on the same zoning lot, the total requirements for off-street parking shall be the sum of the requirements for the individual uses computed separately.
  - (4) Required parking spaces for a permitted use shall be computed relative to the usable floor area of the building as defined in section 36-1.
  - (5) Each off-street parking space shall have a minimum unobstructed area of 200 square feet with a minimum width of ten feet and a minimum length of 20 feet. Access drives to and from a parking space shall not be considered as part of the required parking area.
  - (6) If the use of a structure or premises changes, the minimum parking requirements shall apply to the new use.
  - (7) If a structure or premises is enlarged, the minimum parking requirements shall be applicable to the total area of the structure or premises.
  - (8) All off-street parking spaces shall be provided adequate access by means of maneuvering lanes. Backing onto a street or onto or across a public walk shall be prohibited.
  - (9) There shall be a curb or bumper rail provided wherever an off-street parking space is adjacent to a public sidewalk or right-of-way so designed to prevent any portion of the vehicle from extending beyond the limits of the required parking area.
  - (10) Any lighting used to illuminate any off-street parking area shall be so installed and maintained as to confine light within the parking area and direct light away from adjoining premises.
  - (11) Off-street parking areas including access drives shall be constructed based on the following design specifications: six-inch limestone base, two-inch leveling grade asphalt and 1½-inch top asphalt. Off-street parking areas including access drives shall be sloped and drained to dispose of all surface water at a collection point located on the property.
  - (12) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to one-half shall be disregarded and fractions of one-half and over shall be construed to mean one space.
  - (13) In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the planning commission may modify the parking requirements to reflect the estimated need during the period of greatest parking demand at the site.
  - (14) Any construction or rearrangement of existing drives which involve the ingress and/or egress of vehicular traffic to or from a public street shall be so arranged so as to ensure the maximum of safety and the least interference of traffic upon said streets.
  - (15) All parking areas shall be screened as required in section 36-320

- (16) Each entrance and exit to and from any off-street parking area shall be by clearly limited and defined drives and shall be at least 20 feet distant from adjacent property lines in an R-1 or R-2 district.
  - (17) No parking area shall be used for parking or storing of any commercial vehicle exceeding one ton capacity in an R-1 district.
  - (18) The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited in any required parking area.
  - (19) The location of required off-street parking facilities shall be within 500 feet of the structure containing the use they are intending to serve, measured from the nearest point of the structure.
  - (20) Parking areas shall not be located in any required front yard or required side yard, except where noted. Parking may be allowed in commercial or industrial districts as allowed in footnotes 36-186 a and b.
  - (21) The zoning administrator or planning commission in the case of site plan review shall require such assurance, surety or performance bonds in the form, manner and amount, as in his discretion may be required to compel compliance with and performance of all off-street parking requirements of this chapter; provided, however, that such assurance, surety or performance bond shall not be for amounts greater than the reasonable cost of complying with the off-street parking requirements of this chapter.
  - (22) A permit issued for a parking area under the provisions of this chapter shall be revocable as a result of noncompliance with any requirements and conditions as stipulated.
  - (23) Any existing parking lot with spaces less than ten feet wide and 20 feet long as of the effective date of the ordinance from which this chapter is derived that is re-stripped to conform to the minimum requirements of this article shall not be required to add the extra spaces lost.
- (d) *Off-street parking requirements for single-family dwellings.* Parking areas to serve single-family dwellings shall be required in all districts in which they are permitted; provided that no commercial repair work, servicing or selling shall be conducted in such areas and no sign of any kind shall be erected thereon. No charge shall be made for parking or storage of vehicles.
- (e) *Minimum standards for off-street loading facilities.* Loading and unloading spaces shall be provided in all C-1, I-1 and I-2 districts in connection with commercial and industrial uses subject to the following standards and regulations:
- (1) Off-street loading areas shall have a prepared and maintained surface and shall be sloped and drained to dispose of surface water.
  - (2) Any lighting used to illuminate off-street loading areas shall be so arranged as to direct light away from adjoining premises.
  - (3) Each loading space shall be at least ten feet wide, 60 feet long and shall have a clearance of 14 feet above grade.
  - (4) Required loading areas shall be in addition to required off-street parking areas.
  - (5) Loading spaces may occupy all or any part of any required yard space.
  - (6) No loading spaces shall be located closer than 50 feet to any lot in any R-1 or R-2 district unless wholly within an enclosed building or enclosed on all sides facing an R-1 or R-2 district, by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six feet in height.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-274—36-294. - Reserved.

