

Chapter 42 ZONING¹

ARTICLE I. IN GENERAL

Sec. 42-1. Title.

The village, in accordance with the enabling legislation for municipal zoning as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and Public Act No. 33 of 2008 (MCL 125.3801 et seq.), hereby provides as follows: a zoning ordinance which shall be known as and may be cited as the "Village of Decatur Zoning Ordinance," as amended, and is referred to as the "zoning ordinance."

(Ord. No. 202, § 1.1, 11-6-2017)

Sec. 42-2. Area of jurisdiction.

The provisions of this chapter apply to all development, public and private, throughout the incorporated areas of the village, to the extent permitted by law.

(Ord. No. 202, § 1.2, 11-6-2017)

Sec. 42-3. Purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare of the residents of the village. This chapter shall serve the general good of the community in accordance with the adopted Village of Decatur Master Plan and any additions and amendments as may be approved by the village.

(Ord. No. 202, § 1.3, 11-6-2017)

Sec. 42-4. Interpretation and relationship to other regulations.

In interpreting and applying the provisions of this chapter, these provisions must be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, restrictions established by other ordinances or statutes, or agreements between private parties. However, where this chapter imposes a greater restriction upon the use of buildings or lots or upon the height of buildings, or requires larger open spaces than are imposed or required by any other applicable rule, covenant or law, the provisions of this chapter shall govern. The village has no responsibility or authority for enforcing private agreements or covenants.

(Ord. No. 202, § 1.4, 11-6-2017)

¹State law reference(s)—Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

Sec. 42-5. Conflict with state or federal regulations.

If the provisions of this chapter are inconsistent with those of the state or federal government, the more restrictive provisions will control, to the extent permitted by law.

(Ord. No. 202, § 1.5, 11-6-2017)

Sec. 42-6. Official zoning map.

The boundaries of the zoning districts established by the zoning ordinance are shown on a map or series of maps designated the "Official Zoning Map." The official zoning map, including all notations, references, data and other information shown therein, is adopted and made a part of this chapter as fully as if it were contained within the pages of this chapter.

- (1) *Location.* The official zoning map is filed in the office of the village clerk.
- (2) *Updates.* The village planning commission is responsible for updating the official zoning map to reflect amendments adopted by the village board.
- (3) *Zoning district boundaries.* Where uncertainty exists with respect to the boundaries of the various districts, the following rules shall apply:
 - a. The district boundaries are public rights-of-way including either streets, places or alleys unless otherwise shown; where the districts designated on the official zoning map are approximately bounded by street, road, place or alley lines, the same shall be construed to be the boundary of the district.
 - b. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines; where districts designated on the official zoning map are approximately bounded by lot lines, the same shall be construed to be the boundary of the districts, unless otherwise indicated on the official zoning map.
 - c. Whenever any street, road, alley, place or other public way is officially vacated by the village or county road commission, the district adjoining each side thereof shall be automatically extended to the center of such vacation and all area included in the vacation shall thereafter be subject to all appropriate regulations of the extended districts.
 - d. Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (3)a through c of this section, the zoning administrator shall interpret the boundaries.
 - e. Any dispute in the determination of the zoning district boundaries shall be heard by the board of zoning appeals.

(Ord. No. 202, § 1.6, 11-6-2017)

Sec. 42-7. Validity.

This chapter in various parts, sections, subsections, sentences, paragraphs, phrases, and clauses thereof are hereby declared severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this chapter shall not be affected thereby. The village board hereby declares that it would have passed the ordinance from which this chapter is derived and

each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

(Ord. No. 202, § 1.7, 11-6-2017)

Sec. 42-8. Repeal.

This chapter repeals and replaces any previous village zoning ordinance in its entirety.

(Ord. No. 202, § 1.8, 11-6-2017)

Sec. 42-9. Definitions.

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

Accessory building means a subordinate building which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Accessory use means a subordinate use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Adult cabaret means a nightclub, bar restaurant, or similar commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- (3) Films, motion pictures, videocassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Alley means a way which affords only a secondary means of access to property abutting thereon.

Apartment means a room or suite of rooms intended, designed, or used as a residence by a single family.

Assembly and manufacturing means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, including, but not limited to, oils, plastics, resins, etc.

Basement means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulation if subdivided and used for dwelling purposes other than by a janitor employed on the premises.

Billboard means a sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered elsewhere than upon the same lot.

Boardinghouse. See *Lodginghouse.*

Buildable width means the width of the lot left to be built upon after the side yards are provided.

Building means any structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but not including any vehicle, trailer (with or

without wheels), nor any moveable device, such as furniture, machinery, or equipment. The term "building" shall include the term "structure."

Building, height of, means the vertical distance from the grade to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, bib, and gambrel roof.

Cellar means a story having more than one-half of its height below grade.

Clinic, medical, means an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

Club means a building or portion thereof or premises owned and operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Commercial medical marihuana facility (or facility) may include any of the following:

- (1) *Provisioning center*, as that term is defined in the Medical Marihuana Facilities Licensing Act (MMFLA) and authorize by Ordinance No. 2019-001.
- (2) *Grower facility*, as that term is defined in the Medical Marihuana Facilities Licensing Act (MMFLA) and authorized by Ordinance No. 2019-001.
- (3) *Processor facility*, as that term is defined in the MMFLA and authorized by Ordinance No. 2019-001.
- (4) *Safety compliance facility*, as that term is defined in the MMFLA and authorized by Ordinance No. 2019-001.
- (5) *Secure transporter facility*, as that term is defined in the MMFLA and authorized by Ordinance No. 2019-001.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, multiple, means a building designed for or occupied exclusively by more than two families living independently of each other.

Dwelling, single-family, means a building designed for or occupied exclusively by one family.

Dwelling, two-family, means a building designed for or occupied exclusively by two families living independently of each other.

Family means one or more persons related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization. A family may include not more than two persons not related by blood, marriage, or adoption.

Filling station means any building or premises used for the sale, at retail, of motor vehicle fuels, oils, or accessories, or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacement of motors, bodies, or fenders of motor vehicles, or painting motor vehicles, and excluding commercial garages.

Floor area means the total number of square feet of floor space within the exterior walls of a building, not including space in cellars or basements; however, if the cellar or basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.

Frontage means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Garage, commercial, means any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling, or storing motor driven vehicles. The term "repairing" shall not include the rebuilding, dismantling or storage of wrecked or junked vehicles.

Garage, private, means a detached accessory building or portion of the main building, housing the automobiles of the occupants of the premises.

General service and repair means an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, provided it is conducted within a completely enclosed building.

Grade means the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Grocery store means a retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Home occupation means any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a name plate no larger than four square feet in area, or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except such as is permissible for domestic household purposes.

Hospital means an institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including the related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are integral parts of the facilities.

Hotel means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boardinghouse or lodginghouse as herein defined.

Institution means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

Kennel means an establishment where dogs or other pets are boarded for compensation or bred or raised on a commercial scale.

Laundromat means a business that provides home-type washing, drying, or ironing machines for hire to be used by customers on the premises.

Loading space means a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks, having a minimum width of 12 feet, a minimum depth of 45 feet, and a vertical clearance of at least 14.5 feet, and connected with a street or road serving the premises.

Lodginghouse means a building or place where lodging and boarding is provided (or which is equipped regularly to provide lodging and boarding by prearrangement for definite periods), for compensation, for three or more, but not to exceed 12, individuals. Such lodginghouse or boardinghouse shall not be open to transient guests, in contradistinction to a hotel as is herein defined.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, open spaces and parking spaces required by this chapter, and having its principal frontage upon a street.

Lot, corner, means a lot abutting upon two or more streets at their intersection.

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Lot, double frontage, means a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

Lot of record means a lot or parcel of land, the plat or deed of which has been recorded in the office of the county register of deeds prior to the adoption of the ordinance from which this chapter is derived.

Marihuana establishment (or adult-use/recreational marihuana facility): the term may include any of the following:

- (1) *Marihuana retailer*, as that term is defined in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) and authorized by Ordinance No. 2019-004.
- (2) *Marihuana microbusiness*, as that term is defined in the Michigan Regulation and Taxation of Marihuana Act (MRTMA) and authorized by Ordinance No. 2019-004.
- (3) *Marihuana grower*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.
- (4) *Marihuana processor*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.
- (5) *Marihuana safety compliance facility*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.
- (6) *Marihuana secure transporter*, as that term is defined in the MRTMA and authorized by Ordinance No. 2019-004.

Mobile home or house trailer means a structure, transportable in one or more sections, which is built or transported 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. A mobile home does not include a recreational vehicle. A mobile home can be classified as a dwelling or dwelling unit only after meeting the requirements and standards of article IX of this chapter and being approved by the village council.

Motel, motor court, motor lodge, ortourist court means any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

Multiple-family. Multifamily residential is a classification of housing where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. Forms of multiple-family may include apartment buildings, stacked flats, cluster housing, and attached single-family residential units.

Nonconforming use means any building or land lawfully occupied by a use at the time of passage of the ordinance from which this chapter is derived or amendment thereto which does not conform after the passage of the ordinance from which this chapter is derived or amendment thereto with the use regulations of the district in which it is situated.

Parking space, off-street, means an area, enclosed or unenclosed, having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile, and connected with a street or alley or a surfaced driveway which affords ingress and egress for automobiles.

Patio or terrace means an area, improved with concrete, brick or other hard surface, adjacent to a dwelling and used by occupants of the dwelling for leisure time activities, but not used for vehicle parking or storage.

Retail use means the selling of goods, wares, or merchandise directly to the ultimate consumer or persons.

Sand and gravel operations means use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision.

Sign means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than 60 percent of the floor area is finished off for use. A half story may be used for occupancy only in conjunction with and by the occupancy of the floor immediately below.

Street means a public way which affords the principal means of access to abutting property.

Structural alterations means any change, except those required by law or ordinance, that would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having permanent location on the ground and including, but not limiting, the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and pergolas.

Taverns, breweries, and distilleries means establishments that are licensed by the state for the production and on-site tasting and sales of alcoholic beverages.

Trailer or mobile home. See *Mobile home*.

Trailer or mobile home park means an area where one or more trailers can be or are intended to be parked and designed or intended to be used as living facilities for one or more families.

Yard means an open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground level upward, except as otherwise provided in this chapter.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard extending the full width of the lot from the rear line of the main building to the rear lot line.

Yard, side, means a yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.

(Ord. No. 202, art. 2, 11-6-2017; Ord. No. 2019-002, § I, 9-9-2019; Ord. No. 2019-005, § IA, 10-7-2019)

Sec. 42-10. Buildings and lots.

- (a) No building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used, except for the uses permitted in the district in which the building or land is located.
- (b) No building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, except in conformity with the height, yard, area per family, parking and other regulations prescribed herein for the district in which the building is located.
- (c) The minimum parking, yards, and other open spaces, including lot areas per family required by this chapter, shall be provided for each and every building or structure hereafter erected, and such minimum parking, yards, open spaces, and lot areas for each and every building of structure whether existing at the time of

passage of the ordinance from which this chapter is derived or hereafter erected shall not be encroached upon or be considered as a yard or open space requirement for any other building or structure.

- (d) Where a lot has less area than the minimum requirements for the district within which the lot is located and was a lot of record at the time of passage of the ordinance from which this chapter is derived, that lot may be used for any purpose permitted in the district within which such lot is located.
- (e) Every building hereafter erected or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.
- (f) Every lot or other parcel of land which is occupied or intended for occupancy by a use permitted in this chapter shall adjoin and have direct access to a public street.
- (g) All dwelling units hereinafter erected in the village shall be erected with the front entrance of the dwelling unit facing the public street adjoining the lot or other parcel of land upon which the dwelling unit is erected.
- (h) All dwelling units or other buildings, hereinafter erected in the village, which require water and/or emanates sewage shall be connected to the village public water and sanitary sewer systems if same are available, and if not available, to such private water well and septic systems as shall be approved by the county health department.

(Ord. No. 202, art. 3, § 1, 11-6-2017)

Sec. 42-11. Public streets.

All streets constructed in the village shall be public streets having a 66-foot right-of-way, the traveled portion of which shall be paved with bituminous asphalt, and said streets shall be constructed pursuant to the specifications of the village.

(Ord. No. 202, art. 3, § 2, 11-6-2017)

Sec. 42-12. Public infrastructure.

In the event public improvements for water and sanitary sewer systems and/or public streets must be constructed to serve a building, satisfactory performance guarantees or bonds shall be required from the developer of the land located in the village before any building permits for construction of such building shall be issued.

(Ord. No. 202, art. 3, § 3, 11-6-2017)

Sec. 42-13. Accessory buildings.

- (a) Authorized accessory buildings shall be erected only on the same lot as the principal building and may be connected to the principal building by a roofed porch, patio, breezeway or similar structure or may be completely detached from the principal building.
- (b) Where any accessory building is attached to the side or front of a principal building, such accessory building shall be considered part of the principal building for purposes of determining yard dimensions.
- (c) A detached accessory building shall be located no closer to a front, side or rear lot line than the permitted distance for the principal structure on the same lot.

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- (d) An accessory building shall be allowed as a principal use provided it is not used for dwelling, lodging or sleeping purposes and the structure is located no closer to a front, side or rear lot line than the permitted distance for a principal structure on the same lot.

(Ord. No. 202, art. 3, § 4, 11-6-2017)

Sec. 42-14. Essential services.

- (a) The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of the village in any use district.
- (b) Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities or private utilities.

(Ord. No. 202, art. 3, § 5, 11-6-2017)

Sec. 42-15. Animals.

The keeping of poultry, pigs, hogs, horses or other such livestock are prohibited within the village.

(Ord. No. 202, art. 3, § 6, 11-6-2017)

Sec. 42-16. Home business, home occupations and cottage industries.

While the village recognizes that many residents feel the necessity to work at home, the village also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by nonresidential activities conducted in a residential zone. The intent of this section is to provide standards to ensure home occupations and cottage industries are compatible with other allowed uses in residential districts, and thus to maintain and preserve the residential character of the neighborhood.

(1) *Home occupations.*

- a. Home occupations are permitted in all zoning districts in which single-family dwellings are permitted as a matter of right. A zoning permit is required.
- b. Home occupations shall be operated in their entirety within the dwelling (not within an attached or detached garage or accessory building) and shall occupy no more than 25 percent of the dwelling's ground floor area. Attached and detached residential garages may be used for incidental storage.
- c. Home occupations shall be conducted primarily by the persons occupying the premises as their principal residence. Not more than one nonresident person shall be employed to assist with the business.

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- d. Additions to a dwelling for the purpose of conducting a home occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.
 - e. Home occupations shall be incidental and subordinate to the principal use of the dwelling for residential purposes and shall not detract from the residential character of the premises or neighborhood.
 - f. Home occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the village as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a home occupation based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the dwelling for residential purposes.
 - g. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
 - h. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not produced through the conduct of the home occupation.
 - i. There shall be no parking permitted within any setback areas.
 - j. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws.
- (2) *Cottage industries.*
- a. Cottage industries may be permitted as a special use in any zoning district in which single-family dwellings are permitted, subject to review and approval by the planning commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry shall be performed to ensure the conditions of approval are adhered to. If a premises is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the zoning administrator. If any changes are necessary, the request will be reheard by the planning commission.
 - b. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry.
 - c. A cottage industry shall occupy not more than one building. The floor area of such buildings shall not exceed 2,400 square feet.
 - d. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the type of screening shall be determined at the discretion of the planning commission.
 - e. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a cottage industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the premises for residential purposes.
 - f. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.
 - g. Cottage industries shall be conducted only by the persons residing on the premises. The planning commission may allow up to two additional employees or assistants.

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- h. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the planning commission during the review and approval process.
 - i. Hours of operation shall be approved by the planning commission.

(Ord. No. 202, art. 3, § 7, 11-6-2017)

Sec. 42-17. Stormwater retention.

Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate and the use of low impact development techniques, such as rain gardens, green roofs, bioswales, pervious pavement, and native, non-invasive landscaping. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Van Buren County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the village zoning ordinance and the Van Buren County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch.

(Ord. No. 202, art. 3, § 8, 11-6-2017)

Sec. 42-18. Hazardous substances.

