

Chapter 42 - ZONING⁽¹⁾

Footnotes:

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Cross reference— Any ordinance pertaining to rezoning saved from repeal, § 1-13(14); buildings and building regulations, ch. 8; community development, ch. 10; environment, ch. 12; land divisions, subdivisions and development, ch. 16; streets, sidewalks and other public places, ch. 32; telecommunications, ch. 34; franchises, app. A.

State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; municipal planning, MCL 125.31 et seq.

ARTICLE I. - IN GENERAL

Sec. 42-1. - Enactments and authority.

The village council of the Village of Paw Paw in the County of Van Buren under the authority of the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), hereby ordains, enacts and publishes this chapter.

(Ord. No. 394, § 1.1, 7-14-2003)

Sec. 42-2. - Short title and purpose.

- (a) This chapter shall be commonly known as the "Village of Paw Paw Zoning Ordinance."
- (b) The village zoning ordinance is hereby established in accordance with the needs of the village. The text, map and schedules contained herein shall constitute this chapter. This chapter is expressly adopted for the following purposes:
 - (1) To protect and promote the public health, safety, and general welfare of the village.
 - (2) To control and guide the orderly growth and development of the village in accordance with its comprehensive planning program, and to implement the growth and development goals and policies contained therein, some of which are enumerated as follows:
 - a. To encourage a wide range of housing opportunities in an orderly manner in the village from single-family to multiple-family and congregate housing for the elderly;
 - b. To ensure that the residential housing environment of the village is safe, healthful and free of visual blight;
 - c. To preserve the character and value of certain historic areas and structures;
 - d. To preserve and enhance the appearance and viability of the central business district;
 - e. To ensure the orderly development and operation of industrial uses;
 - f. To guard against community impacts which can adversely affect those positive qualities that make up the distinctive character of the village, and which can adversely affect its social and economic climate;
 - g. To promote and protect the value of land and buildings which are appropriate to the various districts established by this chapter; and
 - h. To prevent conflicts between the use of land and buildings.

(Ord. No. 394, § 1.2, 7-14-2003)

Sec. 42-3. - Definitions.

- (a) For the purpose of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.
- (b) Unless the context clearly indicates the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word "herein" means this chapter; the word "regulation" means the regulations of this chapter; and the words "this chapter" shall mean "the chapter text, tables and maps included herein, as enacted or subsequently amended."
- (c) A "person" includes a corporation, a partnership, a limited liability corporation, and an unincorporated association of persons such as a club; "shall" is always mandatory; a "lot" includes a plot or parcel; a "building" includes a structure; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (d) The "village" is the Village of Paw Paw in the County of Van Buren, State of Michigan; and "village council", "board of appeals", and "planning commission" are respectively the village council, board of appeals, and planning commission of the village.
- (e) Any words not defined in this chapter shall be construed as defined in the Housing Law of Michigan, Public Act No. 167 of 1917 (MCL 125.401 et seq.).
- (f) Terms and words in this chapter shall be defined as follows:

Accessory building means an accessory building is a detached subordinate building or structure on the same premises with a main building, occupied or devoted to an accessory use which is appropriate, supplemental and customarily related to the use of the main building or premises. Where an accessory building is attached to a main building in a substantial manner by a wall or roof, such accessory building shall be considered part of the main building, including a carport, covered porch or other roofed structure.

Accessory use means a use subordinate and customarily incidental to the main use of a lot.

Adult businesses. The following definitions shall apply to adult businesses as permitted in the B-1 zoning district:

- (1) *Adult bookstore* means an establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereinafter defined or an establishment with a segment or section devoted to the sale or display of such material.
- (2) *Adult mini motion picture theater* means an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereinafter defined for observation by patrons therein.
- (3) *Adult motion picture theater* means an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, relating to specified sexual activities or specified anatomical areas as hereinafter defined for observation by patrons therein.
- (4) *Adult smoking or sexual paraphernalia store* means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.
- (5) *Massage parlor* means an establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with

hands, or other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient.

- (6) *Host or hostess establishment* means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.
- (7) *Open dance hall* means an establishment where open public dancing by patrons is available during at least four days per week with or without partners furnished by the establishment.
- (8) *Pawnshop* means an establishment where merchandise is left as security for a loan of money and abandoned if repayment of the loan has not been made within a specified period.
- (9) *Specified sexual activities* means:
 - a. Acts of human masturbation, sexual intercourse or sodomy;
 - b. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
 - c. Human genitals in a state of sexual stimulation or arousal.
- (10) *Specified anatomical areas* means:
 - a. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Adult day care service means daytime care of any part of a day but less than 24-hour care for adults.

Adult foster care means a governmental or private facility for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped and who require supervision but not continuous nursing care.

Alley means a strip of land over which there is a right-of-way, public or private, on which generally no dwelling or land uses front, serving as a rear entrance to one or more properties.

Alteration means any change, addition, or modification in construction or type of occupancy; and any change in the roof or supporting members of the building structure, such as bearing walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

Animal means any dog, cat, bird, reptile, mammal, fish or any other dumb creature.

Automobile or trailer sales area means an area used for the display, sale or rental of new and/or used motor vehicles, snowmobiles, motorcycles, recreational vehicles, boats or trailers in operable condition and where no repair work is done.

Automobile repair, major, means any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair, overall painting and vehicle rust proofing.

Automobile repair, minor, means any activity involving minor repairs to motor vehicles and the incidental replacement of parts of such vehicles. A place where either gasoline or any other fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and applied directly into motor vehicles, including the sale of accessories, greasing, oiling and minor automotive repair on the premises.

Automobile wash establishment means a building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

Basement or cellar means a portion of a building having more than one-half of its height below grade.

Bed and breakfast facility means a building, other than a hotel, where lodgings and light breakfasts for persons, other than the family, are regularly provided for compensation.

Board of zoning appeals means the village board of zoning appeals, the members of which have been duly appointed by the village council and is authorized as a body to interpret, hear appeals, and grant variances only in accordance with the provisions of this chapter.

Boardinghouse means a building or part thereof, other than a hotel or motel, where lodgings are provided for remuneration, more or less transiently, and with or without provision for meals.

Building means an edifice, framed or constructed and designed to stand more or less permanently covering an area of land, for use as a dwelling, store, storehouse, factory, sign, shelter or for some other useful purpose. Building in this sense includes a wall, fence, monument, board fence or similar structure, trailer, tent, or vehicle used as a dwelling.

Building, existing, means any building actually constructed or the construction of which was started previous to the effective date of the ordinance from which this chapter is derived provided that the construction of any such building continues uninterruptedly and is completed within six months from such date. Any building damaged by fire, collapse, or decay to the extent of its full assessed value of record at the time of damage shall not be considered an existing building.

Building, height, means the vertical distance from the average elevation of the established finished grade of a lot to the highest point of the roof surface if the roof is flat; to the deck line, if the roof is of the mansard type; or to the average height between the eaves and the ridge if the roof is gable, hip or gambrel type. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Building inspector means the officer charged with the administration and enforcement of the single state construction code, or his duly authorized representative.

Building line means a line parallel to the front lot line, which marks the location of the building.

Building permit means a permit signifying compliance with the provisions of this chapter as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the village.

Building site means a lot, or a two dimensional condominium unit of land (i.e., envelope, footprint) with or without limited common elements, designed for construction of a principal structure or a series of principal structures plus accessory buildings. All building sites shall have access to a public or private road.

Church means a building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel or funeral building.

Clinic means a building or group of buildings where human patients are treated, but not lodged overnight for examination and treatment by more than one professional, such as a physician or dentist.

Commercial vehicle means any motor vehicle other than a motorcycle or private passenger automobile designed or used primarily for the transportation of persons or property.

Common elements means portions of the condominium project other than the condominium sites.

Condominium unit means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use approved by the state.

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

Convalescent or nursing home means a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders wherein seven or more persons are cared for. This home shall conform and qualify for license as required by the state.

Convenience store means a commercial establishment which sells miscellaneous food and nonfood items, and may be constructed in conjunction with another principal use, such as a gasoline station.

Curb level or grade means the mean level of the established curb in front of the building. Where no curb has been established the village engineer shall establish such curb level for the purpose of these regulations.

Day care facilities means as follows:

- (1) *Commercial child care center* means a facility, other than a private residence, receiving one or more preschool or school-aged children for care for periods of less than 24 hours a day. A commercial child care center includes a facility that provides care for not less than two consecutive weeks regardless of the number of hours of care per day. The facility includes commercial child care centers, nursery schools, preschools, cooperative nurseries or preschool and drop in centers.
- (2) *Family day care home* means family day care homes that are licensed by the state and permitted in all residential districts.
- (3) *Group day care home* means group day care homes that are licensed by the state are permitted in all single-family residential districts subject to the requirements of section 42-367.

Domestic pet means any animal commonly kept as a household pet including but not limited to dogs, cats, small animals and birds. Domestic pet shall not include any farm animals, or animals which present a hazard to others.