## ARTICLE VII. - CONDOMINIUMS<sup>[7]</sup>

Footnotes:

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### State Law reference—

Sec. 36-295. - Intent.

The intent of this article is to regulate the division and development of land under the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), so that the development is comparable in quality of design to property divided and developed by other methods.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-296. - Review requirements.

In order to ensure compliance with this chapter, all condominium developments shall go through the site plan review process, including developments consisting solely of single-family or duplex residences, that may otherwise not be required to prepare a site plan. In addition to the information required in article II, division 2 of this chapter, all applicants for condominium site plan review shall submit the following information:

- (1) A copy of the proposed condominium master deed.
- (2) A copy of the proposed condominium subdivision plan (this may replace the site plan normally required for site plan review).
- (3) A copy of the proposed condominium bylaws.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-297. - Zoning ordinance standards.

- (a) *Lot size*. In conventional condominium development, the entire site must meet the minimum lot size requirements for the zoning district the parcel is located in. For site condominium developments, each condominium unit and its associated limited common area are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district the parcel is located in.
- (b) *Setbacks*. In conventional condominium development, the buildings must be set back from the sites boundaries as required in the zoning district the parcel is located in while the setback from other buildings must meet the building setback requirements of footnote j of section 36-186. For site condominium developments, the setbacks shall be from the outer edge of the "lot" consisting of a condominium units and their associated limited common area, and shall be consistent with the setbacks for principal structures in the zoning district in which it is located.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-298. - Condominium design requirements.

Conventional and site condominium developments shall comply with all applicable design standards in this chapter. Street standards shall be consistent with the standards adopted by the Tuscola County

Road Commission. In addition, site condominiums shall comply with the design standards contained in chapter 14, article II.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-299. - Survey requirements.

Conventional condominiums shall comply with the monumenting requirements contained in the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.). Site condominium shall comply with the following requirements:

- (1) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within their traveled portion of a street to mark angles in the boundary of the subdivision if the angles points can be readily reestablished by reference to monuments along the sidelines of the streets.
- (2) All monuments used shall be made of solid iron or steel at least one-half inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
- (3) Monuments shall be located in the ground at all angles in the boundaries of the site condominium; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the site condominium and at the intersection of alleys with the boundaries of the site condominium; at the points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
- (4) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.
- (5) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
- (6) All required monuments shall be placed flush with the ground where practicable.
- (7) The corner of each area consisting of a unit and the associated limited common area reserved for that unit, and treated as a "lot" under this chapter shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half inch diameter, or other approved markers.
- (8) The village council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year. On condition that the proprietor deposits with the village cash or a certified check, or irrevocable bank letter of credit running to the village. Whichever the proprietor selects, the amount as currently established or as hereafter adopted by resolution of the village council from time to time. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults, the village shall promptly require a surveyor to locate the monuments and markers in the grounds as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

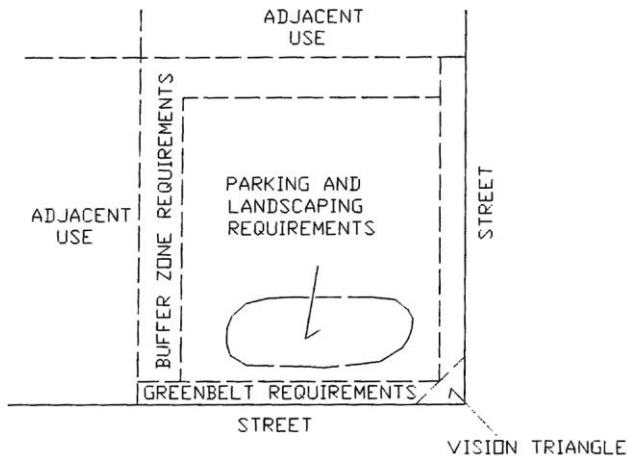
(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-300—36-316. - Reserved.

ARTICLE VIII. - LANDSCAPE STANDARDS

Sec. 36-317. - Purpose and intent.