All businesses or industries that store, use or generate hazardous substances, as defined in this chapter, shall meet all state and federal requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

(Ord. No. 202, art. 3, § 9, 11-6-2017)

Sec. 42-19. Outdoor lighting.

- (a) All outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures, shall be shielded, shaded, designed and/or directed away from all adjacent districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than 20 feet in height.
- (b) The planning commission may permit taller or require shorter fixtures only when the planning commission determines that unique conditions exist and where a waiver would reduce the number or size of light fixtures; not adversely impact neighboring properties; and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Site lighting shall not exceed 20 footcandles as measured three feet above the ground surface, directly under the fixture.

(Ord. No. 202, art. 3, § 10, 11-6-2017)

Secs. 42-20—42-41. Reserved.

(Supp. No. 2)

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ARTICLE II. ZONING DISTRICTS AND ZONING MAP

Sec. 42-42. Relationship of chapter to community master plan.

This chapter is enacted to regulate the use of private and public property and structures with the purpose of protecting public health, safety and welfare. Standards and regulations within this chapter regulate the amount, type and use of a building allowable on a piece of land. This chapter is a tool used by the community to effectuate the recommendations of the community master plan, which is a guide for the long-term physical development of the village.

(Ord. No. 202, art. 4, § 1, 11-6-2017)

Sec. 42-43. Districts established.

The village is hereby divided into the following districts, which shall be known as:

R-1	One and Two Family Residential
R-2	Multiple Family
B-1	Central Business District
B-2	General Business District
I	Industrial District

(Ord. No. 202, art. 4, § 2, 11-6-2017)

Sec. 42-44. One and Two Family Residential (R-1).

The purpose of this district is to provide for one- and two-family residential development of spacious character, together with such churches, recreational facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings and, at the same time, to preserve open spaces. This district is located to protect existing development and contains vacant land considered appropriate for such residential development in the future.

(Ord. No. 202, art. 4, § 3, 11-6-2017)

Sec. 42-45. Multiple Family District (R-2).

The purpose of this district is to maintain a residential environment while permitting a wide variety of dwelling types. Single-family, two-family, and multiple-family dwelling units are permitted on medium sized lots, together with such churches, recreational facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings. Population densities and height of buildings permitted are low enough to be generally compatible with single-family development in the same general neighborhood.

(Ord. No. 202, art. 4, § 4, 11-6-2017)

Sec. 42-46. Central Business District (B-1).

The purpose of this district is to encompass the retail service and office area of the central business district and permit a wide variety of uses to provide basic trade and services to the village and the area surrounding the village. This district is intended to provide a centralized location for trade and service activities having regional influence.

(Ord. No. 202, art. 4, § 5, 11-6-2017)

Sec. 42-47. General Business District (B-2).

The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities, including certain uses requiring large land areas which are not desirable in the central business district. These uses are located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor and noise, associated with manufacturing.

(Ord. No. 202, art. 4, § 6, 11-6-2017)

Sec. 42-48. Industrial District (I).

The purpose of this district is to provide for a wide variety of light manufacturing, fabricating, processing wholesale distributing, and warehousing uses appropriately located for access by major thoroughfares or railroads. Commercial uses and open storage of materials are permitted but new residential development is excluded.

(Ord. No. 202, art. 4, § 7, 11-6-2017)

Sec. 42-49. Compliance with district regulations.

Compliance with district regulations shall be required as follows:

- (1) No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered, nor shall any building or land be used, except for a purpose or use permitted in the district in which the building or land is located, nor in excess of the height and bulk limits established for such district.
- (2) No building or structure intended for a dwelling use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the floor area regulations of the district in which it is located.
- (3) No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered except in conformity with the yard and lot area regulations and the off-street parking and loading regulations of the district in which such building is located.
- (4) The minimum yards, parking space and other open spaces, including lot area per family, required by this chapter for any building hereafter erected or structurally altered, shall not be encroached upon or considered open space or lot area requirement for any other building, nor shall any other lot area be reduced beyond the district requirements of this chapter.

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- (5) Every building or structure hereafter erected or structurally altered shall be located on a lot as defined, and in no case shall there be more than one main building on one lot, except as provided in parts of this chapter.

(Ord. No. 202, art. 4, § 8, 11-6-2017)

Sec. 42-50. Map.

The boundaries of these districts are shown upon the zoning district map which accompanies and is made a part of this chapter. Said map and all the information shown thereon shall have the same force and effect as if all were fully set forth or described herein. The original of this is properly attested and is on file with the village clerk.

(Ord. No. 202, art. 4, § 9, 11-6-2017)

Sec. 42-51. Annexed territory.

All territory which may hereafter be annexed to the village shall be classified in the R-1 Residential District, until, within a reasonable time after annexation, the annexed territory shall be appropriately classified by ordinance, in accordance with article XI of this chapter.

(Ord. No. 202, art. 4, § 10, 11-6-2017)

Sec. 42-52. Vacated street or public way.

Whenever any street or other public way is vacated by official action of the village, the zoning district adjoining each side of such street or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

(Ord. No. 202, art. 4, § 11, 11-6-2017)

Sec. 42-53. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning district map, the following rules shall apply:

- (1) Where a boundary line is given a position within a street, alley or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream, and if the actual location of such street, alley, or stream varies slightly from the location as shown on the zoning district map, then the actual location shall control.
- (2) Where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
- (3) Where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of the designated main line track.
- (4) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, such boundaries shall be construed to be the lot lines and where the districts are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map.

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- (5) In un-subdivided property, unless otherwise indicated, the district boundary line shall be determined by the use of the scale contained on such map.

(Ord. No. 202, art. 4, § 12, 11-6-2017)

Sec. 42-54. Properties with multiple zoning designations.

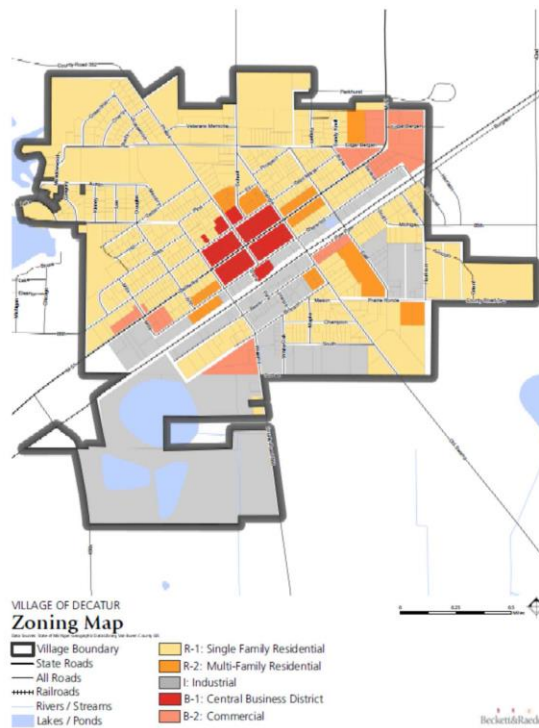
When an individual recorded parcel, which exists at the time of adoption of the ordinance from which this chapter is derived, has more than one zoning classification, the zoning designation which comprises the majority of the parcel area shall be applied to the entire parcel.

(Ord. No. 202, art. 4, § 13, 11-6-2017)

Sec. 42-55. Uses contrary to federal, state or local statutes, laws, and/or ordinances.

Uses for enterprises or purposes that are contrary to federal, state, and village statutes, laws, and/or ordinances are prohibited.

(Ord. No. 202, art. 4, § 14, 11-6-2017)



Secs. 42-56—42-83. Reserved.

ARTICLE III. REGULATED USES AND DIMENSIONAL REGULATIONS

Sec. 42-84. Land use and zoning district table.

The use table in this article lists by land use type (i.e., residential, residential preservation, etc.) where a particular land use is allowed in a respective base zoning district.

(Ord. No. 202, art. 5, § 1, 11-6-2017)

Sec. 42-85. Permitted uses (P).

If a land use is permitted by-right in a base zoning district, it is identified by the symbol "P."

(Ord. No. 202, art. 5, § 2, 11-6-2017)

Sec. 42-86. Special land use (S).

The symbol "S" is noted if a land use is permitted after review and approval as a special land use in accordance with this chapter.

(Ord. No. 202, art. 5, § 3, 11-6-2017)

Sec. 42-87. Uses not allowed.

If a land use type is not allowed in a base zoning district, it is blank without a "P" or "S."

(Ord. No. 202, art. 5, § 4, 11-6-2017)

Sec. 42-88. Site-specific standards.

Land use types that are further regulated with site-specific standards are identified in article IV of this chapter.

(Ord. No. 202, art. 5, § 5, 11-6-2017)

Sec. 42-89. Unlisted uses.

If an application is submitted for a use type that is not classified in the land use table in section 42-91 and proven to be a need in the village, the planning commission is authorized to classify the new or unlisted use type into an existing land use category that most closely fits the new or unlisted use. If no similar use determination can be made, the planning commission may initiate an amendment to the text of the zoning ordinance.

(Ord. No. 202, art. 5, § 6, 11-6-2017)

Sec. 42-90. Land use type.

Land use types listed in the land use and base zoning district table are defined in section 42-9.

(Ord. No. 202, art. 5, § 7, 11-6-2017)

Sec. 42-91. Land use and base zoning district table.

	R-1	R-2	B-1	B-2	I
Uses Allowed in All Districts					
Accessory buildings	P	P	P	P	P
Residential Land Uses					
Boarding and lodging facilities		P			
Cemetery or mausoleum	S				
Churches	P	P			
Country clubs and golf course	P	P			
Gardens	P	P			
Home occupations	P	P			
Public and private schools K—12	P	P			
Public buildings and parks	P	P			
Single-family dwellings	P	P			
Two-family dwellings	P	P			
Multiple-family dwellings		P	P	P	
Mobile home parks		S			
Residential units above nonresidential uses			P	P	
Commercial Land Uses					
Auto and vehicle repair garage			S	P	P
Automobile parking lot			P	P	P
Adult cabarets				S	S
Banks and financial office			P	P	P
Commercial garages				P	P
Drive-in restaurants				P	P
Farm implement, sale or repair				P	P
Food storage lockers				P	P
Funeral home and mortuaries				P	P
Greenhouse and nursery			S	S	P
Grocery stores and meat markets			P	P	P
Hospital				S	
Laboratories and research				P	P
Marihuana microbusiness			P	P	P
Marihuana retailer			P	P	P
Medical clinics				P	P
Motels and hotels				P	P
Personal services			P	P	P
Printing establishments				P	P
Private clubs and lodges				P	P
Professional and medical offices			P	P	P
Provisioning center			P	P	P
Restaurants			P	P	P
Retail use			P	P	P
Taverns, breweries, and distilleries			P	P	P
Veterinary clinics without kennels				P	P

Industrial Land Uses					
Assembly and manufacturing					P
Coal, coke, wood, lumber yard					P
Contractor yard					P
Feed grain and grain storage facility					P
General service and repair					P
Grower facility					P
Kennels					P
Manufacture of household goods					P
Manufacture and storage of food products					P
Marihuana grower—Class A, Class B, and Class C					S
Marihuana processor					P
Marihuana safety compliance facility					P
Marihuana secure transporter					P
Processor facility					P
Safety compliance facility					P
Sand and gravel operations					S
Secure transporter facility					P
Trucking terminal					P
Wholesale and storage					P

(Ord. No. 202, art. 5, § 8, 11-6-2017; Ord. No. 2019-002, § II, 9-9-2019; Ord. No. 2019-005, §§ IIA, B, 10-7-2019)

Sec. 42-92. Height and area requirements.

The placement of land uses (permitted, special use or conditional) are regulated by the zoning district. The table in section 42-100 enumerates by zoning district the dimensional requirements.

(Ord. No. 202, art. 5, § 9, 11-6-2017)

Sec. 42-93. Height.

- (a) Public, semipublic, or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet if the building is set back from each yard line at least one foot for each two feet of additional building height above the height limit otherwise provided in the district in which the building is located.
- (b) Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, grain elevators, or necessary mechanical appurtenances may be erected to such height as may be authorized by the village council, but not to exceed 150 feet.

(Ord. No. 202, art. 5, § 10, 11-6-2017)

Sec. 42-94. Front yards.

- (a) When 40 percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a front yard depth shall not be required to exceed 50 percent in excess of the front yard otherwise required in the district in which the lot is located.
- (b) An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten feet. An unenclosed vestibule containing not more than 40 square feet may project into a front yard for a distance not to exceed four feet.
- (c) Where lots have double frontage, the required front yard shall be provided on both streets.
- (d) Parking of vehicles shall not be permitted in front yards except that vehicles may be parked on driveways connecting garages, carports, or rear yard parking spaces with the street.

(Ord. No. 202, art. 5, § 11, 11-6-2017)

Sec. 42-95. Side yards.

- (a) For the purpose of side yard regulations, a two-family dwelling, or multiple dwelling, shall be considered as one building occupying one lot.
- (b) Whenever a lot at the effective date of the ordinance from which this chapter is derived has a width of less than 60 feet, each side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall a side yard be less than three feet.
- (c) The required side yard on the street side of a corner lot shall be the same as the required front yard on such street, except that the buildable width shall not be reduced to less than 32 feet, and no accessory building shall project beyond the required front yard on either street.
- (d) Where dwelling units are erected above a commercial establishment, no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district.
- (e) Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three feet above the floor level of the ground story may project into a required yard, provided these projections be at least two feet from the adjacent side lot line.

(Ord. No. 202, art. 5, § 12, 11-6-2017)

Sec. 42-96. Rear yards.

- (a) Open-lattice enclosed fire escapes, fireproof outside, stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted for a distance of not more than 3½ feet and where the same are so placed as not to obstruct light and ventilation.
- (b) Not more than 20 percent of the required rear yard area may be occupied by unenclosed parking spaces; except in R-2 districts, where not more than 50 percent of required rear yards may be occupied as unenclosed parking spaces.

(Ord. No. 202, art. 5, § 13, 11-6-2017)

Sec. 42-97. Buildings and accessory buildings.

- (a) Where a lot or tract is used for a commercial or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.
- (b) In the event that a lot is to be occupied by a group of two or more related buildings to be used for multiple dwellings, institutional, motel or hotel purposes, there may be more than one main building on the lot; provided, however, that the open spaces between buildings that are parallel, or within 45 degrees of being parallel, shall have a minimum dimension of 20 feet for one-story buildings, 30 feet for two-story buildings, and 40 feet for three- or four-story buildings.
- (c) Accessory buildings may be built in a required yard but such accessory buildings shall not occupy more than 30 percent of a required rear yard and shall not be nearer than two feet to any side or rear lot line, except that when a garage is entered from an alley, it shall not be located closer than ten feet to the alley line. If a garage is located closer than ten feet to the main building, the garage shall be regarded as part of the main building for the purposes of determining side and rear yards.
- (d) No accessory buildings shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.

(Ord. No. 202, art. 5, § 14, 11-6-2017)

Sec. 42-98. Open space.

- (a) Every part of a required yard shall be open to the sky, unobstructed by any structure, except for the ordinary projection of sills, belt courses, cornices, and ornamental features which may extend to a distance not to exceed 18 inches into any required yard. Roofs and eaves may extend not more than 30 inches into any required yard.
- (b) Where open space is more than 75 percent surrounded by a building, the minimum width of the open space shall be at least 20 feet for one-story buildings, 30 feet for two-story buildings, and 40 feet for three- or four-story buildings.

(Ord. No. 202, art. 5, § 15, 11-6-2017)

Sec. 42-99. Minimum dwelling unit floor area.

- (a) Every dwelling unit which shall hereafter be constructed, reconstructed or converted at any location in the village shall have a minimum width across the front, sides and rear of 20 feet and shall comply with the minimum square feet requirements hereinafter set forth and with the state construction code as promulgated by the state construction code commission under the provisions of Public Act No. 230 of 1972, as amended.
- (b) Every dwelling unit above the grade shall contain the following minimum square feet of living area, measured around the exterior of the dwelling, and excluding porches, patios, decks, garages, breezeways, and carports, to-wit:
 - (1) Single-family dwelling unit: 864 square feet.
 - (2) Two-family dwelling units: 1,728 square feet.
- (c) For buildings having more than two dwelling units an additional 700 square feet of living area shall be required for each dwelling unit in excess of two.