Dwelling means a house or building, or portion thereof, which is occupied wholly as the home, residence, or sleeping place by one or more human beings, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile/vehicle, tent, or portable building be considered as a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed as part of a dwelling for area requirements.

- (1) *Dwelling, multiple*, means a building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including homes.
- (2) *Dwelling, one-family*, means a building occupied by one family and so designed and arranged as to provide living, cooking, and kitchen accommodations for one family only. Every one-family dwelling shall have a minimum width throughout the entire length of the dwelling of 24 feet measured between the exterior part of the walls having the greatest length.
- (3) *Dwelling, two-family*, (also known as a duplex) means a dwelling occupied by two families, each provided with separate facilities for each family for living accommodations. Every two-family dwelling shall have a minimum width throughout the entire length of the dwelling of 24 feet measured between the exterior part of the walls having the greatest length.
- (4) *Dwelling unit* means any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile/vehicle, tent, or other portable building be considered a dwelling. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions of this chapter relative to dwellings.

Emergency/transitional residences means a facility operated by a government agency or private nonprofit organization which provides temporary accommodations and on-site management for homeless persons or families, or other individuals or families in similar or related circumstances.

Erected means built, constructed, reconstructed, moved upon.

Erecting means and includes any physical operations required for the building on the premises where the building is being constructed, reconstructed, or moved. Excavating, filling, draining, and the like, shall be considered part of erecting.

Essential services means all publicly or privately owned utilities, such as, electrical, gas, water, sewer and communication generation, storage, distribution, collection, supply, and disposal systems; municipal police and fire; the erection, maintenance, alteration and removal of the foregoing; and all personal property and fixtures including poles, wires, pipes and other accessories reasonably necessary for the furnishing of adequate service by such utility or municipal department shall be allowed in all zoning districts.

Family means as follows:

- (1) *Domestic family* means one or more persons living together and related by the bonds of consanguinity, marriage, or adoption together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic housekeeping unit in the dwelling.
- (2) *Functional family* means persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond that constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons in the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforced by the building inspector in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six.

Farmers' Market means a marketing facility at which multiple local farmers sell fruit and vegetables and often meat, cheese, bakery, and homemade products directly to consumers.

First story means the lowest story of a building, the ceiling of which is more than seven feet above the average surface elevation of the ground, or sidewalk adjacent to its exterior walls.

Frontage means the total length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.

Garage, automotive commercial, means any premises available to the public and used solely for the storage of automobile or motor-driven vehicles, for remuneration, hire, or sale, where any such vehicles or engines may also be serviced for operation, or repaired, rebuilt or reconstructed.

Garage, private, means a building or other structure designed for the housing of automobiles.

Garage, public, means any building or premises, other than a gasoline filling station, used for the housing or care of more than three automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire, or sale.

Gasoline station means a space, structure, building or part of a building, used for the retail sale, service or supply of motor vehicle fuels, lubricants, air, water, batteries, tires, other accessories, motor vehicle washing or lubricating; or customary facilities for the installation of such commodities in or on such motor vehicles, including special facilities for the painting, repair or similar servicing thereof.

Greenbelt means a planting strip or buffer strip, at least ten feet in width, which shall consist of deciduous and/or evergreen trees spaced not more than 30 feet apart and at least one row of dense shrubs spaced not more than five feet apart and which are five feet or more in height after one full growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.

Gross site area means the total area within and conforming to the legal description of the site.

Hazardous materials means any materials that have been declared to be hazardous to any agency of the state or of the United States, including but not limited to toxic materials and metal hydroxides.

Home occupation means any occupation or profession carried on by one or more members of a family residing on the premises. No commodity other than those customarily associated with the business

is sold upon the premises. No more than one person is employed, contracted or subcontracted, other than a member of the immediate family residing on the premises. No mechanical equipment may be installed except such as is normally used for purely domestic or household purposes. No more than 25 percent of the total actual floor area of any story is used for home occupation or professional purposes. Home occupation does not include a family or group day care home licensed by the state.

Honeybees are a domesticated European subspecies of *Apis mellifera* honeybee with a cooperative temperament historically managed and kept by beekeepers for agricultural purposes.

Household pets means domestic dogs, domestic cats, or other animals commonly classified as pets, which are customarily kept or housed inside dwellings.

Housing for the elderly means a multiple-family development having the following tenant eligibility requirements. At the time of rental application, tenants must be:

- (1) Families or two or more persons, the head of which (or the spouse of which) is 62 years of age or older, or is handicapped; or
- (2) Single persons who are 62 years of age or older or who are handicapped. A handicapped person is one whose impairment:
 - a. Is expected to be continued and of indefinite duration;
 - b. Substantially impedes his ability to live independently; or
 - c. Is such that his ability to live independently could be improved by more suitable housing.

Institutional uses means churches, schools, hospitals, and other similar public or semipublic uses. This excludes nursing homes, convalescent homes, and adult foster care facilities.

Junk or salvage yard means any land area, including buildings thereon, used for the collection, storage, dismantling, disassembly, dumping, display, resale, exchange, baling, cleaning or handling of secondhand, salvaged, recycled or used waste, materials, machinery, vehicles, trailers, equipment, furnishing or parts thereof, or similar items.

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

Kennel means any lot or premises on which not more than five domestic pets including more than three dogs or four cats are kept permanently or temporarily boarded.

Laboratory means any place devoted to experimental, routine study or basic study such as testing and analytical operations in which the manufacturing of products, except prototypes for test marketing is not performed.

Land use plan, official, means the official land use plan so designated by the planning commission and incorporated into and made a part of this chapter.

Landscaped area means a portion of land area which has been changed, rearranged, or to which plant materials or scenery have been added to produce an aesthetic effect appropriate for a residential area.

Limited common elements means the portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

Livestock means an animal raised for slaughter or kept for the purposes of contributing to an agricultural use through labor or the production of milk, eggs, manure, wool, or other animal-based products, for which the proceeds of the animal are used primarily for the use of the owner of the animal and not for commercial farming purposes under generally accepted agricultural management practices issued by the Michigan Department of Agriculture.

Loading berth means an off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in the computation of required off-street parking. A loading space is 528 square feet in area.

Lot means a parcel of land having fixed boundaries, of sufficient size and configuration to meet the requirements of this chapter and having frontage on a public street, or on an approved private street, and separated from other land by legal description, deed, or subdivision plot. The term 'lot' shall include condominium unit (as defined herein), plot, or parcel.

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

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

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

Lot line means the boundary line of a lot.

Lot line, front, means the line which is parallel or nearly parallel to the rear lot line.

Lot line, rear, means the lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

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

Lot of record means a lot which actually exists in a subdivision or plat as shown on the records of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded.

Lot width means the average distance between side lot lines measured at the building line, on a line parallel to the street, and measured at right angles to the side lot lines.

Master deed means the condominium document recording the condominium project as approved by the village council to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Mobile home/manufactured home means a structure transportable in one or more sections which is built on a chassis and designed to be used with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home/manufactured home does not include a recreational vehicle (Public Act No. 96 of 1987 (MCL 125.2301 et seq.)). All mobile homes/manufactured homes must conform to the U.S. Department of Housing and Urban Development's code for mobile homes/manufactured homes. Mobile home/manufactured home includes a double-wide unit.

Mobile home/manufactured home park means a parcel or tract of land, upon which three or more mobile homes/manufactured homes are located on a continual nonrecreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended or used incidental to the occupancy of a mobile home, and which is not intended for use as a recreational vehicle trailer park (Public Act No. 96 of 1987 (MCL 125.2301 et seq.)).

Modular dwelling means a structure which meets the requirements of the single state construction code, and which is transported in one or more sections on a removable chassis, and is designed to be used on a permanent foundation, when connected to the required utilities, such as plumbing, heating, and electrical systems.

Motel or motor hotel means a series of attached, semi-detached, or detached rental units providing long-term or transient lodging with motor vehicle parking in an area contiguous to the building.

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

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

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

Nuisance shall be held to embrace public nuisance as known at common law or in equity jurisprudence; whatever is dangerous to human life or detrimental to health; any dwelling or building which is overcrowded or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerage, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this chapter, nuisances and all such nuisances are hereby declared illegal.

Open-air business means a business, a substantial part of which involves activities or the display, sale, and/or rental of goods outside of a building.

Paved road or street, private, means a right-of-way reserved for the use of the occupants of the abutting structures. Said private street shall not be accepted by the village for maintenance in any form and shall have a minimum 30-foot paved width.

Personal service establishment means a business providing a service to customers including but not limited to hair salon, health spa, and similar businesses but in no case adult businesses as defined in this chapter.

Planning commission means the village planning commission and shall have all powers granted under authority of Public Act No. 285 of 1931 (MCL 125.31 et seq.), and as provided in this chapter.

Public utility means any person, firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation, to the public, electricity, gas, steam, communication, transportation, drainage or water.