- (a) The intent of this article is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping as buffer zones between zoning districts, along roadways, between adjacent buildings and in parking lots. The standards of this article are intended to guide and encourage the protection and enhancement of the environment through requirements for site design and the use of landscape materials. Applicants are encouraged to provide landscaping in addition to the minimum requirements of this chapter to improve the function, appearance and value of their property.
- (b) The following diagram shall serve as a general guide for the applicability of these standards:



(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-318. - Application.

- (a) The requirements set forth in this article shall apply to all lots, sites, and parcels which are developed or expanded following the effective date of the ordinance from which this chapter is derived and/or are subject to local site plan review. Single-family residential lots are excluded from the provisions of this article. No site plan or land use shall be approved unless said site plan shall show landscaping consistent with the provisions of this article.
- (b) The planning commission may also determine that dimensional conditions unique to the parcel would prevent development of required buffer zones, off-street parking area, landscaping or greenbelts. If such a determination is made, the planning commission may grant an exception from the landscaping provisions of this article.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-319. - Minimum buffer zones.

- (a) *Where required.* A buffer zone shall be provided within the setback between the subject site and all adjacent properties according to the table below. Walls shall typically be prohibited along a public street right-of-way or in a front yard unless specifically approved by the planning commission. The height of the wall or berm shall be measured from the surface of the parking area or land on the nonresidential side of the wall. All walls shall meet the standards described in subsection (b) of this section.

	Zoning of Adjacent Site
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Zoning or Use of Subject Site	Single-family Residential*	Multiple-Family	Commercial	Industrial
Commercial	"A" or 6 foot high wall/berm	"A" or 6 foot high wall/berm	None	"A"
Multiple-Family Residential	"A" or 6 foot high wall/berm	None	None	None
Industrial	"A" or 8 foot high wall/berm	"A" or 6 foot high wall/berm	"A"	None

"A" = One deciduous canopy tree and four large shrubs, or one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

\* Where the adjacent property, including property across a public street or private road, is zoned or used as single-family residential, the planning commission may require additional landscaping (trees, shrubs, wall or berm) along the property line or within the site to sufficiently screen the parking lot, vehicle headlights, loading zones, outdoor display areas, storage yards or accessory structures.

- (b) *Required wall or fence standards.* Walls or fences required for buffering under this section shall comply with the standards below, Non-required walls and fences shall comply with the requirements of section 36-222:
- (1) Walls or fences may be located on the lot line except where underground utilities interfere and or where this chapter requires conformance with yard setback lines.
    - a. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and may extend toward the front of the lot in the required minimum front yard, at a height not exceeding three feet in height. Fences must be located within property lines.
    - b. Split rail fences are permitted in the front yard up to the front property line provided it does not significantly obstruct the vision of motorist, pedestrians or other users of the sidewalks or streets.
    - c. Fences and other decorative landscaping not more than three feet in height may be permitted in the front setback provided it does not significantly obstruct the vision of motorists, pedestrians or other users of the sidewalks or streets.
    - d. All fencing shall be constructed with materials that are esthetically pleasing, consistent with the neighborhood using current day residential grade or better building materials. the finished side to face neighboring property. chain link fence shall be constructed with the post on the inside.
  - (2) Walls or fences shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter, unless specifically approved by the planning commission.
  - (3) Walls or fences shall be constructed of face brick, pressure-treated wood, or comparable nonporous facing materials on the exterior sides facing an affected district.

- (4) Walls or fences shall be durable, weather-resistant, rustproof and easily maintainable. Wood or wood products shall be high quality durable materials as approved by the zoning administrator. Wood fences shall be sight obscuring sufficient to shield light and block blowing debris. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required and shall not reduce minimum height requirement.
- (5) Walls or fences must be maintained in good condition by the property owner.
- (6) Bumper blocks shall be required where parking is adjacent to walls.
- (c) *Berm standards.* Required berms shall be constructed as landscaped earth mounds with a crest area at least four feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as a earthen slope or retained by means of a wall, terrace or other means acceptable to the zoning administrator. Whenever an earthen slope is provided, it shall be constructed with a slope not to exceed one foot of vertical rise to three feet of horizontal distance (1:3).

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-320. - Required parking lot trees and parking lot islands.

- (a) *Tree location.* All of the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending 15 feet from the edge of the parking lot. A minimum of one-third of the required trees shall be placed within the interior of the parking area. Landscaping and canopy tree placement shall be dispersed throughout the parking lot in order to balance and soften large areas of pavement and help direct traffic flow within lot.