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(Ord. No. 202, art. 5, § 16, 11-6-2017)

Sec. 42-100. Dimensional requirements table.

<i>District</i>	<i>Maximum Height Lot of Buildings</i>		<i>Minimum Yard Requirements in Feet</i>			<i>Minimum Lot Area per Family in Square Feet</i>	<i>Minimum Residential Widths in Feet</i>
	<i>Stories</i>	<i>Feet***</i>	<i>Front</i>	<i>Side</i>	<i>Rear</i>		
R-1 Residential	2	35	30	8	25	10,000 one-family	80
						5,000 two-family	80
R-2 Residential	3	45	25	6	25	7,500 one-family	60
						3,750 two-family	60
						2,500 multiple-family	60
B-1 Central District	3	45	—	10*	20*	Same as R-2**	Same as R-2**
B-2 General District	3	45	25	10*	20*	Same as R-2**	Same as R-2**
I-Industrial	3	45	25	10*	30*	Residences not permitted	Residences not permitted

Notes:

* A side or rear yard is required on a commercial or industrial lot abutting a residential district, otherwise, no side or rear yard is required.

** Minimum lot area and minimum lot width requirements do not apply to commercial uses.

*** Except as provided in section 42-93.

(Ord. No. 202, art. 5, § 17, 11-6-2017)

Secs. 42-101—42-116. Reserved.

ARTICLE VI. OVERLAY DISTRICT

Sec. 42-117. Commercial Marihuana Facilities Overlay District.

- (a) *Purpose.* The Commercial Marihuana Facilities (CMF) Overlay District is intended to identify certain areas of the B-1, B-2, and I Districts where commercial marihuana facilities are permitted to locate. This district is applied over the B-1, B-2, and I Districts and allows for permissions and/or restrictions in addition to those of the underlying B-1, B-2, and I District.
- (b) *Overlay District Requirements.* All uses, structures, and development within the CMF District shall be subject to all the requirements of the respective B-1, B-2, and I Districts within which the parcel is located. In addition, any property in the CMF District containing a principal use in conformance with the requirements of this Article (including nonconforming uses or structures as regulated by Article 11) shall be in accordance with Article 7, Section 13 as amended.
- (c) *Map.* The boundaries of this district are shown upon the CMF District Map which accompanies and is made a part of this article. Said map and all information shown thereon shall have the same force and effect as if all were fully set forth or described herein. The original of this is properly attested and is on file with the village clerk.

(Ord. No. 2019-002, § III(1), 9-9-2019)

Secs. 42-118—42-128. Reserved.

ARTICLE IV. SPECIAL USE PERMIT

Sec. 42-129. Purpose.

The formulation and enactment of this chapter is based upon the division of the village into districts, each which may permit specific uses, which are mutually compatible, and special land uses. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this article is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this article shall be in addition to others required elsewhere in this chapter and at the same time provide to the planning commission and the property owner some latitude to address site issues in an innovative manner.

(Ord. No. 202, art. 7, § 1, 11-6-2017)

Sec. 42-130. General provisions.

- (a) *Authority to grant permits.* The planning commission as hereinafter provided shall have the authority to approve, deny, or approve with conditions, as specified in section 42-131, special land uses.
- (b) *Application.* Application for any special land use permit permissible under the provision of this chapter shall be made to the planning commission through the zoning administrator by filing an official special land use permit application form and submitting a site plan along with the application fee.

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- (c) *Public hearing for special land uses.* After a preliminary review of the site plan and an application for a special land use permit, the planning commission shall hold a hearing on the site plan and special land use permit in accord with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, MCL 125.3103 and 125.3502.
 - (d) *Requirements prior to recommendation.* Before formulating recommendations for a special land use application, the planning commission shall require that both the following general standards in section 42-131 and any specific standards for uses listed in section 42-133 be satisfied. The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards.

(Ord. No. 202, art. 7, § 2, 11-6-2017)

Sec. 42-131. Required standards and findings for making determinations.

The planning commission shall review the particular circumstances of the special land use request under consideration in accordance with the requirements for a site plan review, and shall approve the special land use request only upon approval of the site plan and finding of compliance with the following standards:

- (1) Standards for approval.
 - a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
 - d. Be consistent with the intent, purpose and recommendations in the master plan.
 - e. The proposed use will not have adverse impacts or be disturbing to existing or future neighboring uses.
 - f. The proposed use will not create excessive additional requirements at public cost for public facilities, utilities and services.
 - g. Meet the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
- (2) Public hearing. On the appointed date and time the planning commission shall conduct the public hearing on the proposed special use. The hearing may be adjourned to a date certain within a reasonable time for additional fact finding.
- (3) Action of the planning commission. Upon completion of the planning commissions review and upon completion of the public hearing the planning commission may consider a motion for approval, approval with conditions, or denial of the special use application and site plan request. The planning commission may postpone a request to a date certain to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues. Announcement of the date for the commission to decide upon the matter shall be announced in accord with the provisions of this chapter and the Open Meeting Act, Public Act No. 267 of 1976, as amended.
- (4) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving

authority and the landowner. The approving authority shall maintain a record of conditions which are changed.

- (5) The planning commission may recommend the imposition of the conditions in approving special uses that it deems necessary to fulfill the purpose and requirements of this chapter. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating any increased service and facility loads caused by the special land use or any activity connected with it, to protect the natural environment, conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the arrangement of the use of land in a socially and economically desirable manner.
- (6) Expiration of special land use permits, extension.
- a. An approved special land use permit shall expire two years following approval by the planning commission. Upon written request stating the reasons therefor, the planning commission shall extend a special land use permit for an additional one-year period if the evidence shows the following:
 1. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
 2. The requirements and standards, including those of this chapter that reasonably related to the development, have not changed.
 3. Development or redevelopment in the proximity of the approved special land use permit has not changed conditions impacting the site.
 4. There has not been a change in state or federal law, local Charter, or other local ordinance prohibiting the construction or further construction of the approved project.
 - b. An application for an extension of a special land use permit must be filed at least 60 days prior to the expiration of the original special land use permit or the expiration of any extension previously approved by the village, whichever is applicable. The application form for requesting an extension shall be provided by the village and can be obtained from the zoning administrator. An application fee for an extension is required and is nonrefundable. The village board shall, by resolution, establish the amount of the application fee for the renewal. The renewal is only applicable to the property subject to the originally approved special land use permit.
 - c. Any such recommendation for an extension is subject to reasonable conditions requested by the planning commission, including, if necessary, the implementation of a new or additional performance guarantee requirement pursuant to article X of this chapter.
 - d. If a special land use permit expires pursuant to the above, no work pursuant to a special land use permit may be undertaken until a new special land use permit is obtained from the planning commission following the procedures contained in the zoning ordinance for a new special land use permit.

(Ord. No. 202, art. 7, § 3, 11-6-2017)

Sec. 42-132. Amendments, denial or appeal of a special land use; determination and imposition of conditions.

A review of an application and site plan requesting a special land use permit shall be made by the planning commission in accordance with the procedures and standards specified in this chapter. If a submitted application and site plan does not meet the requirements of this chapter, they shall not be approved. However, if the

applicant agrees to make changes to the site plan and application in order to bring them into compliance with this chapter, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. If the facts in the case do not establish competent material and substantial evidence that the standards set forth in this chapter will apply to the proposed special land use, the planning commission shall not grant a special land use permit. The planning commission may impose conditions with the approval of a special land use permit application and site plan which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this chapter or other applicable ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and approved site plan and shall be enforced by the zoning administrator. These conditions may include 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.

(Ord. No. 202, art. 7, § 4, 11-6-2017)

Sec. 42-133. Validity and revocation of special land use permits.

- (a) *Validity of permit.* Once the special land use is established and the conditions of the permit are fulfilled, the special land use permit shall be valid until such time that there is a change of conditions or use related to the permit as permitted by the planning commission. The planning commission reserves the right to review, with the applicant and the zoning administrator, the status of special land use permits on an annual basis.
- (b) *Permit revocation.* The planning commission shall have the authority to revoke special land use permits which have been approved following a public hearing which allows both the village and the applicant to argue and present evidence regarding whether the special land use permit should be revoked, if construction of the approved improvements does not proceed in conformance with the approval of the site plan and/or the property is not utilized in a manner which complies with the special land use permit. Upon discovery of a violation, the zoning administrator shall issue a stop-work order for any construction not in compliance with the permit and/or a notice to appear for a hearing before the planning commission. Notice of the hearing date shall be provided to the applicant no less than ten days prior to the date of the hearing.

(Ord. No. 202, art. 7, § 5, 11-6-2017)

Sec. 42-134. Amendments and/or modifications to a special land use permit.

- (a) The zoning administrator may authorize insignificant deviations in special use permits if the resulting use will still meet all applicable standards and requirements of this chapter. A deviation is insignificant if the zoning administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.
- (b) The planning commission may permit minor modifications in special use permits if the resulting use will still meet all applicable standards and requirements of this chapter. The planning commission may decide minor modifications without a formal application, public hearing, or payment of an additional fee. For purposes of this subsection, minor modifications are those the zoning administrator determines have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (c) All other requests for amendments to special use permits shall be processed in the same manner as new special use permit applications. The village may impose new conditions on the approval of an amendment

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request if such conditions are warranted. The holder of the special use permit may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing special use permit.

- (d) The holder of a special use permit may request changes under this section by making the request in writing to the zoning administrator. Approval of all changes must be given in writing.

(Ord. No. 202, art. 7, § 6, 11-6-2017)

Sec. 42-135. Land uses requiring additional standards.

The following land uses have been determined to be those that serve an area larger than the village and as a result require additional standards for approval in addition to those addressed.

(Ord. No. 202, art. 7, § 7, 11-6-2017)

Sec. 42-136. Junk yards.

- (a) All junk yard uses shall be established and maintained in accordance with all applicable state statutes.
- (b) The applicant shall be required to file a cash bond, performance bond or irrevocable letter of credit of sufficient amount, or other guarantees, to assure reclamation of the site.
- (c) The site shall be a minimum of ten acres in size.
- (d) A solid fence or wall at least eight feet in height shall be provided around the entire periphery of the site.
- (e) All activities, equipment, or material shall be confined within the fenced-in area and there shall be no stacking of material above the height of the fence, or wall.
- (f) All fenced-in areas shall be set back at least 100 feet from the front street or highway right-of-way line. Such front yard setback shall be landscaped with plant materials as approved by the planning commission to minimize the appearance of the installation.
- (g) No open burning shall be permitted.
- (h) Whenever the installation abuts upon property within a residential district, a transition strip at least 200 feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass, and structural screens of a type approved by the planning commission to effectively minimize the appearance of the installation.
- (i) The use shall not be located in such a manner that the yard is below the grade of the highway or the adjacent property owner where the fence specified in subsection (d) of this section is rendered useless for screening the junk yard.

(Ord. No. 202, art. 7, § 8, 11-6-2017)

Sec. 42-137. Mobile home park.

- (a) The number of mobile homes shall not exceed the number obtained by dividing the total square foot area of the mobile home park by 3,200.
- (b) Twenty-five feet shall be maintained between mobile homes, and between mobile homes and buildings.
- (c) Each mobile home site shall abut or face a concrete or asphalt surfaced driveway, roadway, or street of not less than 24 feet in width, which shall have unobstructed access to a public highway or street.

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- (d) Each mobile home park providing more than four mobile home sites shall provide suitable playground area of not less than 300 square feet per mobile home.
 - (e) Each mobile home park shall provide sanitary facilities and water supply in accordance with the standards of and meeting the approval of the state board of health and of the village engineer. No special permit for mobile home parks shall be granted until approved by the state board of health and the village engineer.
 - (f) Electrical facilities provided to each lot must meet the electrical code requirements. Mobile home parks having ten or more lots must provide an overhead street light or night light operating at night. One street light must be provided for each ten lots or portion thereof within the park.
 - (g) No certificate of occupancy shall be granted until after certification of compliance with the requirements of the village engineer. All special permits of mobile home parks shall be temporary and shall be valid only during the period that the park complies with the requirements of the village engineer.
 - (h) Said mobile home park shall comply with all other applicable state statutes, rules and regulations.

(Ord. No. 202, art. 7, § 9, 11-6-2017)

Sec. 42-138. Sand and gravel extraction.

- (a) From and after the effective date of the ordinance from which this chapter is derived, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the village without first submitting a site plan and procuring approval from the planning commission.
- (b) A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued building permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- (c) Site plan application. A separate site plan shall be required for each separate excavation or fill site, in addition to the site plan requirements listed in article VII of this chapter.
- (d) Site plan review (all districts); site plan data required. A site plan prepared under this section shall also include:
 - (1) Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
 - (2) Full legal description of the premises where operations are proposed.
 - (3) Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
 - (4) Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
 - (5) Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
 - (6) Such other information as may be reasonably required by the planning commission to base an opinion as to whether the site plan should be approved or not.
- (e) The sand and gravel operations application shall provide information to confirm compliance with the following standards:
 - (1) *Hours of operation.* The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site specific hours of operation for mining, processing and reclamation activities must

be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:

- a. Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
 - b. Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
 - c. Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
- (f) Screening. Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the planning commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons near the site. Factors of safety and aesthetics shall be addressed.
- (g) Noise, dust, debris. All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Noise levels shall not exceed 70 dBA at the property line. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or falling out of the trucks.
- (h) Groundwater impact. Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
- (i) Road impact. Extractive operations shall be managed and designed to have minimum negative impact on existing roadways. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the planning commission. Dust caused by truck traffic of the entrance drive is to be treated as needed with dust suppression material.

(Ord. No. 202, art. 7, § 10, 11-6-2017)

Sec. 42-139. Sexually oriented business.

The purpose and intent of this sections pertains to the regulation of sexually oriented businesses and their location and operation of, but not to exclude, sexually oriented businesses within the village, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of village residents. The provisions of this section are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this section to legitimize activities which are prohibited by village ordinance, state or federal law. If any portion of this section relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the village intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The village further states that it would have passed and adopted what remains of any portion of this section relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

- (1) No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within 1,000 feet of any principal or accessory structure of another sexually oriented business.

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- (2) No sexually oriented business shall be established on a parcel which is within 1,000 feet of any parcel zoned R-1 or R-2.
 - (3) No sexually oriented business shall be established on a parcel within 1,000 feet of any residence, park, school, child care organization, or place of worship, or other sexually oriented business. This distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship, or other sexually oriented business.
 - (4) The proposed use shall conform to all specific density and setback regulations, etc., of the zoning district in which it is located.
 - (5) The proposed use must meet all applicable written and duly promulgated standards of the village and other governments or governmental agencies having jurisdiction, and to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
 - (6) The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.
 - (7) Any sign proposed for the sexually oriented business must comply with the provisions of this chapter, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
 - (8) Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two inches in height that:
 - a. "Persons under the age of 18 are not permitted to enter the premises"; and
 - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
 - (9) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
 - (10) Hours of operation shall be limited to 8:00 a.m. to 12:00 midnight.
 - (11) All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
 - (12) Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities:
 - a. Is handicap accessible to the extent required by the Americans With Disabilities Act;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Is illuminated by a light bulb of wattage of no less than 25 watts; and
 - e. Has no holes or openings in any side or rear walls.

(Ord. No. 202, art. 7, § 11, 11-6-2017)

Sec. 42-140. Transmission and communication towers (commercial), public utility microwaves and public utility T.V. or radio transmitting towers.