Recreational vehicle means any self-propelled vehicle or towed vehicle intended primarily for recreational purposes and shall be deemed to include, but not be limited to, motor homes, travel trailers, tent trailers, collapsible trailers, expandable trailers, pick-up coach campers, unattached pick-up covers, motorcycle trailers, snowmobile trailers, utility trailers, vehicle transporting trailers, stock car trailers, camping trailers, boat trailers, snowmobiles, trail bikes or cycles, unlicensed motorcycles or motor driven cycles, pontoon boats, rafts, and boats.

Repairs means the rebuilding or renewal of a part of an existing building for the purpose of maintaining its original type and classification.

Research and development facility means any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories or laws and the development thereof. Development may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test-marketed which is the interim step between full research and development and ultimate full scale production.

Restaurant means any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge/tavern, or combination thereof, as defined below:

- (1) *Carry-out restaurant* means a restaurant whose method of operation involves the sale of foods and/or beverages to the customer in a ready-to-consume state for consumption primarily off the premises. Carry-out restaurants include, by way of example, cafes and delis.
- (2) *Drive-in restaurant* means a restaurant whose method of operation involves the delivery of foods and/or beverages to the customer in a ready-to-consume state for consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- (3) *Drive-through restaurant* means a restaurant whose method of operation involves the delivery of foods and/or beverages to the customer in a ready-to-consume state in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- (4) *Fast-food restaurant* means a restaurant whose method of operation involves minimum waiting for delivery of food and/or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for consumption off the premises, but not in a motor vehicle at the site.
- (5) *Standard restaurant* means a restaurant whose method of operation involves either:
 - a. The delivery of foods to and/or beverages to the customer by a restaurant employee at the same table or counter at which said items are consumed within the restaurant.
 - b. A cafeteria-type operation where foods and/or beverages generally are consumed within the restaurant.
 - c. *Bar/lounge/tavern* means a restaurant operated primarily for the dispensing of alcoholic beverages. The selling of food and snacks may also be permitted as an accessory use to the bar/lounge/tavern. If the bar/lounge/tavern is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

Road or street, public, means a public right-of-way of 66 feet or more in width which has been dedicated for the purposes of providing access to abutting private lots of land including the space for pavement and sidewalks.

Setback means the minimum horizontal distance a building or structure or any portion thereof is required to be located from the boundaries of a lot or parcel.

Shopping center means a retail commercial establishment or a group of retail establishments which is planned, developed, owned and managed as a unit, with off-street parking provided on the property.

Sign shall mean and include every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person. This definition shall include billboards and signs painted directly on walls or structures.

- (1) *Abandoned sign* shall mean a sign serving a premises vacant or unoccupied for more than 180 consecutive days.
- (2) *Animated sign* shall mean a sign which uses moving parts or change of lighting to depict action or create a special effect or scene. This definition includes rotating signs.
- (3) *Awning/canopy sign* shall mean a sign which is part of or located on a canopy or awning which is attached to and projects from a building wall.
- (4) *Balloon sign* shall mean a temporary sign consisting of an envelope inflated with pressurized or heated air, or a lighter-than-air gas, and displayed for the purpose of advertising or attracting attention. Unlike inflatables, balloon signs can be suspended in midair, independent of any structure other than that which keeps the device from floating away.



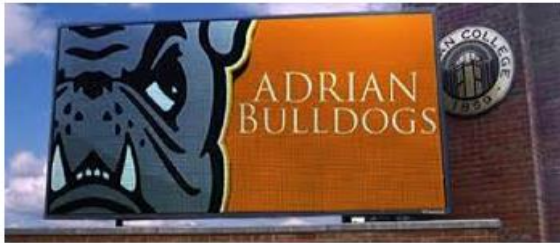
- (5) *Banner sign* shall mean a temporary sign intended to be hung with or without a frame, possessing character, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. A feather banner is a type of banner sign (see illustration). National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for purposes of this article.
- (6) *Billboard* shall mean a sign which advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufacture, or furnished upon the site on which the sign is located. It shall also include those signs as regulated by the state pursuant to Public Act 106 of 1972, as amended.



- (7) *Changeable copy sign* shall mean a sign on which the message is changed manually.
- (8) *Directional sign* shall mean a sign which is located and sized in a manner to safely and efficiently direct the flow of vehicular and pedestrian traffic to, from and within a development site.
- (9) *Development sign* means a permanent on-site sign that serves to identify the name of a residential, commercial, or industrial subdivision, multi-family development, or a planned development district.
- (10) *Electronic display sign* shall mean a sign that uses changing lights to form a sign message in text or graphic or video display form wherein the sequence of the messages and the rate of change is electronically programmed. Electronic display signs include the following:



- a. *Electronic changeable copy sign* shall mean a sign on which the message is changed automatically through the use of electronic display technology.



- b. *Electronic graphic display sign* shall mean a sign that displays static electronic images, including static graphics or pictures, in which the message change sequence is immediate or by means of fade or dissolve modes.



- c. *Video display sign* shall mean a sign that displays a message characterized by motion, movement or pictorial imagery to depict action or a special effect that imitates movement
- d. *Multi-vision or tri-vision sign* shall mean a sign composed of a series of vertical or horizontal slats that are designed to rotate at intervals so that each rotation of the slats produces a different image.



- (11) *Flashing sign* shall mean a sign that contains an intermittent or flashing light source. Electronic display signs shall not constitute a flashing sign for purposes of this article.
- (12) *Freestanding sign* shall mean a sign not attached to a building or wall which is supported by one or more poles or braces which rest on the ground or on a foundation resting on the ground.



- (13) *Ground sign* shall mean a three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two or more sides extending up from the base, and upon which a message is painted or posted.
- (14) *Inflatable sign* shall mean a temporary sign consisting of flexible material that takes on a three-dimensional shape when filled with air/gas and is commonly used to draw attention to a site.
- (15) *Nameplate* shall mean a non-electric sign which identifies the name of the resident of the property, with or without the address.
- (16) *Nonconforming sign* shall mean any sign that does not conform to the requirements of this article.
- (17) *Pennant sign* shall mean any geometric shaped cloth, fabric or other lightweight material normally fastened to a stringer and which is secured or tethered so as to allow movement of the sign caused by movement of the atmosphere.
- (18) *Portable sign* shall mean a sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another.
- (19) *Projecting sign* shall mean a sign attached to and projecting perpendicularly from a building wall, excluding awning/canopy signs, as defined herein.
- (20) *Public sign* shall mean a noncommercial message sign erected in the public interest by or upon orders from a local, state, county or federal public official. Examples of public signs include, but are not limited to, legal notices, safety signs, traffic signs, memorial signs, signs of historical interest, and similar signs.
- (21) *Roof line* shall mean the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections.
- (22) *Roof sign* shall mean a sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall, and that is wholly or partially supported by such building.
- Exception: For the purposes of this definition, a sign that is mounted on a mansard roof, roof overhang, parapet wall, or on a wall with a roof below, shall not be considered a roof sign but shall instead be considered as a wall sign for that side of the building, provided that no part of such sign extends above the roofline.
- (23) *Sign area* shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame of other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, pole, or other structure necessary to support the sign.
- (24) *Sign height* shall be measured as the vertical distance from the highest point of the sign to the finished grade of the abutting street.

- (25) *Signs with two or more faces.* The area of a sign that has two or more faces shall be measured by including the area of all sign faces.

Exception: If two such sign faces are placed back to back and are no more than two feet apart at any point, the area of the two back-to-back faces shall be computed as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the face.

- (26) *Temporary sign* shall mean a sign intended to be displayed for a limited period of time, and which is not permanently attached to a building wall or to the ground.
- (27) *Wall sign* shall mean a sign that is attached directly to a wall, mansard roof, roof overhang, or parapet wall with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, and which projects not more than 12 inches from the building or structure wall and does not extend above the roofline of the building to which it is attached.
- (28) *Window sign* shall mean a sign attached to the inside or outside surface of a window on a building wall or door and is intended to be viewed from outside the building.

Site condominium project means a plan or project consisting of not less than two single-family units established in conformance with the condominium act (Public Act No. 59 of 1978 (MCL 559.61 et seq.)).

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

Structural changes or alterations means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

Structure means any constructed object having footing on the ground, including fences, buildings, sheds and similar constructions.

Swimming pool means any structure or container, either above or below grade, located either in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than 12 inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both.

Temporary building or use means a structure or use permitted by the building inspector to exist during periods of construction of the main use or for special events, not to exceed six months. Two extension periods of six months each are allowed.

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

Vehicle means a conveyance which includes automobiles, trucks, and other motorized forms of transportation except motorcycles.

Viewshed means that scenic area which is visible from a specific location on the ground.