Zoning District	Number of Parking Spaces		
	51-100	101-200	over 200
Commercial	1 canopy tree per 10 spaces	1 canopy tree per 10 spaces	1 canopy tree per 12 spaces
Industrial	1 canopy tree per 12 spaces	1 canopy tree per 15 spaces	1 canopy tree per 15 spaces

- (b) *Tree base.* Each tree shall be surrounded by an area of grass or living ground cover at least 150 square feet in size to provide for adequate resources of air and water. Tree plantings shall also be protected from automobiles with curbing or other suitable device.
- (c) *No credit for required trees.* Required parking lot trees shall not be credited towards required greenbelt or buffer trees.
- (d) *Design of parking lot islands.* All parking lot islands shall be curbed. Islands shall be at least 150 feet in area. Each island shall be at least ten feet wide, with a depth two feet shorter than the depth of the adjacent parking space. Islands shall have a minimum of ten feet at the ends facing main aisles. Corners of parking lot islands shall have a minimum radius of one foot where island is not adjacent to main traffic aisle.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-321. - Greenbelts required along and within right-of-way.

A greenbelt shall be planted along the right-of-way of any public street. If planting in the right-of-way is not permitted by the road agency with jurisdiction in the right-of-way, or is not acceptable to a utility company, the greenbelt plantings shall be planted within the required parking lot setback. The planning commission may allow such planting to be placed anywhere within the front yard if there is no front yard parking. The greenbelt shall meet the following standards:

- (1) The greenbelt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.
- (2) The greenbelt shall include one deciduous canopy tree per 30 linear feet of the frontage including any openings for driveways, sidewalks, or easements.
- (3) The planning commission may approve substitution of evergreen trees for up to 50 percent of the required greenbelt trees upon determining evergreens would be consistent with the existing character of the area.
- (4) Greenbelt trees should be arranged to simulate a natural setting such as massing or staggered rows, except where a more formal arrangement is determined to be more consistent with the existing character of the village.
- (5) Landscaping materials arrangement shall ensure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles and accessibility to fire hydrants. Plant materials within the 25-foot site distance triangle shall not be more than 30 inches in height.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-322. - Plant material specifications.

All plant material shall be free of disease and insects at time of planting, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen ANZI Z60.1.

- (1) *Minimum plant material planting size.*
  - a. Evergreen trees shall be a minimum of five feet in height.
  - b. Narrow evergreens shall be a minimum of three feet in height.
  - c. Ornamental trees shall be a minimum of ten feet in height or 1¼-inch caliper.
  - d. Large deciduous shrubs shall be a minimum of four feet in height.
  - e. Deciduous canopy trees shall be a minimum of 15 feet in height or two-inch caliper.
  - f. Small evergreen or deciduous ornamental shrubs shall be a minimum of 18-inch to 24-inch spread.
- (2) *Plant material spacing.*
  - a. Plant materials shall not be placed closer than four feet from the fence line or property line.
  - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows and/or grouped informally to create a naturalistic appearance.
  - c. Evergreen trees shall be planted not more than 15 feet on center.
  - d. Narrow evergreens shall be planted not more than six feet on center.
  - e. Deciduous canopy trees shall be planted not more than 25 feet on center.
  - f. Ornamental trees shall be planted not more than ten feet on center.
  - g. Large deciduous shrubs shall be planted not more than four feet on center.

(3) *Plant material and design variety.* The overall landscape plan shall demonstrate a variety of plant material with not more than 50 percent of any one species utilized throughout the design.

(4) *Suggested (not required) plant materials.*

a. *Evergreen trees.*

1. Juniper.
2. Hemlock.
3. Fir.
4. Pine (Dwarf, Globe, Pendulous, species/Cultivars are not permitted).
5. Spruce.
6. Douglas fir.

b. *Narrow evergreens (Dwarf, Globe, Pendulous, species/Cultivars are not permitted).*

1. Column Hinoki Cypress.
2. Blue Columnar Chinese Juniper.
3. Pyramidal Red Cedar.
4. Swiss Stone Pine.
5. Pyramidal White Pine.
6. Irish Yew.
7. Douglas Arbor-Vitae.
8. Columnar Giant Arbor-Vitae.

c. *Ornamental trees.*

1. Flowering crabs.
2. Service Berry.
3. Dogwood.
4. Redbud.
5. Hornbeam.
6. Hawthorn.
7. Magnolia.

d. *Large deciduous shrubs.*

1. Honeysuckle.
2. Viburnum.
3. Mock-Orange.
4. Forsythia.
5. Lilac.
6. Ninebark.
7. Cotoneaster.
8. Hazelnuts.
9. Euonymus.