- (a) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers, and their attendant facilities, shall be permitted by the planning commission after a public hearing when all standards of this section are met. All guy wires/cables and anchors associated with a proposed tower shall comply with the setback regulations of the zoning district in which located. Safety markings and/or physical barriers for all guy wires and anchors may be required by the planning commission, upon a finding that such safety markings and/or physical barriers are necessary for the public safety or for the safety of the occupants of the property on which the guy wires or anchors will be located. In addition, except as provided herein, each such proposed tower shall be set back from a public or private road right-of-way and shall be set back from a lot line a distance equal to the tower safety zone. The planning commission, however, may reduce the setback distance, but in no event less than the applicable setback requirement for structures in the zoning district in which located, if it finds all of the following standards are met:
- (1) The established tower safety zone shall not extend into a public or private road right-of-way or onto an adjacent lot in an area where an existing residential structure is located under the requirements of this chapter.
 - (2) If any portion of the established tower safety zone is located on an adjacent lot, the owners of the adjacent lot shall consent in writing to the reduced setback and shall agree to record deed restrictions acknowledging and accepting the potential increased risk, due to the reduced setback. Such deed restrictions shall run with the adjacent lot for as long as the tower is erected. The deed restrictions shall be in recordable form and shall be subject to the approval of the village attorney.
 - (3) Due to existing topography, existing structures, vegetation or other existing natural or human-made features, the proposed location of the tower with the reduced setback shall be no more visually obtrusive than the location of the tower under the normal setback regulations.
- (b) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers shall be constructed as freestanding structures (monopole or lattice towers, as approved by the planning commission) unless the applicant can demonstrate that such a structure cannot accommodate the user or future co-locators. Towers shall have a neutral surface finish color to reduce the visual obtrusiveness, except as otherwise required by a state or federal agency.
- (c) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers shall not be used for advertising purposes nor shall such tower display any signs other than one sign, not to exceed two square feet, which identifies the service provider and an emergency telephone number. These restrictions shall not apply to any safety signs placed on the security fence or tower.
- (d) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers, and their attendant facilities, shall be enclosed by a security fence not less than six feet in height. The planning commission shall review the need for the installation of anti-climbing devices and make a determination based on adjacent land use and zoning patterns.
- (e) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers, and their attendant facilities, shall be effectively screened to obscure views of the tower base, shelter, security fencing or guy wire anchors from adjacent uses and public rights-of-way.
- (f) Transmission and communication towers, public utility microwaves and public utility T.V. or radio transmitting towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative approved by the planning commission shall cause the least disturbance possible.

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- (g) The approval for any of the above-mentioned towers shall cease when the tower is no longer used for the purpose for which the permit was initially granted.
 - (h) The applicant shall be responsible for the maintenance of any permitted tower, in a safe condition, for as long as the tower remains in operation, and shall dismantle the tower within nine months after operations cease. The applicant shall post a bond for the dismantling of the tower, the amount of which shall be based on the size and type of tower.
 - (i) The multiple-use of each tower shall be encouraged to limit the number of towers within the village. The village reserves the right to deny a permit for a new tower if any existing tower can be adapted to serve the expressed need.
 - (j) No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower, thereby jeopardizing the tower's structural integrity.
 - (k) The installation and/or operation of the above-mentioned towers, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.
 - (l) The maximum height for a transmission and communication tower, utility microwave, and public utility T.V. or radio transmitting tower shall be 99 feet. The planning commission may approve an increased height for these towers, not to exceed 300 feet, if both of the following conditions are met:
 - (1) The need for the increased height is the result of a stand of trees, existing land forms, or structures that would substantially hinder the reception/transmission of an antenna on the tower.
 - (2) The increased height is the minimum necessary to achieve a reasonable level of antenna reception/transmission on the tower. A reasonable level of antenna reception is not equivalent to maximizing the antenna reception. The planning commission shall not grant the increased height if the reasonable level of antenna reception/transmission is not met due to the use of inefficient equipment that does not utilize current commercial technologies.

(Ord. No. 202, art. 7, § 12, 11-6-2017)

Sec. 42-141. Commercial medical marihuana facilities.

- (a) A commercial medical marihuana facility may be authorized to operate within the village by the holder of a state operating license, pursuant to PA 281 of 2016, as may be amended, the rules promulgated thereunder, and all applicable local ordinances.
- (b) No commercial medical marihuana facility shall be located within 1,000 feet of any school, with the minimum distance being measured along the center line of the street or streets of address between two fixed points on the center line determined by projecting straight lines, at right angles, to the center line, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school.
- (c) All commercial medical marihuana facilities shall be located within the boundaries of the commercial marijuana facilities (CMF) overlay district as defined and authorized under this section as amended.
- (d) Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
 - (1) The placement of the container shall be subject to site plan review.

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- (2) Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
 - (3) All containers shall rest on a concrete pad.
 - (4) A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
 - (5) The container, screening wall or fence, and gate shall be maintained in a neat and orderly manner, free from debris.
- (e) A commercial medical marihuana facility shall be reviewed in consideration of the following:
- (1) *Lighting.* The placement and arrangement of outdoor lighting serving the facility shall provide adequate security and visibility.
 - (2) *Noise.* Noise and vibration shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.
 - (3) *Odor.* Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.
 - (4) *Environmental.* Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.
 - (5) *Traffic.* A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominantly residential area.
 - (6) *Security.* Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety.
 - (7) *Impact on neighboring property.* Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.
 - (8) *Annual review.* A facility shall be subject to an annual review by the Planning Commission to confirm compliance with the Special Land Use Permit and the provisions of this article.

(Ord. No. 2019-002, § IV, 9-9-2019)

Sec. 42-142. Adult-use (recreational) marihuana facilities.

- (a) A marihuana establishment may be authorized to operate within the village by the holder of a state operating license, pursuant to PA 281 of 2016, as may be amended, the Rules promulgated thereunder, and all applicable local ordinances.
- (b) No marihuana establishment shall be located within 1,000 feet of any school, with the minimum distance being measured along the centerline of the street or streets of address between two fixed points on the centerline determined by projecting straight lines, at right angles, to the centerline, from the part of the school building nearest to the contemplated location and from the part of the contemplated location nearest to the school.
- (c) All marihuana establishments shall be located within the boundaries of the commercial marijuana facilities (CMF) overlay district as defined and authorized under Article 6, Section 1 as amended.

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- (d) Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
- (1) The placement of the container shall be subject to site plan review.
 - (2) Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
 - (3) All containers shall rest on a concrete pad.
 - (4) A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
 - (5) The container, screening wall, fence, and gate shall be maintained in a neat and orderly manner, free from debris.
- (e) A marihuana establishment shall be reviewed in consideration of the following:
- (1) *Lighting*. The placement and arrangement of outdoor lighting serving the facility shall provide adequate security and visibility.
 - (2) *Noise*. Noise and vibration shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.
 - (3) *Odor*. Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.
 - (4) *Environmental*. Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.
 - (5) *Traffic*. A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominantly residential area.
 - (6) *Security*. Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety.
 - (7) *Impact on neighboring property*. Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.
 - (8) *Annual review*. A facility shall be subject to an annual review by the planning commission to confirm compliance with the special land use permit and the provisions of this section.

(Ord. No. 2019-005 , § IIIA, 10-7-2019)

Editor's note(s)—Ord. No. 2019-005 , § IIIA, adopted October 7, 2019, added provisions that were not specifically amendatory. At the editor's discretion, said provisions have been added as § 42-142.

Secs. 42-143—42-162. Reserved.

ARTICLE V. SITE DEVELOPMENT STANDARDS

Sec. 42-163. General.

This article addresses site elements such as, but not limited to, parking, loading and unloading space, landscaping, fences and drives. In addition to requirements prescribed in this article, the provisions of article I of this chapter also apply.

(Ord. No. 202, art. 8(intro. ¶), 11-6-2017)

Sec. 42-164. Parking and loading regulations.

It is the intent of this chapter that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premises constructed, altered or enlarged under the provisions of this chapter. All vehicles shall be stored on the premises occupied by the principal building, but may be stored on premises located outside the premises within specifically limited walking distances as specified in this article.

(Ord. No. 202, art. 8, § 1, 11-6-2017)

Sec. 42-165. Requirements.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The proper number of parking spaces for any given use as specified in this article shall be provided.

- (1) Required off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- (2) Location of off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant on the site plan.
- (3) The number of required off-street parking spaces may be reduced by the number of on-street parking spaces directly in front of the subject property.
- (4) The joint use of parking facilities in a PD shall be approved by the planning commission as part of the PD review and approval process, all other joint use of parking facilities by two or more uses may be granted by the planning commission whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.
 - a. The total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately and discounted based on the table in section 42-166.
 - b. A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the register of deeds of the county. The agreement shall include a guarantee for continued long-term use and maintenance of the parking facility by each party.
- (5) In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the zoning administrator considers is similar in type. The zoning administrator may consult parking standards publications from the American Planning Association and other parking ordinances from adjacent communities in making a determination.
- (6) Off-street parking areas shall not be used for commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles. Parking space shall be used only for the parking of

vehicles used to service the establishment to which it is accessory and by its patrons, unless a dual use agreement is in place as provided in subsection (4) of this section.

- (7) Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premises use, additional parking shall be provided and maintained in the proper ratio to the use change increased floor area or capacity. Additional parking shall be provided at the time of enlargement and prior to receipt of a certificate of zoning compliance.
- (8) The outdoor parking of motor vehicles in residential districts shall be limited to registered and licensed passenger vehicles and commercial vehicles built on a chassis which is rated one ton or less and not exceeding 10,000 pounds in gross vehicle weight, except when said vehicles are associated with the use permitted by a special use permit pursuant to article IV of this chapter.
- (9) No parking area or parking space or loading area which exists at the time this section becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this chapter unless and until equal or better facilities are approved and provided.
- (10) The right-of-way of any village street or state highway shall not be used for off-street parking or loading without the written permission of the county road commission for county roads, the village for local streets or the state department of transportation for state highways, as applicable.

(Ord. No. 202, art. 8, § 2, 11-6-2017)

Sec. 42-166. Parking space requirements.

- (a) All land uses shall provide parking spaces that conform with the requirements of this section.
- (b) Definitions. The following terms used in this section have special definitions as provided below:
 - (1) Requirements for parking stated in terms of "employees" shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
 - (2) The term "floor area" is as defined in section 42-9.
 - (3) "Fractional spaces." When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
 - (4) The term "parking" includes the surface area required for the parking space as specified in Table 8-1, and is in addition to that surface area required for maneuvering lanes in Table 8-1.
 - (5) "Seating capacity." When benches, pews or other similar seating is used, each 18 inches of said seating shall be counted as one seat, unless the standard specifies otherwise.
- (c) Table 8-1 provides the specific off-street parking space requirements for each common land use.

Table 8-1. Off-Street Parking Requirements

	<i>Minimum</i>	<i>Maximum</i>	<i>Measurement</i>
<i>Residential</i>			
Single-family dwelling	2	N.A.	Per unit
Multiple-family dwelling	1.5	1.5	Per unit
<i>Nonresidential</i>			
Agricultural uses	Exempt		

Automotive sale and services	3.5	4	Per 1,000 GFA
Consumer/personal services	2	3	Per 1,000 GFA
Eating and drinking establishments	1	1.5	Per 3 seats
Office uses	2.5	3	Per 1,000 GFA
Places of assembly	1	1	Per 3 seats or number permitted by Fire Code
Commercial and retail business uses	3	4	Per 1,000 GFA
Schools	1	1	Per classroom
<i>Plus</i>	1	1	Per each ten seats in auditorium
Other uses not listed or classified	Determined by planning commission		

(Ord. No. 202, art. 8, § 3, 11-6-2017)

Sec. 42-167. Parking site requirements.

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements:

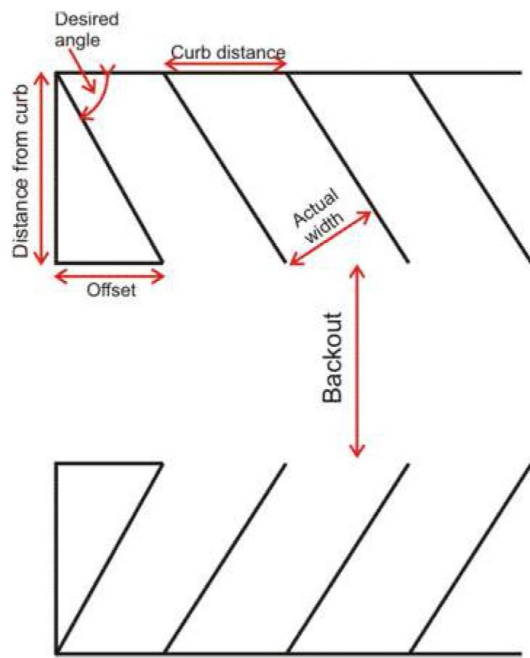
- (1) No parking lot shall be constructed until a permit therefor is issued by the zoning administrator and by the soil erosion and sedimentation control agent.
- (2) Before such permit is issued, plans and specifications shall be submitted to the zoning administrator showing the location, capacity, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping and any other detailed features essential to the design and construction of the proposed parking facility.
 - a. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements of Table 8-2.
 - b. Parking spaces are designed to yield a parking space nine feet by 18 feet with adequate room for maneuvering in and out of the space.

Table 8-2. Layout of Off-Street Parking Facilities

<i>Angle</i>	<i>From Base Line</i>	<i>Along Curb</i>	<i>Offset</i>	<i>Backout</i>
90 degrees	18'	9'	0'	24'
75 degrees	17'	9'4"	4'6"	22'
60 degrees	16'	10'4"	9'	20'
45 degrees	15'	12'7"	15'	19'

- c. All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern as follows and illustrated on Figure 8-1:

1. For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of 12 feet.
2. All maneuvering lane widths shall permit one-way traffic movement, except for the 90 degree pattern, which may provide for two-way traffic movement.
3. For parallel parking, one-way.



- d. Adequate ingress and egress to the parking lot by means of clearly-defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use. Access management requirements in article I of this chapter shall also be conformed with.
- e. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from adjacent property located in any single-family residential district.
- f. All off-street parking areas abutting residential districts shall be provided with an obscuring fence no less than four feet in height. Such fences shall be constructed of materials approved by the permit issuing authority and shall be durable, weather-resistant and easily maintained.
- g. Except for single-family and two-family residential lots, all parking areas, including parking spaces, maneuvering lanes and access drives, shall be provided with a durable, smooth and dustless surface; and shall be graded and drained to dispose of all collected surface water.
- h. Except for single-family residential lots, all parking areas with a capacity of six or more vehicles shall provide adequate lighting throughout the hours when the parking areas are in operation. All lighting shall be installed as to be confined and directed into the parking area only with applicable lighting requirements.
- i. A no-building buffer strip not less than ten feet wide shall be required on the perimeter of all parking lots. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

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- (3) All parking areas containing over 2,700 square feet or more of parking areas, including access drives thereto, shall be effectively landscaped with planting strips on all sides adjacent to or visible from surrounding properties and on all sides of a public street.
 - (4) Whenever a development requiring off-street parking has parking areas containing over 2,700 square feet or more, provision shall be made for on-site snow storage area in addition to the required parking lot area. Snow storage shall be provided on the ratio of 15 square feet per 100 square feet of parking lot surface area. Snow storage areas shall be located in such manner that when utilized they do not interfere with clear visibility of traffic or adjacent streets and highways and the landscaping is protected from damage.

(Ord. No. 202, art. 8, § 4, 11-6-2017)

Sec. 42-168. Loading and unloading requirements.

- (a) On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated public streets. Such space shall be provided as follows:
 - (1) Loading space required under this section shall be provided as areas additional to the off-street parking space required in section 42-166 and shall not be considered as supplying off-street parking space.
 - (2) There shall be provided adequate space for standing, loading and unloading services not less than 12 feet in width, 25 feet in length and 14 feet in height (open or enclosed) for all uses listed in Table 8-1 or for similar uses involving the receipt or distribution by vehicles of materials or merchandise.
 - (3) In all nonresidential districts, off-street loading and unloading shall be provided according to the following provisions:
 - a. For office buildings of less than 20,000 square feet in gross floor area, at least one loading space with minimum dimensions of ten feet by 20 feet, separate from off-street parking, shall be provided and may be located in any yard except the front yard.
 - b. For office buildings greater than 20,000 square feet, loading shall be provided at the ratio of one space for each 40,000 square feet above 20,000 square feet.
 - c. For commercial uses, loading shall be provided as set forth in subsection (a)(3)a of this section, or at a ratio of ten square feet per front foot of building, whichever is the lesser amount.
 - d. For automobile service stations, required loading space may be located in any yard except the front yard.
 - (4) Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley as determined by the site plan review committee.
- (b) Off-street loading spaces and access drives shall be paved, drained, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

(Ord. No. 202, art. 8, § 5, 11-6-2017)

Sec. 42-169. Landscaping, buffering and screening.