Yard means an open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided herein, and on the same lot with a building. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

- (1) *Required yard* means that portion of any lot on which the erection of a main building is prohibited.
- (2) *Front yard* means a yard on the same lot with a building between the front line of the building and the front lot line and extending from one side lot line to the other side lot line. Corner lots shall have a front yard on each side that abuts a right-of-way.

- (3) *Rear yard* means a yard on the same lot with a building between the rear line of the building and the rear lot line and extending from one side lot line to the other side lot line.
- (4) *Side yard* means a yard on the same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.

(Ord. No. 394, § 1.3, 7-14-2003; Ord. No. 402, 4-11-2005; Ord. No. 425, § 5, 1-10-2011; Ord. No. 430, § 4a, 5-9-2011; Ord. No. 451, § 4, 8-10-2015; Ord. No. 461, § 4, 10-23-2017; Ord. No. 462, § 4, 10-23-2017; Ord. No. 463, § 4, 3-12-2018; Ord. No. 473, § 2, 9-9-2019; Ord. No. 479, § 4, 4-13-2020; Ord. No. 480, § 4, 8-10-2020)

Cross reference— Definitions generally, § 1-2.

Secs. 42-4—42-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT^[2]

Footnotes:

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Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 42-31. - Initiation of amendment and filing fee.

- (a) The village council may from time to time, at its own initiative or upon recommendation from the planning commission or on petition, amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Public Act No. 110 of 2006 (MCL 125.3101 et seq.). Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by a governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.
- (b) The village council shall establish by resolution, a fee to be paid in full at the time of receipt of any application to amend this chapter. Said fee shall be collected by the village and no part shall be refundable to the applicant. No fee shall be charged when the applicant is the village.

(Ord. No. 394, § 17.1, 7-14-2003)

Sec. 42-32. - Amendment procedures.

- (a) *Application.* A petitioner shall submit a completed and signed application for an amendment to this chapter, along with the appropriate fees, to the village. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- (b) *Action of the village.* The village shall review the application form to ensure it is complete. Any application not properly filed or completed shall be returned to the applicant. Completed applications shall be transmitted to the planning commission. The application shall be placed on the agenda of the next regularly scheduled planning commission.

- (c) *Notice of hearing.* After receiving the amendment application the planning commission shall establish a date for a public hearing on the application which will be conducted by the planning commission within two months of the date of application receipt by the village. The village shall give notice of the public hearing in the manner required by Public Act No. 110 of 2006 (MCL 125.3101 et seq.).
- (d) *Planning commission and village council action; hearing.* Following the hearing on the proposed amendment, the planning commission shall make written its findings of facts along with its recommendations to the village council of receipt of the completed petition. The village council may hold additional hearings if the council considers it necessary. The village council may by majority vote of its membership:
 - (1) Adopt the proposed amendment.
 - (2) Reject the proposed amendment.
 - (3) Refer the proposed amendment back to the planning commission for further recommendation within a specified time period. Thereafter, the village council may either adopt the amendment with or without the recommended revisions, or reject it.

(Ord. No. 394, § 17.2, 7-14-2003)

Sec. 42-33. - Review standards.

- (a) *Generally.* The planning commission and village council shall, at a minimum, consider the following before taking action on any proposed amendment:
 - (1) Will the proposed amendment be in accordance with the basic intent and purpose of this chapter?
 - (2) Will the proposed amendment further the comprehensive planning goals of the village?
 - (3) Have conditions changed since this chapter was adopted, or was there a mistake in this chapter, that justify the amendment?
 - (4) Will the amendment correct an inequitable situation created by this chapter, rather than merely grant special privileges?
 - (5) Will the amendment result in unlawful exclusionary or spot zoning?
 - (6) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
 - (7) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of the surrounding land?
 - (8) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with in the subject parcel?
 - (9) If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?
 - (10) What is the impact on the ability of the village and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
 - (11) Does the petitioned district change adversely affect environmental conditions or the value of the surrounding property?
- (b) *Protest.* Whenever a written protest against proposed amendment is presented in writing to the village; signed by the owners of at least 20 percent of the area included in the proposed change, or by 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 land included in the proposed change, excluding publicly owned land in calculating the 20 percent requirement, such amendment shall not be passed except by the favorable vote of three-fourths of the entire village council.

- (c) *Reconsideration of a proposed amendment.* No application for a map amendment which has been denied by the village council shall be reconsidered unless there have been changes in the facts, evidence, and/or conditions in the case. Determination of whether there have been such changes shall be made by the planning commission at the time the application is submitted for processing.
- (d) *Notice and record of amendment adoption.* Following adoption of an amendment by the village council, notice shall be published in newspaper of general circulation in the village within 15 days after adoption. A record of all amendments shall be maintained by the village. A current master zoning map shall be maintained by the village and displayed for public information and viewing.

(Ord. No. 394, § 17.3, 7-14-2003)

Sec. 42-34. - Administration officials.

- (a) *Enforcement of chapter by village manager.* This chapter shall be enforced by the village manager or his designee, who shall, in no case except under a written order of the board or the village council or board of zoning appeals, issue any permit for the erection or structural alteration of any building, nor grant any occupancy permit for any building or land where the proposed erection, structural alteration or use thereof would be in violation of any of the provisions of this chapter. The village manager or his designee shall investigate any alleged violation of this chapter coming to his attention, whether by complaint or arising from his own personal knowledge, and if the violation is found to exist, he shall serve notice upon the owner, and notify the village council and prosecute a complaint to terminate said violation before the appropriate magistrate. The village manager or his designee shall make an inspection of all new construction from time to time to ascertain that the dimensions and conditions stated on the application are complied with. The village manager shall also make periodic inspections throughout the village to ascertain that the requirements of this chapter are complied with.
- (b) *Maintenance of records.* It shall be the further duty of the village manager or his designee to keep all records of all inspections and applications for building permits and of all such permits issued, with a notation of all special conditions involved. The village manager shall file and safely keep copies of all plans other than for one-family houses and fees submitted with such application, and the same shall form a part of the records of his office and shall be available to the village council and all other officials of the village.

(Ord. No. 394, § 17.4, 7-14-2003)

Cross reference— Officers and employees, § 2-61 et seq.

Sec. 42-35. - Certificate of occupancy.

- (a) *Required.* No land shall be occupied or used and no building hereafter erected or altered, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the village manager or his designee stating that the premises or building complies with all the provisions of the approved plans and all ordinances of the village. Such certificate of occupancy shall be granted or denied within ten days from the date the written application therefor has been received by the village manager or his designee. Where any special use conditions are applicable, said conditions shall be stated on the certificate of occupancy.
- (b) *Records.* A record of all certificates of occupancy shall be kept on file in the office of the village manager or his designee and copies shall be furnished upon request to any person having a proprietary or leasehold interest in the building or land affected.

(Ord. No. 394, § 17.5, 7-14-2003)

Sec. 42-36. - Violation and penalty.

- (a) Any owner or agent, and any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof or who shall erect, structurally alter, enlarge, rebuild or move any building or structure or who shall put into use any lot or land in violation of any detailed statement or plan submitted hereunder, or who shall refuse reasonable opportunity to inspect any premises, shall be responsible for a municipal civil infraction.
- (b) The owner of any building or structure, lot or land or part thereof, where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith who knowingly assists in the commission of such violation shall each be responsible for a municipal civil infraction.

(Ord. No. 394, § 17.6, 7-14-2003)

Secs. 42-37—42-60. - Reserved.

DIVISION 2. - BOARD OF ZONING APPEALS^[3]

Footnotes:

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Cross reference— Boards and commissions, § 2-151 et seq.

State Law reference— Board of appeals, MCL 125.3601 et seq.

Sec. 42-61. - Created.

There is hereby created a board of zoning appeals consisting of five members appointed by the village council as authorized under Article VI of Public Act No. 110 of 2006 (MCL 125.3601 et seq.).

Sec. 42-62. - General grant of power.

The board of zoning appeals shall perform all the duties and have all the powers prescribed by the revised state statutes and the amendments thereto and herein more particularly provided. It shall adopt such rules of procedure, not inconsistent with the provisions of the revised state statutes and local ordinances as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

(Ord. No. 394, § 16.1, 7-14-2003)

Sec. 42-63. - Employees.

The board of zoning appeals may employ such clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and then available for that purpose.

(Ord. No. 394, § 16.2, 7-14-2003)

Sec. 42-64. - Appeals.

Appeals to the board of zoning appeals in any matter over which it may have jurisdiction may be taken by any party aggrieved by the decision or order appealed from, or by an officer, department, board or agency of the village affected by such decision or order. A notice of appeal, specifying the grounds thereof, shall be filed with the village clerk within 30 days after the date of the action appealed from. An appeal shall stay all proceedings in furtherance of the action in respect to which the decision or order appealed from was made, unless the officer from whom the appeal is taken certifies to the board of zoning appeals that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order granted by the board of zoning appeals or by the circuit court upon notice to the officer from whom the appeal is taken and on due cause shown.

(Ord. No. 394, § 16.3, 7-14-2003)

Sec. 42-65. - Variances.