10. Privet.
11. Buckthorn.
12. Sumac.
- e. *Deciduous canopy trees.*
  1. Oaks.
  2. Hard Maples.
  3. Hackberry.
  4. Birch.
  5. Beech.
  6. Ginkgo (male species only).
  7. Honeylocust (thornless and seedless cultivars only).
  8. Hop Hornbeam.
  9. Linden.

(5) *Trees not permitted.* The following trees shall not be permitted:

- a. Box Elder.
- b. Soft Maples (Silver).
- c. Elms.
- d. Poplars.
- e. Willows.
- f. Horse Chestnut (Nut Bearing).
- g. Tree of Heaven.
- h. Catalpa.
- i. Ash.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-323. - Existing tree preservation incentives.

The following standards outlined are intended to encourage the preservation of quality and mature trees by providing credits, at planning commission approval, toward the required trees for greenbelts, buffer zones and within parking lots:

- (1) All trees over eight inches caliper shall be identified on the site plan with notations of trees to be preserved and trees to be removed.
- (2) Trees intended to be preserved shall be noted with a unique symbol on the site plan and be protected during construction through the use of construction fencing at or beyond the dripline of the tree or trees to be preserved.
- (3) Trees to be preserved shall be considered for credit only if they are located on the developed portion of the site as determined by the planning commission. The planning commission pursuant to site plan approval may allow credit for such plant material preservation if it will maintain and encourage the intent of this chapter. To obtain credit consideration, the preserved trees shall be of a high quality and at least two inches caliper.

(4) Credit consideration for preserved trees shall be:

Preserved Tree Caliper* (inches)	Number of Trees to Be Credited
12 inches and over	3
8 inches to 11.99 inches	2
2½ inches to 7.99	1

\*Caliper is the diameter of a tree trunk and shall be measured at a height six inches above the existing grade up to and including four inch caliper size and 12 inches above the existing grade for larger sizes.

- (5) To protect and encourage the continued health and vitality of the preserved trees, the ground within the dripline of the trees shall be maintained in the existing natural state. Storage of soils or other materials during or after construction within the tree dripline is prohibited.
- (6) If preserved trees die within three years after construction the property owner shall replace with trees required before credit was allowed. Said trees shall be replaced within 60 days of written notice from the village or within an extended time period as specified in said notice.
- (7) The minimum number of required trees shall not be reduced by more than 50 percent through the use of approved tree credits. However, the planning commission during site plan review may determine existing landscaping or screening intended to be preserved would provide comparable required landscaping, buffering or screening.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-324. - Minimum standard for installation and maintenance.

- (a) *Installation.* Landscaping shall be installed in a sound workmanlike manner and conform to the American Standard for Nursery Stock ANSI Z60.1. If building or paving construction is completed during a planting season, then no certificate of occupancy will be issued unless the landscaping meets the requirements herein provided. If building or paving construction is completed in an off planting season, the certificate of occupancy will be issued only after the owner provides a performance bond to ensure installation of required landscaping in the next planting season.
- (b) *Material removal.* Tree stakes, guy wires and tree wrap are to be removed after one year.
- (c) *Maintenance.* Greenbelt areas and plant materials required by this chapter shall be kept free from solid waste and debris. Plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant material required by this chapter dies or becomes diseased, the material shall be replaced within 30 days written notice from the village or within an extended time period as specified in said notice.

(Ord. No. 66, § 2, 9-14-2015)

Sec. 36-325. - Compliance for preexisting sites.

In any case where the building and/or parking area is being increased by at least 25 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the planning commission, the site shall be brought into full compliance with the landscape standards herein. In situations where the increase in building and/or parking area is less than 25 percent over the original site plan, the requirement of new landscaping shall be equal to four percent of compliance for every one percent of increase in building or parking footprint. For example, a building or parking area increase of ten percent requires a 40 percent compliance with the landscape standards. If any development or principal use requiring a certificate of occupancy is destroyed by any means beyond 75 percent of the appraised replacement value, the site shall be brought into full compliance with the landscape standards herein.