The purpose of this article is to provide regulations and requirements for fencing, landscaping, berming or screening of the perimeter of certain activities in order to protect the character of the surrounding area, prevent trespassing into unsafe areas, discourage theft, stabilize soils, control wind-blown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase groundwater infiltration and reduce noise.

(Ord. No. 202, art. 8, § 6, 11-6-2017)

Sec. 42-170. Right-of-way protection and public safety.

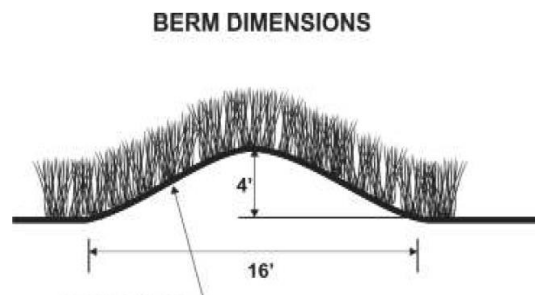
No trees or shrubs shall be planted within a public right-of-way without the prior written consent of the appropriate public agency responsible for maintaining the right-of-way. Landscaping shall not interfere with public safety, and shall not interfere with the safe movement of motor vehicles, bicycles, or pedestrians. Landscape materials shall not obstruct the operation of fire hydrants, electrical or other utility lines or facilities.

(Ord. No. 202, art. 8, § 7, 11-6-2017)

Sec. 42-171. Required vegetation.

A greenbelt, buffer strip, or berm, as required by this chapter or as a condition to the approval of a site plan, special use permit, planning unit development permit or variance, shall be installed and maintained in a healthy living condition for the duration of the use of property in accordance with the following requirements:

- (1) *Greenbelts.* A greenbelt shall consist of an open space strip running along the property line at least 30 feet in width, seeded and maintained as grass or other plant ground cover. Trees or shrubs may be planted at the discretion of the landowner.
- (2) *Buffer strips.* A buffer strip shall consist of a landscaped strip at least 15 feet in width containing at least two trees plus one additional tree for each 20 feet in length of the buffer strip. Said trees shall be at least 1¾ inches in caliper measured six inches above ground level. Dead or dying trees shall be replaced within eight months. Grass or other plant ground cover, mulch, or ornamental bark or stone, shall completely cover the area not planted in trees or shrubs.
- (3) *Berms.* A berm shall consist of a linear mound of earthen material rising to a height of at least four feet with a minimum base of 16 feet covered and maintained as grass, ground cover, shrubs or other approved vegetation and constructed in accordance with the diagram below, or with a base of at least four times the desired height of the berm. See Figure 8-2.



- (4) Plant material spacing.

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- a. Except as provided below, plant materials shall not be placed closer than four feet from the fence line property line.
 - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
 - c. Evergreen trees shall be planted not more than 20 feet on centers, and shall be not less than five feet in height, nor closer than five feet to an adjoining property line.
 - d. Narrow evergreens shall be planted not more than six feet on centers, and shall not be less than three feet in height.
 - e. Tree-like shrubs shall be planted not more than ten feet on centers, and shall be not less than four feet in height.
 - f. Large deciduous shrubs shall be planted not more than four feet on centers, and shall not be less than six feet in height.
 - g. Large deciduous trees shall be planted not more than 20 feet on centers, and shall not be less than eight feet in height, nor closer than ten feet to an adjoining property line, unless approved by the neighboring property owner.
- (5) *Required plant materials.* Only those plant materials listed on the "Recommended Plant List" from the Northwest Michigan Invasive Species Network, as amended, shall be used for greenbelts, buffer strips, berms, and general landscaping.

(Ord. No. 202, art. 8, § 8, 11-6-2017)

Sec. 42-172. Drives and accessways.

Necessary drives and accessways from public rights-of-way through such buffer strips shall be permitted, provided that such accessways shall not be subtracted from the lineal dimension used to determine the required number of plants.

(Ord. No. 202, art. 8, § 9, 11-6-2017)

Sec. 42-173. Side and rear yard landscaping and fencing options.

In any situation requiring either a greenbelt, buffer strip or berm to meet the requirements, the landowner has the option in fulfilling landscaping requirements with a fence approved by the zoning administrator.

(Ord. No. 202, art. 8, § 10, 11-6-2017)

Sec. 42-174. Parking lot landscaping and loading space fencing.

- (a) Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one tree for every eight parking spaces, with minimum landscaped space within a designated parking area of 50 square feet. A minimum distance of three feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement. This distance shall be increased if the volume of snow to be plowed from the parking lot requires a larger storage area.
- (b) Landscaping along the perimeter of the parking lot shall meet the requirements for a buffer strip.
- (c) Where any off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational, or religious purposes, or abuts a residential district, there shall be provided a masonry wall or

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solid fence not less than four feet in height between the off-street loading space and said residential, educational, recreational, or religious premises or residential zone.

(Ord. No. 202, art. 8, § 11, 11-6-2017)

Sec. 42-175. Landscaping for all other properties requiring site plan review.

- (a) In addition to any greenbelt, buffer strip, berm and/or parking lot landscaping required by this article, ten percent of the site area, excluding existing thoroughfare rights-of-way, shall be landscaped.
- (b) Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five percent of the site area.

(Ord. No. 202, art. 8, § 12, 11-6-2017)

Sec. 42-176. Screening of trash.

All areas used for the storage of trash or rubbish, including dumpsters and other commercial containers, shall be screened by a solid fence or dense plant materials no less than six feet in height. If a fence is used, view-obstructing doors at least six feet in height shall be installed and kept closed except when accessing.

(Ord. No. 202, art. 8, § 13, 11-6-2017)

Sec. 42-177. Existing screening.

Any fence, landscape screen, wall or hedge which does not conform to this chapter and which is legally existing at the effective date of the ordinance from which this chapter is derived may be continued and maintained, provided there is not physical change other than necessary maintenance and repair; unless otherwise regulated by this chapter.

(Ord. No. 202, art. 8, § 14, 11-6-2017)

Sec. 42-178. Maintenance.

It shall be the owner's responsibility to see that the landscaping is maintained in a neat, clean, orderly and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all plants.

(Ord. No. 202, art. 8, § 15, 11-6-2017)

Sec. 42-179. Fences, walls and screens.

Fence, wall and screen requirements are as follows:

- (1) Whenever a use is established or substantially improved in a nonresidential district and the lot abuts a residential district, a fence at least six feet in height shall be erected along the common lot by the nonresidential use unless the abutting lot owner in the residential district signs a waiver for this requirement and a buffer strip or berm shall be installed instead.
- (2) 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.

Fences located in the front yard or beyond the front of the dwelling unit shall not exceed three feet in height, measured from the surface of the ground, and shall have at least a 75 percent open area. No fence, wall, planting or structure shall, within ten feet of any public or private right-of-way, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley or driveway. All fences shall be constructed so as to allow the passage of air through the fence to an adjacent dwelling.

- (3) Fences, walls, or obscuring walls shall not contain barbed wire, electric current or charge of electricity (except in the "I" district), glass, spikes, or other sharp protruding objects.
- (4) Notwithstanding subsection (3) of this section, security fences six feet high or more may include up to 18 inches of barbed wire in an industrial area, surrounding a public utility, or around a police or corrections facility.
- (5) All fences shall have the finish side facing out, away from the property on which the fence is located.
- (6) Fences are structures that may be erected along property lines or within yards, irrespective of the setback requirements of this chapter. No site plan review is required for a fence which conforms with chapter standards. The zoning administrator may waive site plan review for a fence in any other district if no other structural changes or changes in the design or layout of the site are proposed.
- (7) The zoning administrator may require the removal, reconstruction or repair of any fence, wall or screen not in good condition.
- (8) The location, design and construction of the fence shall not hinder emergency response.

(Ord. No. 202, art. 8, § 16, 11-6-2017)

Sec. 42-180. Time to complete and performance guarantee.

- (a) *Time period to complete.* The required improvements are to be completed within one year of the issuance of the zoning permit. In the event of unusual delays, or adverse weather conditions that make it impossible to plant, the planning commission may grant a single extension of the time limit for a further period of not more than six months.
- (b) *Occupancy.* No occupancy of land shall occur unless the parking and landscape improvements have been completed or a performance guarantee to cover the cost of the contemplated improvements, as estimated by the zoning administrator, has been deposited with the village pursuant to the requirements of this chapter.
- (c) *Performance guarantee.* The planning commission may, on multiple-family residential properties, PDs and nonresidential land properties, due to weather conditions, seasonal availability of plant materials, or other factors, require a performance guarantee equal to the estimated cost of the plant material and installation cost. Such performance guarantee shall be related to the various vegetation or planting plans shown on the site plan. Such performance guarantee shall be processed according to the requirements of this chapter.

(Ord. No. 202, art. 8, § 17, 11-6-2017)

Sec. 42-181. Waiver or modification of landscaping, buffering and fencing regulations.

Any of the requirements of this article may be waived or modified through site plan approval, provided the planning commission makes a written finding that specifically identified characteristics of the site or site vicinity would make required landscaping, fencing, buffering or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(Ord. No. 202, art. 8, § 18, 11-6-2017)

Sec. 42-182. Bicycle parking requirements.

- (a) *Scope of regulations.* Bicycle parking facilities, which include bicycle parking spaces and access aisles, shall be provided as required for all new structures and uses established or for changes in use as of the effective date of this provision.
- (b) *Size.* Required bicycle parking spaces shall be at least two feet by six feet. An access aisle of at least five feet shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least six feet.
- (c) *Design and maintenance.* Accessory off-street parking for bicycle parking shall include provisions for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which the bicycle may be locked by the user. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices. All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location. The surfacing of such facilities shall be designed and maintained to be mud and dust free.
- (d) *Location.* Bicycle parking facilities shall be located in a clearly designated safe and convenient location. The design and location of such facility shall be harmonious with the surrounding environment. The facility location shall be at least as convenient as the majority of automobile parking spaces provided.
- (e) *Schedule of required off-street bicycle parking facilities.* Bicycle parking facility spaces shall be provided in adequate number as determined by the zoning administrator. In making the determination, the zoning administrator shall consider, when appropriate, the number of dwelling units or lodging rooms, the number of employees, and the number of automobile parking spaces in accordance with the following guidelines:

Table 8-3. Bicycle Requirements

<i>Land Use</i>	<i>Bike Space</i>
Bed and breakfast and tourist homes	One per three lodging rooms
Hotels and motels	One per 20 employees and one per ten rental rooms
Places of assembly, recreation, entertainment, and amusement	One per ten automobile parking places
Commercial establishments	One per 15 automobile parking places; up to a maximum of ten bicycle parking spaces

(Ord. No. 202, art. 8, § 19, 11-6-2017)

Sec. 42-183. Signage.

- (a) The purpose of this section is to regulate commercial and noncommercial outdoor signs in a manner which recognizes the communication needs of both businesses and other parties; protects property values and neighborhood character; creates a more attractive business climate; promotes pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; and promotes pleasing community environmental aesthetics.
- (b) Compliance with this chapter does not relieve the applicant of the responsibility for compliance with other village, state or federal sign regulations, nor does the issuance of a zoning permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a zoning permit only assures the applicant that the sign meets the requirements of this chapter.

- (c) Except as otherwise provided in this section, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a zoning permit has been issued in accordance with the provisions of this chapter. Mere repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.
- (d) The following signs are permitted without a zoning permit, but shall conform to the requirements set forth herein as well as all other applicable requirements of this article:
 - (1) One sign not exceeding six square feet in sign face area that is customarily associated with residential use and that is not of a commercial nature, such as signs giving property identification.
 - (2) Signs not exceeding 2½ square feet in sign face, on mailboxes or newspaper tubes, and signs posted on private property relating to private parking, or warning the public against trespassing or danger from animals.
 - (3) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification, and informational signs, including historical markers, traffic, directional, and regulatory signs.
 - (4) Official signs of a noncommercial nature erected by public utilities.
 - (5) Flags, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising service.
 - (6) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
 - (7) Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.
 - (8) Informational signs not exceeding one square foot in sign face.
 - (9) A total of two banners, one banner and one commercial advertising flag, or two commercial advertising flags, each such banner or commercial advertising flag not to exceed 24 square feet in sign face, used to attract attention to a community activity or event.
 - (10) Street name signs located in accord with the village and/or county road commission standards at street intersections, not to exceed one square foot in sign face.
- (e) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.
- (f) A two-sided or multi-sided sign shall be regarded as one sign so long as:
 - (1) With respect to a V-type sign, the two sides are at no point separated by a distance that exceeds five feet; and
 - (2) With respect to double-faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three feet.
- (g) Table 8-4 includes the type and size of sign by zoning district.

Table 8-4. Signs Requiring Permit

<i>Zoning District</i>	<i>Freestanding Ground Sign not higher than 6 feet above grade</i>	<i>Wall Sign; wall or projecting</i>	<i>Percent of Windows Used for Signs</i>

All Zoning Districts	32 square feet per sign face; maximum 2 sign faces	32 square feet for wall sign; 16 square feet for projecting sign with maximum of 2 sign faces	0%
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- (h) Off-premises highway advertising signs are those signs and sign structures which are defined and regulated by the state department of transportation pursuant to the Highway Advertising Act of 1972, Public Act No. 106 of 1972, as amended, and as further regulated by this chapter. Permits are required from MDOT for signs along state and federal highways.
- (i) Prohibited signs. The following signs shall not be allowed in any district:
- (1) Signs that are not consistent with the standards of this chapter;
 - (2) Signs which are not clean or in good repair;
 - (3) Signs that are not securely affixed to a substantial structure;
 - (4) Signs that resemble any official traffic sign or appear to attempt to direct the movement of traffic, or are located where they interfere with motorist's view of intersections or driveways;
 - (5) Revolving, moving, or flashing signs (except time, date and weather signs), pennants, streamers, and airborne devices;
 - (6) Signs other than utility company signs attached to utility poles; and
 - (7) Portable signs.
- (j) Signs remaining after a business or activity has terminated must be removed within 90 days.
- (k) Sign setbacks and height requirements shall comply with the following:
- (1) Setbacks. For the purpose of establishing sign setback requirements from an abutting roadway, signs shall meet or exceed the front yard setback for the respective zoning district.
 - (2) No sign may extend above any parapet or be placed upon any roof surface, except that, for purposes of this section, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.
 - (3) No wall sign attached to a building may project more than 12 inches from the building wall.
- (l) Sign illumination shall comply with the following requirements:
- (1) Unless otherwise prohibited by this chapter, signs may be illuminated if such illumination is in accordance with this subsection (l).
 - (2) No sign within 150 feet of a residential zone may be illuminated between the hours of 12:00 midnight and 6:00 a.m.
 - (3) Except as herein provided, illuminated signs are not permissible in the residential zoning districts.
 - (4) Illuminated tubing or strings of lights that outline property lines, building facades, sign faces, sales areas, roof lines, doors, windows, or similar areas are prohibited.
 - (5) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.
 - (6) Subsections (l)(4) and (5) do not apply to temporary signs erected in connection with the observance of holidays.

(Ord. No. 202, art. 8, § 20, 11-6-2017)

Secs. 42-184—42-203. Reserved.

ARTICLE VI. LAND DEVELOPMENT OPTIONS

Sec. 42-204. Purpose.

- (a) The purpose of this article is to allow and encourage alternative designs for residential developments, site condominiums or subdivisions in order to maintain the open and natural space and protect the small-town character of the village.
- (b) The village encourages use of land development options to conventional developments because they promote the location of dwelling units to be sited on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. These developments may also include a variety of lot sizes ranging from large farm or estate lots to small lots resulting in the preservation of contiguous open space and important environmental resources.
- (c) The standards for permitted uses in each district are designed to protect these features. By allowing the use and application of flexible development standards, developments shall be designed to protect and enhance the natural features to an equal or greater degree than if the development were to proceed under the standard guidelines for permitted uses in each underlying land use district. Provisions outlined in this article are adopted pursuant to Public Act No. 110 of 2006, known as the Michigan Zoning Enabling Act.
- (d) Subject to section 42-217, property owners can utilize either the cluster housing or planned development provisions to develop their property as residential. Planned development provisions may also be used for nonresidential developments pursuant to the provisions of this section.