Subject to the provisions of this section, and in addition to other duties and powers specified herein, the board of zoning appeals, after public hearing, shall have the power to decide applications for variances:

- (1) Where it is alleged by the applicant that by reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of the ordinance from which this chapter is derived, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building or structure, or of the use of development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties or would cause undue hardship, provided that the board of zoning appeals shall not grant a variance on a lot of less than the requirements of its zone, even though such lot existed at the time of the passage of this chapter, if the owner or members of his immediate family owned adjacent land which could, without undue hardship, be included as part of the lot;
- (2) Where it is alleged by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings or structures, so that the spirit of this chapter shall be observed, public safety secured and substantial justice done; or
- (3) Where it is alleged that the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situation as part of this chapter.

(Ord. No. 394, § 16.4, 7-14-2003)

Sec. 42-66. - Variances prohibited.

No variance in the provisions or requirements of this chapter shall be authorized by the board of zoning appeals unless the board finds from reasonable evidence that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning classification;
- (2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the vicinity, provided that the possibility of increased financial return shall not be deemed sufficient to warrant a variance;

- (3) That the authorization of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purposes of this chapter or the public health, safety and welfare; and
- (4) That the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situation as part of this chapter.

(Ord. No. 394, § 16.5, 7-14-2003)

Sec. 42-67. - Land use variance.

No land use variances are permitted since such changes should be the subject of a petition for rezoning.

(Ord. No. 394, § 16.6, 7-14-2003)

Sec. 42-68. - Special conditions.

The board of zoning appeals shall have the power to hear and decide, in accordance with the provisions of this chapter, interpretations of this chapter, and may make decisions upon other special questions on which the board of zoning appeals is authorized to pass. In considering such applications, the board of zoning appeals shall review the case within the intent of this chapter, giving due regard to the nature and condition of all adjacent uses and structures and the consistency therewith of the proposed use. Before authorizing a use, the board of zoning appeals shall determine whether the proposal would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust, dirt, cinders, noxious gases, glare, heat, fire potential, sewage wastes, pollution, parking, transportation, traffic aesthetic effect, devaluation of property values and/or psychological effects, and for the purpose of making such a determination may enlist the aid of experts, technicians and consultants. The board of zoning appeals shall decide the appropriateness of exceptions and conditional uses within the intent of this chapter and may impose such requirements and conditions necessary to preserve such intent. In the determination of such requirements and conditions of use, the board of zoning appeals shall consider the standards enumerated herein for similar uses devising such proportionate requirements as will achieve compatibility of use and do substantial justice and serve the public interest.

(Ord. No. 394, § 16.7, 7-14-2003)

Sec. 42-69. - Public hearings.

Upon the filing of any appeal as hereinafter provided, or other application in any matter or proceedings over which the board of zoning appeals shall have jurisdiction by law or ordinance, the board shall hold a hearing on such appeal or application at its next meeting, to be held not less than 15 days after the date of such filing, and shall cause notice of the time and place of the hearing to be given as required by Section 604 of Public Act No. 110 of 2006 (MCL 125.3604).

(Ord. No. 394, § 16.8, 7-14-2003)

Sec. 42-70. - Decisions.

The board of zoning appeals shall render its decision upon such appeal or application within 60 days after the hearing thereon, and in any event within 90 days after the date of filing of the appeal or

application, and upon failure to do so, such appeal or application shall thereupon be deemed to be decided adversely to the appellant or applicant in the same manner as though the board of zoning appeals had rendered its decision to that effect.

(Ord. No. 394, § 16.9, 7-14-2003)

Sec. 42-71. - Fees.

Upon the filing of any appeal or application to the board of zoning appeals by any person other than an officer, department, board or agency of the municipality, the appellant or applicant shall pay fees as determined by village ordinance to defray the cost of publishing notice of the appeal or application and the board of zoning appeal's decision thereon, of hearing and recording the matter.

(Ord. No. 394, § 16.10, 7-14-2003)

Sec. 42-72. - Vote necessary for decision.

The concurring vote of three members of the board of zoning appeals shall be necessary to reverse any order, requirement or decision of any administrative official or to decide in favor of that applicant on any matter they are required to pass.

(Ord. No. 394, § 16.11, 7-14-2003)

Sec. 42-73. - Minutes and records.

The secretary shall keep minutes of the board of zoning appeal's proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The secretary shall keep records of the board's examinations and official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(Ord. No. 394, § 16.12, 7-14-2003)

Secs. 42-74—42-100. - Reserved.

ARTICLE III. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 42-101. - Districts enumerated.

The village is hereby divided into the following districts:

R-1	Single-Family Residential District
R-2	Single-Family and Two-Family Residential District
RM	Multiple-Family Residential District

RMH	Residential Mobile Home District
B-1	Local Business District
B-2	General Business District
CBD	Central Business District
P	Parking District
RO	Restricted Office District
I-1	Light Industrial District
I-2	General Industrial District

(Ord. No. 394, § 1.4, 7-14-2003)

Sec. 42-102. - Zoning map.

- (a) *Adopted by reference.* The areas and boundaries of such districts noted in section 42-101 are hereby established to scale on a map entitled, "Zoning Map of the Village of Paw Paw," and referred to herein as the "zoning map." The zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) *Amendment.* Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the village hall and shall be the final authority as to the current zoning status in the village. No amendment to this chapter that involves a change of a mapped zoning district, shall become effective until an entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the president of the village council, and attested by the village clerk.

(Ord. No. 394, art. I, 7-14-2003)

Sec. 42-103. - Interpretation of district boundaries.

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

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- (3) Boundaries indicated as approximately following village boundaries shall be construed to follow village boundaries.

- (4) Boundaries indicated as approximately following property lines, section lines or other lines of a survey shall be construed to follow such chartered lines as of the effective date of the ordinance from which this chapter is derived, or affecting amendment.
- (5) Boundaries indicated as following railroads lines shall be construed to follow the centerline of the railroad right-of-way.
- (6) Boundaries indicated as parallel to or extensions of features indicated above, the building inspector shall interpret the district boundaries. Upon appeal, the board of zoning appeals reserves the right to over-ride the interpretation of the building inspector.

(Ord. No. 394, art. I, 7-14-2003)

Sec. 42-104. - Annexed areas.

When property not now in the village shall become annexed to the village, the existing zoning shall be retained for one year or until the planning commission shall have reviewed and recommended rezoning to the village council and the village acts upon the recommendation.

(Ord. No. 394, art. I, 7-14-2003)

Secs. 42-105—42-120. - Reserved.

DIVISION 2. - R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 42-121. - Purpose.

The R-1 single-family residential zoning district is typically a single-family housing area. While most of the developed portion of the village is served by utilities, the low density status is designed to preserve those areas which have developed strictly as single-family detached units on separate lots. The dwelling unit density in the R-1 district shall still be at a sufficient scale to support utility system operation and maintenance costs.

(Ord. No. 394, § 2.1, 7-14-2003)

Sec. 42-122. - Principal permitted uses.

The following shall be principal permitted uses in the R-1 single-family residential district:

- (1) Single-family detached dwellings.
- (2) State licensed residential facilities as defined and required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206).
- (3) Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities.
- (4) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for profit.
- (5) Home occupations in accordance with section 42-368.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking in accordance with section 42-404.

(Ord. No. 394, § 2.2, 7-14-2003)

Sec. 42-123. - Uses subject to special use permit.

The following uses are subject to a special use permit in the R-1 district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Churches.
- (2) Bed and breakfast facilities.
- (3) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity, and such neighborhood.
- (4) Family and group day care homes.
- (5) Private roads and streets.
- (6) A handicapped ramp either permanently or temporarily attached to the dwelling, which encroaches into required yard requirements provided it is removed within 30 days after the documented need for such ramp has ceased.
- (7) Publicly owned buildings, including government facilities.

(Ord. No. 394, § 2.3, 7-14-2003; Ord. No. 457, §§ 4, 3-26-2017)

Sec. 42-124. - Development requirements.

Area, height, bulk and placement requirements for the R-1 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter.

(Ord. No. 394, § 2.4, 7-14-2003)

Secs. 42-125—42-140. - Reserved.

DIVISION 3. - R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT^[4]

Footnotes:

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Editor's note— Ord. No. 439, § 4, adopted March 26, 2012, amended the title of div. 3, from "R-2 Single Family and Two Family Residential District" to "R-2 Single-Family Residential District."

Sec. 42-141. - Purpose.