(Ord. No. 66, § 2, 9-14-2015)

Secs. 36-326—36-353. - Reserved.

#### ARTICLE IX. - DESIGN STANDARDS

Sec. 36-354. - Site development standards.

##### *Planned unit development, R-1, R-2, R-3 districts.*

- (1) *Intent.* It is the intent of this conditional use to provide a more desirable living environment by retaining the natural character of the village through the preservation of open spaces, woodlands, streams, ponds, water frontage, hills, and similar natural assets. It is further intended that this permitted use encourage a more creative approach to residential development through the planned reduction of grouping of lots while maintaining the overall density of the zoning district.
- (2) *Procedure.* The planning commission may authorize the establishment and occupation of a planned development in any R-1, R-2 or R-3 district or through the issuance of a conditional use permit as outlined and directed in section 36-87.
- (3) *General provisions.* In addition to all other requirements to which any conditional use must conform, any planned development shall meet the following standards:
  - a. Minimum site shall be ten acres.
  - b. Ownership shall be under one proprietor and shall be developed and administered as an integral unit. As used herein, the term "proprietor" means a person, firm, association, partnership, corporation or combination of any of them which may hold any interest of ownership in some property.
  - c. Average residential density shall not exceed 3.6 dwelling units per acre.
  - d. For all area gained through the reduction or grouping of lots, an equal area shall be set aside for the common use of the lot owners or residents within the development. This area shall be under legal procedure which shall grant a covenant or deeded interest therein so that it shall be assured of remaining undeveloped.
  - e. The proposed planned development shall meet minimally all standards herein, as well as state, county, and township laws or ordinances including the provisions of this chapter except as specifically exempted.
- (4) *Permitted uses and structures.* Within any planned development, no structure shall hereafter be used, erected, converted or altered externally, in whole or in part, if said use is not in accordance with the intent as stated in this section, except as otherwise provided in this chapter for any other than one or more of the following permitted uses:
  - a. *Principal uses and structures.*
    1. Single-family residences.

2. Two-family residences.
  3. Condominiums, townhouses, or other similar housing types, which may be defined as privately owned single-family dwellings with no side yards between adjacent units. There shall not be more than ten units per building.
  4. Multiple-family dwellings. There shall not be more than ten units per building.
  5. Recreational areas for the private use of the planned development lot owners including, but not limited to golf courses, tennis courts, swimming pools, skiing and tobogganing hills, and play areas.
  6. Open spaces including, but not limited to fields, wooded areas, streams, ponds, parks, scenic hills.
  7. General farming.
  8. Hotels, motels, eating and drinking establishments to a maximum usage of five percent of the total site, and providing that the planned development has a minimum site area of 80 acres.
- b. *Accessory uses and structures.*
1. Carports and garages.
  2. Storage buildings provided that they are located on the lot designated for the dwelling, and that they do not exceed 400 square feet of floor area.
  3. Clubhouses and structures incidental to permitted recreational uses.
  4. Barns and structures associated with general farming, provided that they are located on the designated individual lot.
- (5) *Area, height and placement regulations.* Within any planned development, no structure shall hereafter be used, erected, converted or altered externally, in whole or in part, if said use is not in compliance with the following regulations:
- a. Maximum height: 35 feet.
  - b. Minimum yards.
    1. Front: 35 feet.
    2. Side: ten feet per single-family and two-family; 15 feet shall be maintained between any two buildings with multiple-family units.
    3. Rear: 35 feet. Planning commission may reduce this requirement for individual lots if the rear yard of the lot abuts common land, open space or recreation area as required in subsection (3)d of this section.
  - c. Perimeter setbacks. There shall be a required yard of 40 feet along all exterior boundary lines of the planned development site.
- (6) *General site and development requirements.*
- a. Access drive. There shall be at least two improved access drives, which shall provide unrestricted access to a major road or highway from the planned development site. There shall be a distance of no less than 600 feet between access drives along public roadways.
  - b. The application for a conditional use permit for the planned development will be accompanied by all necessary plans, drawings, specifications and reports indicating all proposed structures and facilities in the planned development.
  - c. After application for a conditional use permit for the planned unit development, no changes or additions may be made to plans, specifications, etc. Such changes will require reapplication for a new conditional use permit.



(Ord. No. 66, § 2, 9-14-2015)