(Ord. No. 202, art. 9(intro. ¶), 11-6-2017)

Sec. 42-205. Planned development.

The planned development (PD) option is intended to allow, with village approval, private or public development, which is substantially in accord with the goals and objectives of the village master plan and future land use map. In reviewing a PD plan, the planning commission shall consider the following objectives:

- (1) The development allowed under this article shall be considered as an optional means of development in the village.
- (2) Use of the PD option will allow flexibility in the control of land development by encouraging innovation through an overall development plan to provide variety in design and layout; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage useful open spaces suited to the needs of the parcel in question; and provide proper housing including workforce housing, employment, service and shopping opportunities suited to the needs of the residents of the village.
- (3) It is further intended the planned development may be used to allow nonresidential uses of residentially zoned areas; to allow residential uses of nonresidential zoned areas; to permit densities or lot sizes which are different from the applicable district; and to allow the mixing of land uses that would otherwise not be allowed, provided other community objectives are met and the resulting

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development would promote the public health, safety and welfare, reduce sprawl, and be consistent with the village master plan and future land use plan map.

- (4) It is further intended the development will be laid out so the various land uses and building bulk will relate to one another and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

(Ord. No. 202, art. 9, § 1, 11-6-2017)

Sec. 42-206. Criteria for qualifications.

To qualify for the planned development option, it must be demonstrated that all the following criteria will be met:

- (1) The use of a planned development shall not be for the sole purpose of avoiding the applicable zoning requirements. Any permission given for any activity or building or use not normally allowed shall result in an improvement to the public health, safety and welfare in the area affected.
- (2) The planned development shall not be used where the same land use objectives can be carried out by the application of conventional zoning provisions or standards. Problems or constraints presented by applicable zoning provisions shall be identified in the PD application.
- (3) The planned development option may be granted only when the proposed land use will not materially add service and facility loads beyond those considered in the village master plan, and other public agency plans, unless the proponent can prove to the sole satisfaction of the village that such added loads will be accommodated or mitigated by the proponent as part of the planned development.
- (4) The planned development must promote the goals and objectives of the village master plan and meet any combination of four of the following objectives:
 - a. To permanently preserve open space or natural features because of their exceptional characteristics or because they can provide a permanent transition or buffer between land uses.
 - b. To permanently establish land use patterns which are compatible or which will protect existing or planned uses.
 - c. To accept dedication or set aside open space areas in perpetuity.
 - d. To provide alternative uses for parcels which can provide transition buffers to residential areas.
 - e. To foster the aesthetic appearance of the village through quality building design and site development, provide trees and landscaping beyond minimum requirements; the preservation of unique and/or historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.
 - f. To bring about redevelopment of sites where an orderly change of use or requirements is determined to be desirable.
 - g. To promote the use of smart growth designs such as Traditional Neighborhood Design (TND) consistent with the principles of the Congress for New Urbanism.
 - h. To promote sustainable development especially on parcels with active farmland and orchards as defined by MCL 324.36201(h).

(Ord. No. 202, art. 9, § 2, 11-6-2017)

Sec. 42-207. Submittal and request for qualification.

- (a) Any person owning or controlling land in the village may make application for consideration of a planned development. Such application shall be made by presenting a request for a preliminary determination to whether a parcel qualifies for the PD option.
- (b) A request shall be submitted to the village. The submission shall include the information required below.
- (c) Based on the documentation presented, the village planning commission shall make a preliminary determination, within 45 days from receipt of the application, about whether a parcel qualifies for the PD option under section 42-206. The submittal must include:
 - (1) Proof the criteria set forth in section 42-206, are or will be met.
 - (2) A schematic land use plan containing enough detail to explain the role of open space; site drainage and stormwater mitigation, location of land use areas, streets providing access to the site, pedestrian and vehicular circulation within the site; dwelling unit density and types; and buildings or floor areas contemplated, as applicable.
 - (3) A plan to protect natural features or preservation of open space or greenbelts.
- (d) The village planning commission shall review the applicant's request for qualification. If approved, the applicant may then continue to prepare a PD plan on which a final determination will be determined.

(Ord. No. 202, art. 9, § 3, 11-6-2017)

Sec. 42-208. Uses permitted.

- (a) A land use plan shall be proposed for the area to be included within the PD. The land use plan shall be defined by the zoning ordinance districts that are most applicable to the various land use areas of the PD.
- (b) Uses permitted and uses permitted subject to special land use in this chapter may be allowed within the districts identified on the PD plan. Conditions applicable to uses permitted subject to special approval shall be used as guidelines for design and layout but may be varied by the village planning commission provided such conditions are indicated on the PD plan.

(Ord. No. 202, art. 9, § 4, 11-6-2017)

Sec. 42-209. Height, bulk, density and area standards.

The standards about height, bulk, density, and setbacks of each district shall be applicable within each district area designated on the plan except as specifically modified and noted on the PD plan.

(Ord. No. 202, art. 9, § 5, 11-6-2017)

Sec. 42-210. Submittal of the PD plan and application materials.

- (a) The application, reports, and drawings shall be filed in paper and digital format. All drawings shall be provided to the village in the most recent release of a computer aided design format acceptable to the village planning commission. Other graphics and exhibits, text and tabular information shall be provided in a pdf format. The site plans must meet the scale requirements in article VII of this chapter and all submittal requirements in article VII of this chapter.

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- (b) Submittal of proposed PD plan. An application shall be made to the village for review and recommendation by the village planning commission of the following:
- (1) A boundary survey of the exact acreage prepared by a registered land surveyor or civil engineer.
 - (2) A topographic map of the entire area at a contour interval of not more than two feet. This map shall show all major stands of trees, bodies of water, wetlands and unbuildable areas. Should the topography of the site have significant slope, the village planning commission may increase the contour interval to no more than five feet; however, the integrity and intent of the map may not be compromised due to this interval change.
 - (3) A proposed development plan showing the following:
 - a. Land use areas.
 - b. Vehicular circulation including major drives and location of vehicular access including cross sections of public streets or private places.
 - c. Transition treatment, including minimum building setbacks to land adjoining the PD and between different land use areas within the PD.
 - d. The general location of nonresidential buildings and parking areas, estimated floor areas, building coverage and number of stories or height.
 - e. The general location of residential unit types and densities and lot sizes by area.
 - f. Location of all wetlands, water and watercourses, proposed water detention areas and depth to groundwater.
 - g. The boundaries of open space areas that are to be preserved or reserved and an indication of the proposed ownership.
 - h. A schematic landscape treatment plan for open space areas, streets and border/transition areas to adjoining properties.
 - i. A preliminary grading plan, showing the extent of grading and delineating any areas which are not to be graded or disturbed.
 - j. A public or private water distribution, storm and sanitary sewer plan.
 - k. A written statement explaining in detail the full intent of the applicant, showing dwelling unit types or uses contemplated and resultant population, floor area, parking and supporting documentation, including the intended schedule of development.
 - l. Written documentation from the village fire department acknowledging their review of the plans and outlining any recommendations for modifications, if any.
 - (4) If requested by the village planning commission, the applicant shall submit the following:
 - a. *Market study.* Components of this study should include a definition of the market, analysis of data pertaining to the market problem, the type and amount of market supportable real estate, and absorption rate(s) needed to sell and/or occupy the property within the project.
 - b. *Traffic impact study.* Components of this study should include an assessment of existing traffic counts and movements, forecast of additional traffic based on ITE traffic/trip generation manual, and improvements necessary to accommodate and/or mitigate the increased traffic resulting from the proposed project.
 - c. *Environmental impact assessment.* Components of this study should include a statement of the purpose and need of the proposed project, description of the affected environment, range of

alternatives to the proposed action, analysis of environmental impacts such as threatened or endangered species, air and water quality impacts, impacts to historic and cultural sites, and social and economic impacts.

(5) A pattern book or design guidelines manual if requested by the village planning commission.

(Ord. No. 202, art. 9, § 6, 11-6-2017)

Sec. 42-211. Approval of planned development.

- (a) On receiving the report and recommendation of the village planning commission, and after a public hearing, the village planning commissions attorney will prepare a contract setting forth the conditions on which such approval is based. Once the contract is prepared it shall be signed by the village and the applicant.
- (b) The agreement shall become effective on execution after its approval. The agreement shall be recorded at the county register of deeds office.
- (c) Once an area has been included with a plan for PD and the village has approved such plan, no development may take place in such area nor may any use of it be made except under such plan or under an approved amendment, unless the plan is terminated.
- (d) An approved plan may be terminated by the applicant or the applicant's successors or assigns, before any development within the area involved, by filing with the village and recording in the county records an affidavit so stating. The approval of the plan shall terminate on such recording.
- (e) No approved plan shall be terminated after development begins except with the approval of the village planning commission and of all parties in interest in the land.
- (f) Within one year following approval of the PD contract by the village planning commission, final plats or site plans for an area embraced within the PD must be filed as provided. If such plats or plans have not been filed within the one-year period, the right to develop under the approved plan may be terminated by the village.
- (g) Approval of PD by the village planning commission shall also constitute an approved revision of the official zoning map, which shall delineate the boundaries of the approved PD and its date of approval.

(Ord. No. 202, art. 9, § 7, 11-6-2017)

Sec. 42-212. Submission of final plat, site plans.

Before any permits are issued for the PD, final plats or site plans and open space plans for a project area shall be submitted to the village for review and approval based on the requirements outlined in article VII of this chapter.

(Ord. No. 202, art. 9, § 8, 11-6-2017)

Sec. 42-213. Fees.

Fees for review of PD plans under this article shall be established by resolution of the village board.

(Ord. No. 202, art. 9, § 9, 11-6-2017)

Sec. 42-214. Interpretation of approval.

Approval of a PD under this article shall be considered an optional method of development and improvement of property subject to the mutual agreement of the village and the applicant.

(Ord. No. 202, art. 9, § 10, 11-6-2017)

Sec. 42-215. Amendments to PD plan.

Proposed amendments or changes to an approved PD plan shall be presented to the village planning commission. The commission shall decide whether the proposed modification is of such minor nature as not to violate the area and density requirements or to affect the overall character of the plan and, in such event, may approve or deny the proposed amendment. If the commission decides the proposed amendment is material in nature, the commission shall review the amendment under the provisions and procedures of this article as they relate to final approval of the planned development.

(Ord. No. 202, art. 9, § 11, 11-6-2017)

Sec. 42-216. Cluster housing.

The intent of this section is to permit development of single-family residential subdivisions allowing for a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and 50 percent of the resultant land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, or other legal means that runs with the land, as prescribed by the village.

(Ord. No. 202, art. 9, § 12, 11-6-2017)

Sec. 42-217. Conditions and qualifications.

- (a) The village may approve the clustering or attaching of buildings on parcels of land under single ownership and control, which have characteristics that would make sound physical development under the normal subdivision approach impracticable because of parcel size, shape or dimension or the site has natural characteristics that are worth preserving or that make platting difficult. In approving an area for cluster development, the subject property shall meet all of the following conditions:
- (1) A percentage of the land area specified in the zoning ordinance, but not less than 50 percent, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, or other legal means that runs with the land, as prescribed by this chapter.
 - (2) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.
 - (3) The parcel to be developed contains a minimum of two contiguous acres.
 - (4) Development of the parcel will not promote sprawl and is consistent with the intent of the village master plan and future land use map.
- (b) To qualify a parcel for development for cluster housing, the village shall determine that the parcel has met the "conditions" as stated above and the request shall be supported by written and graphic documentation, prepared by a landscape architect, engineer, professional community planner, or architect.

(Ord. No. 202, art. 9, § 13, 11-6-2017)

Sec. 42-218. Permitted densities.

- (a) The number of dwelling units within the cluster housing development shall not exceed the permitted number of dwelling units if developed as a conventional subdivision pursuant to applicable local, state and federal regulations.
- (b) Up to 50 percent of water bodies, if any, within the parcel may be included in the calculation of gross site acreage provided the land bordering to the water is substantially left as open space.
- (c) Parcels where 50 percent or more of the land will remain as active farmland or orchard, as defined by MCL 324.36201(h), would be entitled to a dwelling unit bonus of 20 percent.

(Ord. No. 202, art. 9, § 14, 11-6-2017)

Sec. 42-219. Siting criteria.

Diversity and originality in parcel layout shall be encouraged to achieve the best possible relationship between buildable and open space (defined as open space, active agricultural and/or orchard areas). The village planning commission shall evaluate proposals to determine whether the proposed site plan meets the following site design and layout objectives:

- (1) As practical, preserves and maintains existing fields, meadows, and creates sufficient buffer areas to minimize conflicts between residential and nonresidential land uses.
- (2) Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.

(Ord. No. 202, art. 9, § 15, 11-6-2017)

Sec. 42-220. Open space and transition.

- (a) The area in open space (including recreation areas and water as mentioned above) accomplished by using one-family cluster development shall represent at least 50 percent of the total parcel area.
- (b) Ownership of open space may remain with the owner of the parent parcel, a homeowners' association made up of parcel owners in the development, the village, or another entity selected by the property owner and approved by the village.
 - (1) A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140—324.2144, shall be granted to the village, with the approval of the board of trustees. The board may require that the conservation easement be enforceable by the village if the municipality is not the holder of the conservation easement. The conservation easement shall be recorded in the office of the register of deeds prior to or simultaneously with the recording of any plat or master deed in the office of the register of deeds.
 - (2) The conservation easement shall prohibit residential, industrial, or commercial use on the open space land (except in connection with agriculture, forestry, and recreation).

(Ord. No. 202, art. 9, § 16, 11-6-2017)

Sec. 42-221. Site plan.

After approval of a preliminary plan and cluster option, a final site plan shall be submitted conforming to the requirements of article VII of this chapter.

(Ord. No. 202, art. 9, § 17, 11-6-2017)

Secs. 42-222—42-250. Reserved.

ARTICLE VII. SITE PLAN AND PLOT PLANS

Sec. 42-251. Purpose.

It is the purpose of this article to specify standards, data requirements and the review process which shall be followed in the preparation of site plans, plot plans, and special land uses as required by this chapter. A site plan contains comprehensive and detailed information about improvements proposed on the site and is required for special land use permits. Plot plans are less detailed plans pertaining to improvements proposed on the site and are required for less complex developments such as single-family and two-family dwellings.

(Ord. No. 202, art. 10, § 1, 11-6-2017)

Sec. 42-252. Approval of site plan or plot plan required.

- (a) Site plan approval is required by the planning commission, prior to the issuance of a zoning permit, unless required otherwise by this chapter, for the following uses:
 - (1) All uses for which this chapter requires at least three or more off-street parking spaces.
 - (2) All special land uses.
- (b) Prior to the issuance of a zoning permit, plot plan approval is required by the zoning administrator for all other uses not listed above. The commission shall review such plans in accordance with the same procedures, requirements and standards used by the municipality as specified in this article.

(Ord. No. 202, art. 10, § 2, 11-6-2017)

Sec. 42-253. Site plans for administrative review.

Site plans for uses that are permitted by right in all zoning districts are processed by administrative review and shall follow the requirements, except if the proposed site plan generates 500 or more trips ends as determined by proposed land use activity based on the most recent edition of the trip generation manual published by the Institute of Transportation Engineers. Under this exception the site plan shall be reviewed under section 42-255.

- (1) The administrative review committee shall consist of three members: the zoning administrator, chairman of the planning commission or their designee, and a planning commissioner. The planning commission shall also select a member to be an alternate to the administrative review committee. The alternate shall attend if the chairman or planning commission member cannot attend the review meeting.

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- (2) The planning commission shall make these appointments to the administrative review committee at the same annual meeting where the planning commission elects its officers.

(Ord. No. 202, art. 10, § 3, 11-6-2017)

Sec. 42-254. Optional sketch plan review.