- (a) The R-2 single-family residential district encompasses land primarily adjacent to the central business district, and some of the older localities of the village. The residential character of the R-2 district is mainly urban, single-family homes of earlier construction on small individual lots. Some of the older stately homes in the R-2 district are of particular vintage design.
- (b) On a limited basis, two-family homes are allowed within the R-2 district but are subject to special use permit with controls as to location, site and density. The basis for transition is the fact that because many of these older homes are larger and represent sizeable maintenance and energy costs for a single family, it is feared that restriction to single family use may foster inadequate maintenance, or

even abandonment. The possible consequences can be a general appearance of blight, which (if allowed to proceed in a downward trend) can erode the social stability of any neighborhood, as well as adversely affect the appeal of the village core. Based upon the above, the R-2 district provides for limited conversions of older, larger single family homes on larger lots to two-family dwellings subject to compliance with the special use permit criteria and all applicable standards, and provided certain conditions for the health, safety and welfare of the neighborhood are met.

(Ord. No. 394, § 3.1, 7-14-2003; Ord. No. 439, § 4, 3-26-2012)

Sec. 42-142. - Principal permitted uses.

In the R-2 residential district, no uses shall be permitted unless otherwise specifically provided for in this chapter, except for the following uses:

- (1) Single-family detached dwellings.
- (2) State licensed residential facilities as defined and required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206).
- (3) Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities.
- (4) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for a profit.
- (5) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (6) Off-street parking requirements in accordance with section 42-404.

(Ord. No. 394, § 3.2, 7-14-2003; Ord. No. 439, § 4, 3-26-2012)

Sec. 42-143. - Uses subject to special use permit.

The following uses are subject to a special use permit in the R-2 district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Churches.
- (2) Bed and breakfast facilities.
- (3) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- (4) Family and group day care homes.
- (5) Private roads and streets.
- (6) Dwelling unit conversions for uses identified in subsections 42-142 (3), (4) or (5).
- (7) A handicapped ramp either permanently or temporarily attached to the dwelling which encroaches into required yards areas provided they are removed within 60 days after the documented need for such a ramp has ceased.
- (8) Home occupations in single-family dwellings and subject to the requirements listed in section 42-368.
- (9) Emergency/transitional residences.
- (10) Two-family dwellings on lots a minimum of 17,400 total square feet in area with 8,700 square feet per unit, subject to the following conditions and limitations:

- a. Compliance with section 42-401, Schedule of Regulations, including minimum floor area and maximum lot coverage requirements;
- b. Provision of adequate off-street parking in compliance with section 42-404;
- c. Compliance with the requirements for a special use permit set forth in section 42-366, including the submission and approval of a site plan.

(Ord. No. 394, § 3.3, 7-14-2003; Ord. No. 427, § 4, 4-7-2011; Ord. No. 439, § 4, 3-26-2012)

Sec. 42-144. - Development requirements.

Area, height, bulk and placement requirements for the R-2 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter.

(Ord. No. 394, § 3.4, 7-14-2003)

Secs. 42-145—42-160. - Reserved.

DIVISION 4. - RM MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 42-161. - Purpose.

The RM district is intended for lower density multiple-family residential uses (eight to 14 dwelling units per acre).

(Ord. No. 394, § 4.1, 7-14-2003)

Sec. 42-162. - Principal permitted uses.

In the RM district, no use shall be permitted unless otherwise provided in this chapter, except for the following:

- (1) Single-family detached dwellings.
- (2) Two-family and three-family dwellings.
- (3) Multiple-family dwellings.
- (4) State licensed residential facilities as defined and required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206).
- (5) Adult foster care facilities (medium and large) as regulated by the state.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking and loading requirements in accordance with section 42-404.

(Ord. No. 394, § 4.2, 7-14-2003)

Sec. 42-163. - Uses subject to special use permit.

The following uses are subject to a special use permit in the RM district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) All permitted uses subject to special use permit in the R-2 district.

- (2) Private clubs and lodges.
- (3) Convalescent and nursing homes.
- (4) Housing for the elderly.
- (5) Emergency/transitional residence.

(Ord. No. 394, § 4.3, 7-14-2003)

Sec. 42-164. - Development requirements.

Area, height, bulk and placement requirements for the RM district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 4.4, 7-14-2003)

Secs. 42-165—42-180. - Reserved.

DIVISION 5. - RMH RESIDENTIAL MOBILE HOME DISTRICT^[5]

Footnotes:

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State Law reference— Mobile home commission act, MCL 125.2301 et seq.

Sec. 42-181. - Statement of purpose.

The RMH district is intended to house mobile home developments. Mobile home developments typically have a higher density impact than conventional single-family development. In order to avoid adverse impact upon other areas of the village, certain land areas are hereby recognized as appropriate for continued mobile home use provided that proper site design standards and requirements are met.

(Ord. No. 394, § 5.1, 7-14-2003)

Sec. 42-182. - Principal permitted uses.

In the RMH district, no use shall be permitted unless otherwise provided in this chapter, except for the following:

- (1) Mobile homes located in a mobile home park.
- (2) State licensed residential facilities as defined and required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206).
- (3) Mobile home parks.
- (4) Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities.
- (5) Home occupations.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking in accordance with section 42-404.

(Ord. No. 394, § 5.2, 7-14-2003)

Sec. 42-183. - Uses subject to special use permit.

The following uses are subject to a special use permit in the RMH district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Churches.
- (2) Nursery schools, day nurseries and child care centers

(Ord. No. 394, § 5.3, 7-14-2003)

Sec. 42-184. - Standards and requirements for mobile home parks.

Mobile home parks shall conform to the requirements as promulgated by the state mobile home commission rules as amended, and any other requirements of the state.

(Ord. No. 394, § 5.4, 7-14-2003)

Sec. 42-185. - Development requirements.

Area, height, bulk and placement requirements for the RMH district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 5.5, 7-14-2003)

Secs. 42-186—42-200. - Reserved.

DIVISION 6. - B-1 LOCAL BUSINESS DISTRICT

Sec. 42-201. - Purpose.

The B-1 local business district is intended to serve the convenience needs of neighborhood residents. The B-1 district typically does not contain comparison-shopping facilities or open-air businesses.

(Ord. No. 394, § 6.1, 7-14-2003)

Sec. 42-202. - Principal permitted uses.

In the B-1 district, no uses shall be permitted unless otherwise provided in this chapter except the following:

- (1) Museums and libraries.
- (2) Financial institutions.
- (3) Funeral parlors and mortuaries.
- (4) Barber and beauty shops.
- (5) Professional offices, except medical or dental clinics.

- (6) Retail shops and service establishments.
- (7) Public utilities.
- (8) Mixed commercial and residential uses.
- (9) Warehousing facilities, including mini-storage.
- (10) Accessory buildings and uses.
- (11) Off-street parking in accordance with the requirements of section 42-404.

(Ord. No. 394, § 6.2, 7-14-2003; Ord. No. 422, § 4, 3-22-2010)

Sec. 42-203. - Uses subject to special use permit.

The following uses are subject to a special use permit in the B-1 district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Medical or dental clinics.
- (2) Gasoline stations/fuel dispensing businesses.
- (3) Commercial and service establishments of an adult nature as defined herein and subject to the following conditions:
 - a. In order to prevent an undesirable concentration of such uses and activities, such uses and activities shall not be located within 1,000 feet of two other such uses nor within 300 feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the following existing and proposed specified uses and activities and between such uses and the adjoining residentially zoned district.
 1. Adult book store;
 2. Adult motion picture theater;
 3. Adult mini motion picture theater;
 4. Adult smoking or sexual paraphernalia store;
 5. Massage parlor;
 6. Host or hostess establishments offering socialization with a host or hostess for consideration;
 7. Open dance hall;
 8. Pawnshop;
 9. Tavern or cabaret providing live or projected entertainment where intoxicating liquors may or may not be sold for consumption on the premises. The term "projected entertainment" shall not include standard television reception;
 10. Any combination of the foregoing.
 - b. The village council may waive the foregoing spacing requirements if it finds the following conditions exist:
 1. The proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed; and
 2. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other businesses and occupants and a disruption in neighborhood development.

(4) Churches.

(Ord. No. 394, § 6.3, 7-14-2003; Ord. No. 420, § 4, 7-13-2009)

Sec. 42-204. - Development requirements.

Area, height, bulk and placement requirements for the B-1 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 6.4, 7-14-2003)

Sec. 42-205. - Building design requirements.

- (a) A visual or physical break in the exterior face of the wall (for depth and/or dimension) shall be provided every 20 feet in length of the building wall. Elevation drawings shall be provided to demonstrate compliance.
- (b) At least 30 percent of the façade (front) of the first story shall be windows.
- (c) In the case of a corner lot, the building shall face the primary commercial street abutting the lot and/or be oriented on the site similar to adjacent buildings.

(Ord. No. 440, § 4, 3-26-2012)

Secs. 42-206—42-220. - Reserved.

DIVISION 7. - B-2 GENERAL BUSINESS DISTRICT

Sec. 42-221. - Purpose.

The B-2 general business district is intended to serve the commercial needs of the residents of the greater village area as well as the passing motorist. It is characterized by businesses with large lot requirements, extended hours and major thoroughfare locations.

(Ord. No. 394, § 7.1, 7-14-2003)

Sec. 42-222. - Principal permitted uses.