Prior to submitting an application or site plan for a land use permit, an applicant may choose to submit a sketch plan for review by the zoning administrator and/or the planning commission. The sketch plan may be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed structures, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting and type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the commission's agenda if the sketch plan is to be reviewed by the commission.

(Ord. No. 202, art. 10, § 4, 11-6-2017)

Sec. 42-255. Required data for plot plans.

The following data shall be submitted with applications for zoning and/or land use permits for uses requiring a plot plan: An accurate, readable, scale drawing showing the following shall be required except in the case of minor alterations, repair and demolitions as determined by the planning commission. The commission may establish and make available written guidelines as to the scale and level of detail needed for applications for various types of uses requiring a zoning permit or for information to be submitted to the board of zoning appeals in order to make a decision on an appeal or request for zoning ordinance interpretation or variance.

- (1) Name, address and telephone number of the applicants (and owners if different).
- (2) The location, shape, area and dimension of the lot.
- (3) The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot.
- (4) A description of proposed use of the buildings, land or structures.
- (5) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.
- (6) The yard, open space, parking lot and space dimensions and number of spaces.
- (7) A vicinity sketch showing the location of the site in relation to the surrounding street system and adjacent land uses within 500 feet in every direction, including on the opposite side of any public street.
- (8) Location of any septic system or drain field and well.
- (9) Configuration of the driveway and parking.
- (10) Drains and site drainage patterns, and on-site stormwater management.
- (11) Existing public rights-of-way or easements.
- (12) All public utilities.
- (13) Any other information deemed necessary by the planning commission to determine and provide for the enforcement of this chapter.

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(Ord. No. 202, art. 10, § 5, 11-6-2017)

Sec. 42-256. Site plan review.

Site plan review shall be undertaken by the planning commission in accordance with the following requirements and procedures.

(Ord. No. 202, art. 10, § 6, 11-6-2017)

Sec. 42-257. Data required for site plan.

Each site plan, as may be required by this chapter, shall be provided on a professional quality drawing of scale not less than one inch equals 50 feet. All information depicted shall be designed and sealed by an engineer, architect or landscape architect licensed in the state. In addition to the applicant's full name, address, phone number, cell phone number, and e-mail address, the following data shall be submitted with applications for zoning permits for uses requiring a site plan:

- (1) A survey showing property dimensions and legal description, including angles, lot area and dimensions and an arrow pointing north.
- (2) A project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, carports or garages, employees by shift, amount of recreational and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by this chapter.
- (3) A plan showing the location of all buildings and structures existing and proposed on the site including building elevation drawings and all of the following listed items:
 - a. All applicable general provisions referenced in article I of this chapter.
 - b. The natural features such as woodlands, streams, floodplains, drains, ponds, topography (at two foot intervals on-site and within 150 feet of the site) and manmade features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
 - c. The existing public rights-of-way, private easements, private places of record and deed restrictions.
 - d. The proposed streets and alleys, including cross sections, acceleration, deceleration or right-turn lanes, driveways, parking spaces and sidewalks with indication of the direction of travel and the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces, the dimensions of a typical individual parking space and associated aisles. Proposed traffic control measures including signs and proposed street or road names shall also be indicated.
 - e. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within 300 feet in every direction of the proposed use including land uses on the opposite side of any public street.
 - f. The location of utilities, water supply and the location and design of wastewater systems as well as any easements that exist or are proposed to be established for installation, repair and maintenance of utilities.
 - g. The proposed location of trash receptacles, accessory buildings and uses and signs.

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- h. A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing and lighting in compliance with the requirements of this chapter. Also, the plan must include the proposed locations of common open spaces, if applicable.
 - i. A storm drainage and stormwater management plan for all streets and impervious surfaces.
 - j. The location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.
 - k. The location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall also be specified on the site plan.
 - l. A statement from the applicant identifying all federal, state and local permits required, if any.
 - m. Such other information and/or assessments as is necessary to enable the municipality to determine whether the proposed site plan will conform to the provisions of this chapter.

(Ord. No. 202, art. 10, § 7, 11-6-2017)

Sec. 42-258. Submittal and distribution of site plans.

At least six copies of the application and site plan shall be submitted to the planning commission at least 20 days prior to the commission's regularly-scheduled meeting. Six copies shall be on 11-inch by 17-inch paper reduced from original drawing. In addition, all site plans and documents shall be submitted on a compact disk or memory stick in pdf format. The zoning administrator shall review the application and site plans for completeness and, if such application or plans are not complete, the plans shall be returned to the applicant with a written notice identifying the plans' inadequacies. Upon receipt of an adequately completed application and plans, the zoning administrator shall record the date of their receipt.

(Ord. No. 202, art. 10, § 8, 11-6-2017)

Sec. 42-259. Completeness of the site plan application.

The planning commission shall review the application and plans and determine their conformity with the applicable provisions of this chapter. The commission may, at its discretion, delay deliberating upon a site plan at its next regularly-scheduled or special meeting unless the site plan and all supporting documents, including a zoning permit application form and escrow payment, have been received by the village at least seven business days prior to such meeting.

(Ord. No. 202, art. 10, § 9, 11-6-2017)

Sec. 42-260. Planning commission review and action.

After conducting a review, the planning commission shall recommend to the board of trustees to reject, approve or conditionally approve the site plan as it pertains to requirements and standards contained in this chapter. Any conditions required by the commission for approval shall be stated in writing, together with the reasons, and delivered to the applicant. Decisions and recommendations by the commission shall be by the planning commission, unless an extension of time is necessary to adequately collect and review information pertinent to a decision or recommendation. A site plan shall be approved by the commission if it contains the

information required by and is in compliance with this chapter, the conditions imposed pursuant to this chapter, other planning documents, other applicable codes and county, state and federal laws and statutes.

(Ord. No. 202, art. 10, § 10, 11-6-2017)

Sec. 42-261. Approved site plans.

Three copies of the approved site plan, with any conditions contained required, shall be maintained as part of the planning commissions records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the chairman and secretary of the planning commission. If any variances from this chapter have been obtained from the board of zoning appeals, the minutes concerning the variances, duly signed, shall also be filed with the commission's records as a part of the site plan and delivered to the applicant for information and direction.

(Ord. No. 202, art. 10, § 11, 11-6-2017)

Sec. 42-262. Site plan approval criteria.

Each site plan shall conform to the applicable provisions of this chapter and the following criteria in addition to any conditions imposed by the planning commission:

- (1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.
- (2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material and soil removal and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts and allow for the appropriate blending of the site plan with the surrounding community and, in the case of parking lots, provide directional guidance to drivers. Landscaping, buffering and screening shall conform to the requirements of this chapter.
- (3) Special attention shall be given to proper site drainage so that removal of stormwaters will not increase off-site sedimentation or otherwise adversely affect neighboring properties, Lake of the Woods and Mud Lake.
- (4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Special attention shall be given to ensure the peaceful surroundings of any nearby dwellings or other types of communities so as to lend continuity and that adequate natural light that may be currently enjoyed and continued to be enjoyed by the surrounding structures. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- (5) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides. This review shall be conducted by the fire department fire marshal.
- (6) Every structure or dwelling unit shall have access to a public street, private easement, private place, walkway or other area dedicated to common use.
- (7) A pedestrian circulation system shall be provided which is insulated as completely as reasonably possible from the vehicular circulation system.

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- (8) Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties. Flashing, twinkling or intermittent lights shall not be permitted.
 - (9) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way according to the standards used by the village.
 - (10) All roads dedicated to public use shall be developed in accordance with village specifications.
 - (11) All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at ingress and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.
 - (12) Residential and nonresidential development shall not include unnecessary curb cuts and commercial service drives shall be used where the opportunity exists.
 - (13) The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.
 - (14) Site plans shall conform to all applicable requirements of state and federal statutes (i.e., soil and sedimentation control, wetlands, etc.) and approval may be conditioned on the applicant receiving necessary state and federal permits before the site plan approval is granted.
 - (15) The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:
 - a. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
 - b. State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 - (16) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, or wetlands.

(Ord. No. 202, art. 10, § 12, 11-6-2017)

Sec. 42-263. Conformity to approved site plans.

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received approval from the body which had approved the original site plan. If construction and development does not conform with such approved plans, the approval and associated permits shall be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

(Ord. No. 202, art. 10, § 13, 11-6-2017)

Sec. 42-264. Amendment to a site plan.

No changes shall be made to an approved site plan prior to or during construction except where the planning commission and applicant mutually agree according to the following procedures:

- (1) *Minor changes.* Minor changes to an approved site plan involving changes of less than five feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; adjustment of utilities; and similar minor changes as may be approved by the village.
- (2) *Major changes.* Major changes or amendments to an approved site plan involving changes in excess of five feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes, shall require the approval of the planning commission, or in the case of a planned unit development project, in the same manner as the original application was submitted, reviewed and approved and subject to the finding of all of the following:
 - a. Such changes will not adversely affect the initial basis for granting approval;
 - b. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this article; and
 - c. Such changes shall not result in the reduction of open space area as required herein.

(Ord. No. 202, art. 10, § 14, 11-6-2017)

Sec. 42-265. Amendments to a plot plan.

The zoning administrator shall review proposed changes to an approved plot plan in accordance with the same procedures, requirements and standards used by the planning commission. Changes to a plot plan which contain elements which require site plan approval shall require that the entire project be processed as a site plan according to the procedures of this article.

(Ord. No. 202, art. 10, § 15, 11-6-2017)

Sec. 42-266. Appeals.

With regards to the site plan and plot plan approval decisions, an appeal may be taken to the circuit court.

(Ord. No. 202, art. 10, § 16, 11-6-2017)

Sec. 42-267. Review fees.

If the planning commission or zoning board of appeals determines that the zoning fees will not cover the actual costs of the application review or appeal, or if the planning commission or zoning board of appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the village treasurer such additional zoning fees in an amount determined by the planning commission or zoning board of appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent of the initial escrow deposit or less than ten percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the planning commission or

zoning board of appeals may require the applicant to deposit additional fees into escrow in an amount determined by the planning commission or zoning board of appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this section shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

(Ord. No. 202, art. 10, § 17, 11-6-2017)

Sec. 42-268. Security requirement.

To ensure compliance with the site plan and this chapter and any conditions, limitations or requirements imposed, the zoning administrator or the planning commission shall require a performance guarantee pursuant to section 42-380.

(Ord. No. 202, art. 10, § 18, 11-6-2017)

Secs. 42-269—42-299. Reserved.

ARTICLE VIII. NONCONFORMING USES

Sec. 42-300. Purpose.

- (a) It is the intent of this chapter to permit legal nonconforming lots, structures, or uses to continue until they are removed consistent with the provisions in the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3208).
- (b) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures, and uses of land and structures which were lawful before the ordinance from which this chapter is derived was passed or amended which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (c) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance from which this chapter is derived by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.
- (d) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designed use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this chapter is derived, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(Ord. No. 202, art. 11, § 1, 11-6-2017)

Sec. 42-301. Nonconforming uses of land.

Where, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived;
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived;
- (3) If there is evidence that a nonconforming use of land has been abandoned, any subsequent use of such land must conform to the regulations specified by this chapter for the district in which such land is located.

(Ord. No. 202, art. 11, § 2, 11-6-2017)

Sec. 42-302. Nonconforming structures.

Where a lawful structure exists 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 restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity.
- (2) Should such structure be voluntarily destroyed by any means to an extent of more than 50 percent of its replacement cost, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this chapter.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

(Ord. No. 202, art. 11, § 3, 11-6-2017)

Sec. 42-303. Nonconforming uses of structures and land.

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived, the lawful use may be continued so 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.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance from which this chapter is derived, but no such use shall be extended to occupy any land outside such building.

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- (3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 - (4) If there is evidence that a nonconforming use of land and structure has been abandoned, any subsequent use of such land must conform to the regulations specified by this chapter for the district in which such land is located.
 - (5) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 202, art. 11, § 4, 11-6-2017)

Sec. 42-304. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of passage or amendment of the ordinance from which this chapter is derived, shall not be increased. 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 an official charged with protecting the public safety, upon order of such official.

(Ord. No. 202, art. 11, § 5, 11-6-2017)

Sec. 42-305. Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this chapter.

(Ord. No. 202, art. 11, § 6, 11-6-2017)

Secs. 42-306—42-328. Reserved.

ARTICLE IX. ZONING BOARD OF APPEALS

Sec. 42-329. Purpose and scope.

It is the purpose of this article to create a zoning board of appeals, to establish its responsibilities and to establish standards for its operation.

(Ord. No. 202, art. 12, § 1, 11-6-2017)

Sec. 42-330. Creation of zoning board of appeals.

- (a) *Establishment.* There is hereby established a zoning board of appeals in accordance with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended. The zoning board of appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

(b) *Membership, term of office of the zoning board of appeals.*

- (1) The zoning board of appeals shall consist of not less than three and not more than seven members who shall be appointed and shall serve in accordance with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended. The village council may serve as the zoning board of appeals.
- (2) The membership of the zoning board of appeals shall be as representative as possible. One member of the zoning board of appeals shall be a member of the village planning commission.

(c) *Powers.* The zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all the powers of the office or body from whom the appeal was taken, and may issue or direct the issuance of a permit. The zoning board of appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this chapter may be equitably achieved in order for there to be uniform interpretation and flexibility in the enforcement of this chapter or to fulfill any other responsibilities bestowed upon the zoning board of appeals by this chapter.

(Ord. No. 202, art. 12, § 2, 11-6-2017)

Sec. 42-331. Rules, limits on authority of the zoning board of appeals, and use variances.

- (a) The zoning board of appeals shall fix rules of procedure or bylaws to govern its procedures. The board shall choose its own chairman, and in his absence, an acting chairman, who may administer oaths and compel the attendance of witnesses.
- (b) The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation under this chapter.
- (c) 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 or intent of this chapter; these powers are reserved to the governing body.

(Ord. No. 202, art. 12, § 3, 11-6-2017)

Sec. 42-332. Zoning appeals.

The zoning board of appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or by any other official in administering or enforcing any provisions of this chapter. The procedure for appealing to the zoning board of appeals, or requesting a variance, ordinance interpretation or filing any other request is as follows:

- (1) The appeal shall be taken within such time as prescribed by the rules or bylaws of the zoning board of appeals.
- (2) A fee, prescribed by the village board, shall be submitted to the zoning administrator at the time of the filing of the application form.
- (3) The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by the village.
- (4) All persons shall file a written statement signed by the principal stating the agent's right to act upon their behalf.

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- (5) A completed application form shall be submitted to the zoning administrator. The application shall state the reasons for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal. Before the appeal is processed, the fees shall be collected. If the zoning administrator determines that the application does not fully comply with the submittal requirements, the application shall be returned to the applicant. If the application is approved, the zoning administrator shall forthwith transmit to the recording secretary for the zoning board of appeals the application and all papers constituting the record from which the appeal was taken.
 - (6) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the zoning board of appeals after the application of appeal shall have been filed, that by reason of facts stated in the appeal application, a stay would in his opinion cause imminent peril to life and property.
 - (7) When a properly executed application form has been filed, the recording secretary, upon consultation with the chairman for the zoning board of appeals, shall schedule the matter for a public hearing.
 - (8) Notice shall be provided per section 103 of Public Act No. 110 of 2006.
 - (9) Once all the necessary information has been received, the zoning board of appeals shall return a decision on a case in a timely manner, or if timeframes are included within its rules of procedure, then within the time specified in the rules of procedure.
 - (10) No zoning permit shall be issued by the zoning administrator based on a decision of the zoning board of appeals before eight days have expired.

(Ord. No. 202, art. 12, § 4, 11-6-2017)

Sec. 42-333. Variances.

The zoning board of appeals shall have the power to authorize, upon appeal, a dimensional non-use variance from requirements of this chapter, provided the applicant has proven a "practical difficulty," by demonstrating as follows:

- (1) That strict compliance with this chapter would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;
- (2) That the problem is due to a unique circumstance of the property;
- (3) That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to this chapter, instead of a variance;
- (4) That the property problem was not created by the action of the applicant;
- (5) That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;
- (6) That the requested variance will relate only to the property under the control of the applicant;
- (7) That the nonconforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance;
- (8) That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;
- (9) That the proposed use of the premises is in accord with this chapter;

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- (10) That the variance would do substantial justice to the applicant as well as to other property owners in the district;
 - (11) That the granting of the variance will ensure that the spirit of this chapter is observed, public safety secured and substantial justice applied;
 - (12) That the requested variance shall not amend the permitted uses of the zoning district in which it is located.

(Ord. No. 202, art. 12, § 5, 11-6-2017)

Sec. 42-334. Rules for granting variances.

The following rules shall be applied in the granting of a variance:

- (1) The zoning board of appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, secure the objectives and intent of this chapter, provided there is an applicable standard in this chapter to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted.
- (2) Each variance granted under the provisions of this chapter shall become null and void unless the construction authorized has been commenced within one year after the hearing date when the variance was granted.

(Ord. No. 202, art. 12, § 6, 11-6-2017)

Sec. 42-335. Interpretation and other powers.

The zoning board of appeals shall have the power to:

- (1) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter.
- (2) Determine the precise location of the boundary lines between zoning districts.
- (3) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.
- (4) Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this chapter, by applying the most comparable provisions for other similar uses.
- (5) When making an interpretation, the zoning board of appeals shall carefully consider the definitions in section 42-9, the meaning of all the relevant sections in this chapter, past decisions of the zoning board of appeals on similar matters, research and any conclusions by the zoning administrator, consultant or attorney paid by the village, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this chapter.

(Ord. No. 202, art. 12, § 7, 11-6-2017)

Sec. 42-336. Determination of a lot of record.

The zoning board of appeals shall have the power to make "lot of record" determinations in accordance with the following procedure:

- (1) Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the office of the register of deeds on the effective date of the ordinance from which this chapter is derived, the zoning board of appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as provided for in this chapter.
- (2) The board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of the ordinance from which this chapter is derived. In making its determination, the board is authorized to consider all matters it deems relevant, including, but not limited to, the tax roll of the village, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses.
- (3) Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this chapter.

(Ord. No. 202, art. 12, § 8, 11-6-2017)

Sec. 42-337. Nonconformity appeals.

Nonconforming buildings or structures may be structurally changed, altered, or enlarged upon appeal in cases of hardship or other extenuating circumstances, and when approval of said appeal will not have an adverse effect on surrounding property, and when consistent with the requirements of this chapter.

(Ord. No. 202, art. 12, § 9, 11-6-2017)

Sec. 42-338. Findings of fact.

- (a) The zoning board of appeals shall grant no variance or make any determination on an appeal, ordinance interpretation or other issue requested of it unless the board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this chapter have been met.
- (b) Said findings of fact shall include, but not be limited to, the following information:
 - (1) How the application of this chapter creates unnecessary hardship or practical difficulty in the use of the petitioner's property.
 - (2) Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
 - (3) Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this chapter.
 - (4) That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.

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- (5) Finding that the practical difficulty was not created by the appellant and is related only to property that is owned or occupied by the appellant.
 - (6) A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.
 - (7) The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a special use permit is necessary.
 - (8) Findings on whether the proposed development complies with the requirements, standards or procedures given in this chapter or an interpretation of the disputed chapter provisions, if applicable.
 - (9) Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.
 - (10) The possible precedents or affects which might result from the approval or denial or the appeal.
 - (11) Findings on the impact if the appeal is approved, on the ability of the village or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the appeal is approved.

(Ord. No. 202, art. 12, § 10, 11-6-2017)

Sec. 42-339. Burden of proof in appeals and variances.

When an appeal is taken to the zoning board of appeals, the applicant shall have the burden of presenting to the board sufficient evidence and argument to justify the requested order or decision.

(Ord. No. 202, art. 12, § 11, 11-6-2017)

Sec. 42-340. Reapplications and rehearings.

- (a) Any request for reapplication or rehearing may be submitted to the zoning board of appeals. If the zoning board of appeals votes to consider a reapplication or to grant a rehearing, the board shall then, at the same hearing, proceed with the appeal, variance or interpretation without charging the applicant a second fee.
- (b) A request for rehearing shall be made within eight days from the meeting at which the original decision was made.

(Ord. No. 202, art. 12, § 12, 11-6-2017)

Sec. 42-341. Bond authorized.

In authorizing any variance, the zoning board of appeals may require that a bond or other performance guarantee be furnished to ensure compliance with the requirements, specifications and conditions imposed with the granting of a variance.

(Ord. No. 202, art. 12, § 13, 11-6-2017)

Secs. 42-342—42-370. Reserved.

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

Sec. 42-371. Enforcement.

The provisions of this chapter shall be administered and enforced by the zoning administrator or by such deputies of this department as the zoning administrator may delegate to enforce the provisions of this chapter.

(Ord. No. 202, art. 13, § 1, 11-6-2017)

Sec. 42-372. Duties of zoning administrator.

- (a) The zoning administrator shall have the power to grant zoning compliance and occupancy permits, and to make inspections of buildings or premises necessary to carry out their duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter.
- (b) The zoning administrator shall record all nonconforming uses existing at the effective date of the ordinance from which this chapter is derived for the purpose of carrying out the provisions of article IX of this chapter.
- (c) The zoning administrator shall not refuse to issue a permit whenever all conditions and requirements imposed by this chapter are complied with.
- (d) The zoning administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

(Ord. No. 202, art. 13, § 2, 11-6-2017)

Sec. 42-373. Plot plan.

The zoning administrator shall require that all applications for land use permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- (1) The actual shape, location, and dimensions of the lot.
- (2) The shape, size, and location of all buildings, accessory buildings and structures, driveways and curb cuts, or other improvements to be erected, altered or moved, and of any building or other structures already on the lot.
- (3) The location and type of vegetation to be removed or planted.
- (4) Areas that will be graded or subject to the removal of soil noting the existing and proposed elevations.
- (5) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (6) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(Ord. No. 202, art. 13, § 3, 11-6-2017)

Sec. 42-374. Permits.

The following shall apply in the issuance of any permit:

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- (1) *Permits not to be issued.* No land use permit shall be issued for the erection, alteration, or use of any building or structure, or part thereof, or for the use of any land which is not in accordance with all provisions of this chapter.
 - (2) *Permits for new use or alterations of land.* No land heretofore vacant or undisturbed shall hereafter be used, or an existing use of land be hereafter changed to a use of a different class or type, or physically altered, unless a land use permit is first obtained.
 - (3) *Permits for new use of buildings.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a land use permit is first obtained for the new or different use.
 - (4) *Permits required for the erection, alteration or repair of buildings.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a land use permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the state construction building code, Housing Law, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.
 - (5) *Permits for wrecking buildings.* Before a building or structure can be wrecked, the owner, wrecking company, or person who secures the permit shall notify all utilities having service connections within the building, such as water, electric, gas, sewer, and other connections. A permit to wreck a building shall not be issued unless a release is obtained from the utilities stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed and/or sealed and plugged in a safe manner; nor shall a wrecking permit be issued until a report has been received from the public utility companies concerned, that said wrecking operations may be accomplished in such a manner as not to create a hazardous condition as a result of the proximity of such public utility installations.
 - a. Before a permit is issued for the wrecking of any building, such application for permit shall be referred to the zoning administrator for examination of the premises to determine whether or not rodent and/or insect extermination procedures are necessary.
 - b. The wrecking company, or person who secures the permit for the razing of the structure, will be held responsible for the compliance with these regulations and other laws and ordinances covering this subject. He will also be held responsible and liable for the acts of subcontractors or other persons who do any work of removal or destruction in the wrecking of the building. The methods to be used in wrecking shall not involve undue hazards to the public or unnecessary danger to the workmen and shall be in accordance with good practice. Crane, back hoe, bulldozer, high loader, ball, clam-bucket, chain, cable, and other similar mechanical devices shall not be used to wreck buildings or structures except in individual cases wherein detailed plans and proposed procedures are submitted with the application for wrecking permit and are approved by the building official. Suitable provision shall be made for the disposal of materials which are accumulated during the wrecking operations. No part of the structure shall be overloaded by excessive storage of materials or debris. Chutes, scaffolds, derricks, and hoists shall be strong and substantial, and safe for the purpose for which they are intended. Materials which, in their removal, would cause an excessive amount of dust, shall be well wet down to prevent the creation of a nuisance. No open fires or other sources of flame except necessary cutting torches will be permitted on the inside of the building which is being wrecked, not in close proximity to flammable materials outside of the building, and every precaution shall be taken to prevent the possibility of fire.

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- c. Blasting and use of explosives shall be done only by a person licensed by the state and approved by the fire marshal and zoning administrator to perform such work and notification shall be given to the village and surrounding property owners within 300 feet of the site and within five calendar days of the work.
 - d. The requirements of this section are designated as the minimum necessary for average conditions and, in the case of unusual or dangerous situations, adequate provision shall be made and every precaution taken to protect the safety of the public and workmen. All abandoned basements or cellars and holes shall be filled to grade, and all excess materials, rubbish, and debris shall not be permitted to remain on the premises above grade. The fire department shall be notified before removing standpipes, sprinklers, or fire protection water supplies.
- (6) *Expiration of land use permit.* If the work described in any land use permit has not begun within 12 months from the date of issuance thereof, said permit shall expire; it shall be canceled by the zoning administrator, and written notice thereof shall be given to the persons affected. If the work described in any land use permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the zoning administrator, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless, and until, a new land use permit has been obtained.
- (7) *Timing of permits.*
- a. The zoning administrator or appropriate governing body has the power to require a permit to be obtained on a promptly basis.
 - b. The zoning administrator or appropriate governing body may require construction to commence within a specified date from the date of issuance of the permit, that the construction be pursued in a diligent manner, and that the construction be completed by a specified date.
 - c. Any time periods specified in this chapter for the start and completion of a project may be modified by the applicable body as a condition of project approval.

(Ord. No. 202, art. 13, § 4, 11-6-2017)

Sec. 42-375. Certificates.

- (a) No land, building, or part thereof, shall be occupied by, or for any use, unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:
 - (1) *Certificates not to be issued.* No certificate of land use compliance shall be issued for any building, structure or part thereof, or for the use of any land which is not in accordance with all the provisions of this chapter or for which a variance has been granted.
 - (2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of land use compliance shall have been issued for such building or structure.
 - (3) *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the zoning administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
 - (4) *Application for certificates.* Application for certificate of land use permit compliance shall be made, in writing, to the zoning administrator on forms furnished by that department, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is

refused for cause, the applicant therefor shall be notified of such refusal and cause thereof, within the aforesaid five-day period.

- (b) A certificate of land use permit compliance for any improvement will not be issued nor shall the property be used or occupied in any way until the required physical site improvements are fulfilled. In instances where all improvements as required by this chapter are not completed and a temporary certificate of occupancy is requested, the cost of such remaining improvements shall be estimated by the zoning administrator, taking into account the criteria listed above. The zoning administrator may grant temporary occupancy if use of the premises does not constitute a hazard or nuisance. Temporary occupancy will not be granted until satisfactory cash bond or irrevocable letter of credit in the amount of the estimated cost of completion is filed with the village planning commission. If the work is not completed by the date specified on the temporary occupancy permit, the commission may use the cash, surety bond or irrevocable letter of credit to complete the improvements.

(Ord. No. 202, art. 13, § 5, 11-6-2017)

Sec. 42-376. Fees.

Fees for inspection and the issuance of permits or certificates of copies thereof, required or issued under the provisions of this chapter, may be collected by the zoning administrator in advance of issuance. The amount of such fees shall be established by resolution of the village board and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. No. 202, art. 13, § 6, 11-6-2017)

Sec. 42-377. Requests for information and complaints.

Any request for information and/or complaint regarding an interpretation of a zoning provision, administrative or enforcement of any provisions shall be submitted to the village in writing for review and action. Only written communication will be considered.

(Ord. No. 202, art. 13, § 7, 11-6-2017)

Sec. 42-378. Violations and penalties.

- (a) *Nuisance per se.* Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this chapter or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this chapter are hereby declared to be a nuisance per se.
- (b) *Inspection.* The zoning administrator shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.
- (c) *Penalties.*
- (1) Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with this chapter or any permit issued pursuant to this chapter shall be responsible for a municipal civil infraction as defined in Public Act No. 12 of 1994, amending Public Act No. 236 of 1961, being MCL 600.101—600.9939, and shall be subject to a fine of not more than \$500.00. Every day that such violation continues shall constitute a separate

and distinct offense under the provisions of this chapter. Nothing in this section shall exempt the offender from compliance with provisions of this chapter.

- (2) The village zoning administrator is hereby designated as the authorized village official to issue municipal civil infraction citations directing alleged violators of this chapter to appear in court.
- (3) In addition to enforcing this chapter, as a municipal civil infraction, the village may initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this chapter.

(Ord. No. 202, art. 13, § 8, 11-6-2017)

Sec. 42-379. Rights and remedies are cumulative.

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

(Ord. No. 202, art. 13, § 9, 11-6-2017)

Sec. 42-380. Performance guarantee.

- (a) Where in this chapter there is delegated to the zoning board of appeals and the planning commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, site plan approval, special approval or variance, the zoning board of appeals or planning commission shall, to ensure strict compliance with any regulation contained herein or required as a condition of the issuance of a permit, require a cash, performance or surety bond executed by a reputable surety company authorized to do business in the state, or irrevocable letter of credit, in an amount determined by the zoning board of appeals or the planning commission to be reasonably necessary to ensure compliance hereunder; provided, however, that in fixing the amount of such cash, performance, surety bond or irrevocable letter of credit, consideration shall be given to the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- (b) The performance guarantee shall be deposited with the planning commission at the time of the issuance of the permit authorizing the activity or project.
- (c) The planning commission shall establish procedures whereby a rebate of cash deposits, in reasonable proportion to the ratio of work completed on the required improvements, will be made as work progresses.
- (d) As used in this section, the term "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting approval to protect natural resources or the health, safety and welfare of the residents of the village and future users or inhabitants of the proposed project or project area, including, but not limited to, roadways, paving, walls, curbing, striping, lighting utilities, sidewalks, screening landscaping and drainage.
- (e) Objection to a performance guarantee requirement must be in writing and filed with the planning commission within 30 days of notice of the requirement. The determination of the commission shall be final.

(Ord. No. 202, art. 13, § 10, 11-6-2017)

Secs. 42-381—42-403. Reserved.

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ARTICLE XI. CHANGES AND AMENDMENTS

Sec. 42-404. Purpose.

The village may, from time to time, on recommendation from the planning commission, its own initiative or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Public Act No. 110 of 2006, as amended.

(Ord. No. 202, art. 14, § 1, 11-6-2017)

Sec. 42-405. Petition for amendments.

- (a) An amendment to this chapter is subject to a protest petition. If a protest petition is filed, approval of the amendment to this chapter shall require a two-thirds vote of the planning commission, unless a larger vote, but not to exceed three-quarters vote, is required by ordinance or Charter. The protest petition shall be presented to the planning commission before final legislative action on the amendment, and shall be signed by one or more of the following:
- (1) The owners of at least 20 percent of the area of land included in the proposed change.
 - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (b) For the purposes of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

(Ord. No. 202, art. 14, § 2, 11-6-2017)

Sec. 42-406. Conditional rezoning.

It is recognized that there are certain instances where it would be in the best interests of the municipality, 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 rezoning. It is the intent of this section to follow the provisions of section 405, Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3405) 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.

(Ord. No. 202, art. 14, § 3, 11-6-2017)

Secs. 42-407—42-425. Reserved.

ARTICLE XII. PUBLIC HEARINGS AND NOTIFICATION PROCEDURES

Sec. 42-426. Public notice.

All applicants for development approval requiring a public hearing, regardless of whether or not action to be taken is by the planning commission or zoning board of appeals, shall comply with the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, section 103, MCL 125.3103, with regard to public notification.

(Ord. No. 202, art. 15, § 1, 11-6-2017)

Secs. 42-427—42-450. Reserved.

ARTICLE XIII. INTERPRETATION AND CONFLICT

Sec. 42-451. Interpretation.

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or ordinance other than the above-described zoning ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(Ord. No. 202, art. 16, § 1, 11-6-2017)

Sec. 42-452. Vested right.

Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

(Ord. No. 202, art. 16, § 2, 11-6-2017)