In the B-2 business districts, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- (1) All principal permitted uses in the B-1 local business district.
- (2) Combined retail-wholesale businesses, including minor assembly of merchandise or modification of articles, when conducted entirely within an enclosed building(s) and determined not to be objectionable to the surrounding commercial area.
- (3) Personal service establishments, including health spas.
- (4) Financial institutions, general and professional offices, not including medical and dental clinics.
- (5) Restaurants, not including a drive-in restaurant or drive-through restaurant.
- (6) Museums, libraries and art galleries.

- (7) Dry cleaning and laundry establishments not including central drycleaning or laundry plants.
- (8) Wineries, fruit juices processing and private cold storage, distilleries, lumber yards/home improvements stores.
- (9) Hotels and motels.
- (10) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (11) Off-street parking in accordance with the requirements in section 42-404.
- (12) Outdoor display of merchandise as an accessory use to the principal use of the parcel.

(Ord. No. 394, § 7.2, 7-14-2003; Ord. No. 422, § 4, 3-22-2010; Ord. No. 424, § 4, 9-27-2010; Ord. No. 463, § 4, 3-12-2018; Ord. No. 480, § 5, 8-10-2020)

Sec. 42-223. - Uses subject to a special use permit.

The following uses are subject to a special use permit in the B-2 district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Drive-in restaurants and drive-through restaurants.
- (2) Car wash establishments.
- (3) Open-air businesses.
- (4) Medical or dental clinics.
- (5) Gasoline/fuel dispensing businesses, with or without convenience store, carwash, restaurant or similar uses.
- (6) Indoor or outdoor commercial recreation facility such as a bowling center, theater, skating rink, racquet club, miniature golf, video amusement establishment, pool and billiard establishment or similar uses.
- (7) An area used for display, sale or rental of new and used motor vehicles, boats, trailers or similar equipment.
- (8) Automotive repair, major or minor.
- (9) Pet sales store.
- (10) Veterinary hospital or clinic.
- (11) Churches.
- (12) Farmers' market.
- (13) Outdoor storage in connection with the principal use(s) located on the site pursuant to sections 42-222 and 42-223 may be allowed subject to the following:
 - a. Outdoor storage shall be allowed only in the side and rear yard areas and may not be located within any required side or rear building setback.
 - b. The total area of outdoor storage shall not exceed 30 percent of the footprint of the principal building(s) located upon the premises.
 - c. An outdoor storage area shall be visually screened from persons standing at ground level on all abutting property. Required screening shall comply with section 42-405(b).

(Ord. No. 394, § 7.3, 7-14-2003; Ord. No. 420, § 4, 7-13-2009; Ord. No. 451, § 6, 8-10-2015; Ord. No. 463, § 4, 3-12-2018; Ord. No. 465, § 3, 12-10-2018; Ord. No. 480, § 6, 8-10-2020)

Sec. 42-224. - Development requirements.

Area, height, bulk and placement requirements for the B-2 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For all permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 7.4, 7-14-2003)

Sec. 42-225. - Building design requirements.

- (a) A visual or physical break in the exterior face of the wall (for depth and/or dimension) shall be provided every 20 feet in length of the building wall. Elevation drawings shall be provided to demonstrate compliance.

Exception: For buildings over 30,000 square feet in area with walls over 100 feet in length, a visual or physical break in the exterior face of the wall (for depth and/or dimension) shall be provided every 60 feet in length of the building wall. Elevation drawings shall be provided to demonstrate compliance.

- (b) At least 30 percent of the façade (front) of the first story shall be windows.

Exception: For buildings over 30,000 square feet in area with walls over 100 feet in length, the façade must instead contain a prominent entry incorporating glass, changes in materials and/or colors, and changes in roofline. Elevation drawings shall be provided to demonstrate compliance.

- (c) The planning commission may authorize a deviation from the standards set forth in subsections (a) and (b) above where it is determined that the alternate design(s) meets the purpose and intent of said subsections.
- (d) In the case of a corner lot, the building shall face the primary commercial street abutting the lot and/or be oriented on the site similar to adjacent buildings.

(Ord. No. 440, § 4, 3-26-2012)

Secs. 42-226—42-240. - Reserved.

DIVISION 8. - CBD CENTRAL BUSINESS DISTRICT

Sec. 42-241. - Purpose.

The CBD central business district is intended to permit a variety of commercial, administrative, financial, civic, cultural, residential, entertainment and recreational uses in an effort to provide the harmonious mix of activities necessary to further enhance the central business district as a commercial and service center.

(Ord. No. 394, § 8.1, 7-14-2003)

Sec. 42-242. - Principal permitted uses.

The following are principal permitted uses in the CBD district:

- (1) Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building, and combined retail-wholesale business when conducted entirely within a building.

- (2) Personal service establishments, including health/fitness centers, beauty and barber shops and similar uses.
- (3) Financial institutions and general and professional offices including medical and dental offices but not clinics.
- (4) Restaurants and taverns, including sidewalk and outdoor cafes, but not including drive-in restaurants or drive-through restaurants.
- (5) Museums, art galleries and similar cultural uses.
- (6) Theaters and concert halls.
- (7) Mixed use establishments, i.e. commercial and residential uses combined in one structure.
- (8) Funeral homes and mortuaries.
- (9) Other uses which are similar to the above and subject to the following restrictions:
 - a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.
 - b. All business, servicing or processing except for off-street parking or loading, shall be conducted within completely enclosed buildings.
 - c. Storage of commodities shall be within buildings and shall not be visible to the public from a street or thoroughfare.
- (10) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (11) Off-street parking lots shall be in accordance with the requirements of section 42-404.
- (12) Pool or billiard halls, or pinball or video game arcades or establishments.
- (13) Public and/or municipal buildings.
- (14) Outdoor display of merchandise as an accessory use to the principal use of the parcel.

(Ord. No. 394, § 8.2, 7-14-2003; Ord. No. 463, § 4, 3-12-2018; Ord. No. 475, § 3, 10-14-2019; Ord. No. 480, § 7, 8-10-2020)

Sec. 42-243. - Uses subject to special use permit.

The following uses are subject to a special use permit in the CBD district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Housing for the elderly.
- (2) Sales of new and used cars, boats, campers and other recreational vehicles.
- (3) Churches.
- (4) Hotels and motels.
- (5) Establishments offering live entertainment not otherwise described in division 6 of this article, including musical entertainment and similar general entertainment uses.
- (6) Pet sales stores.
- (7) Farmers' market.

(Ord. No. 394, § 8.3, 7-14-2003; Ord. No. 451, § 7, 8-10-2015)

Sec. 42-244. - Development requirements.

Area, height, bulk and placement requirements for the CBD district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For permitted uses and uses subject to a special use permit that will alter the area of any structure or require a change in parking, access or drainage on the property, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 8.4, 7-14-2003)

Sec. 42-245. - Building design requirements.

- (a) A visual or physical break in the exterior face of the wall (for depth and/or dimension) shall be provided every 20 feet in length of the building wall. Elevation drawings shall be provided to demonstrate compliance.
- (b) At least 30 percent of the façade (front) of the first story shall be windows. Upper stories shall include windows consistent in design and general appearance with adjacent buildings.
- (c) In the case of a corner lot, the building shall face the primary commercial street abutting the lot and/or be oriented on the site similar to adjacent buildings.
- (d) Infill, reconstruction or new development which connects building on either or both sides shall be consistent in design, general appearance, and use of materials with adjacent buildings.

(Ord. No. 440, § 4, 3-26-2012)

Secs. 42-246—42-250. - Reserved.

Subdivision A. - Form Based Codes Overlay⁶

Footnotes:

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Editor's note— Ord. No. 449, § 4, adopted Dec. 22, 2014, set out provisions intended for use as §§ 42-251—42-259. For purposes of classification, and at the editor's discretion, these provisions have been included as Subdivision A, Form Based Codes Overlay, §§ 42-251—42-259.

Sec. 42-251. - Purpose.

The purposes of this district are to:

- (1) Develop a fully integrated, mixed-use, pedestrian-oriented environment with buildings containing commercial, residential and office uses, similar to the downtown character at the intersection of Michigan and Kalamazoo Avenues.
- (2) Create a synergy of uses within the downtown overlay district to support economic development and redevelopment consistent with the recommendations of the Master Plan for the Village of Paw Paw.
- (3) Minimize traffic congestion, inefficient surface parking lots, infrastructure costs and environmental impacts by promoting a compact, mixed-use, pedestrian-friendly district.
- (4) Regulate building height and form to achieve appropriate scale along streetscapes and ensure proper transition to nearby residential neighborhoods.

- (5) Create a definable sense of place within the downtown overlay district with a pedestrian-oriented, traditional urban form that emphasizes historic building design common to the downtown area.

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-252. - Applicability.

- (a) The downtown overlay district shall be an overlay district that applies over the existing zoning districts. Use and development of land within the overlay district shall be regulated as follows:
 - (1) Any existing use shall be permitted to continue and the use shall be subject to the requirements of the underlying zoning district and not the requirements of the downtown overlay district.
 - (2) Where a new use is established within an existing building, the use shall be subject to the requirements of the downtown overlay district and the site shall be brought into compliance with the requirements of the overlay district to the maximum extent practical, as determined by the building official at the time of reviewing the application for a certificate of occupancy.
 - (3) Any expansion or modification to an existing or approved use, building, or site that requires site plan approval from the planning commission shall be subject to the requirements of the downtown overlay district.
 - (4) Any new development shall be subject to the requirements of the downtown overlay district.
- (b) A site plan shall be submitted in accordance with section 42-402 for all permitted uses. All special uses shall be subject to the special use permit requirements set forth in section 42-366.
- (c) The provisions of the downtown overlay district, when in conflict with other provisions of the zoning ordinance, shall take precedence.
- (d) A downtown overlay district regulating plan has been adopted that divides the district into two zones. Each zone designated on the regulating plan prescribes requirements for building form, height, setback, and use as follows:

MU-1: Mixed Use 1

MU-2: Mixed Use 2

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-253. - Permitted uses, special land uses.

MU-1: Mixed Use 1

- (1) Principal permitted uses.
 - a. All permitted uses in the CBD central business district, except section 42-242(7), Mixed use establishments.
 - b. Mixed use establishments (ie. commercial and residential uses combined in a single building), provided that the ground floor is occupied solely by the commercial use.
 - c. Parks/plazas/greens.
- (2) Uses subject to special use permit.
 - a. All special land uses in the CBD central business district.

MU-2: Mixed use 2

- (1) Principal permitted uses.
 - a. All permitted uses in the CBD central business district

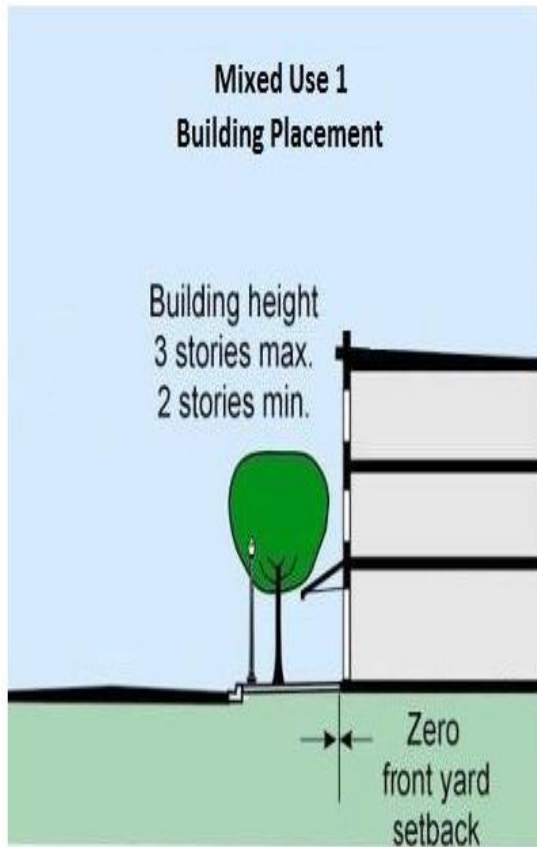
- b. Dwellings—attached single family.
 - c. Dwellings—multiple family.
 - d. Parks/plazas/greens.
- (2) Uses subject to special use permit.
- a. All special land uses in the CBD central business district.

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-254. - Height and placement standards.

The following tables set forth the height, bulk and setback standards of the MU-1 and MU-2 zones within the downtown overlay district.

(1) *MU-1 Zone development standards.*



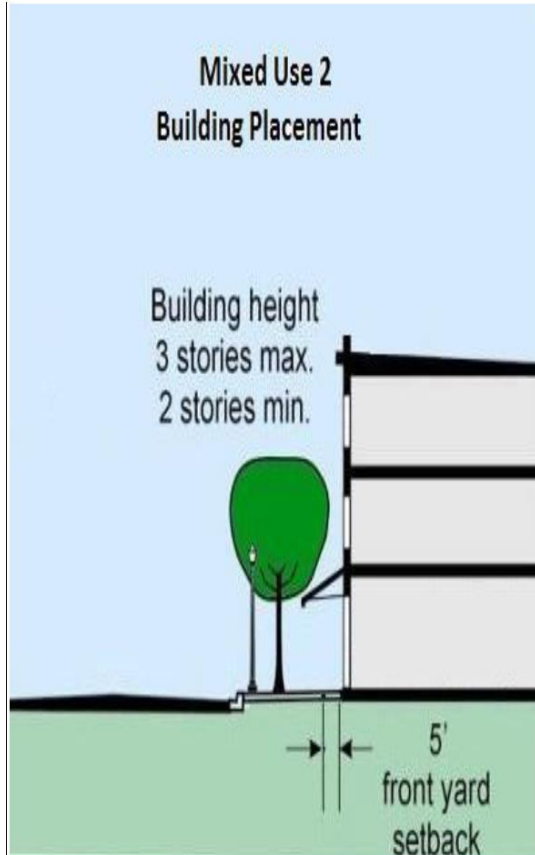
Minimum Lot Area	• N/A
Minimum Lot Width	• N/A

<p>Front Yard Setback and Building Frontage</p>	<ul style="list-style-type: none"> • 0 feet maximum front yard setback • The building façade shall be built to within 0 feet of the front lot line for 100 percent of the street frontage length • See subsection (2)
<p>Minimum Side Yard Setback</p>	<ul style="list-style-type: none"> • 0 feet side yard setback for walls without windows • 10 feet side yard setback for walls that contain windows
<p>Minimum Rear Yard Setback</p>	<ul style="list-style-type: none"> • 10 feet minimum rear yard setback
<p>Building Height</p>	<ul style="list-style-type: none"> • 24 feet and 2 stories minimum building height • 42 ft and 3 stories maximum building height • The first story shall be a minimum of 14 ft in height, floor to floor



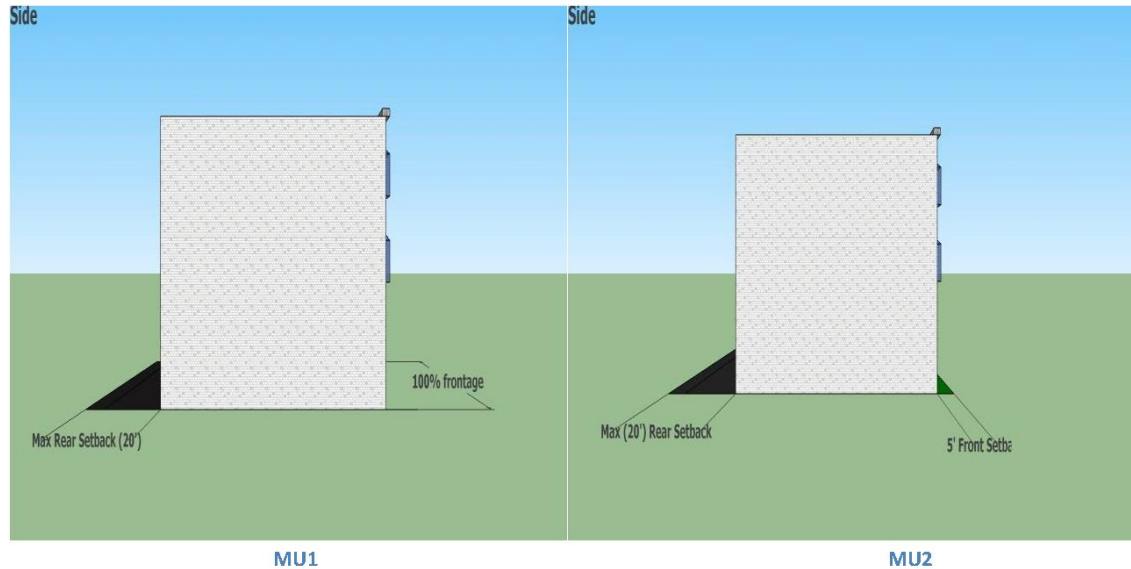
- (2) *MU-1 front yard building setback and building frontage exceptions.* In the MU-1 zone, 100 percent of the length of the ground level street-facing façade of the building must be built to the front lot line. The planning commission may grant exceptions to allow a greater building setback and/or a lesser building frontage requirement(s) where the front yard and/or side yard area(s) is used for one or more of the following:
- a. Widening the sidewalk along the frontage of the building.
 - b. Providing a public gathering area or plaza that offers seating, landscape enhancements, public displays, fountains, or other pedestrian amenities.
 - c. Providing outdoor seating for the proposed use.
 - d. Providing pedestrian access to off-street parking areas.
- (3) *MU-2 zone development standards.*

Minimum Lot Area	<ul style="list-style-type: none"> • N/A
Minimum Lot Width	<ul style="list-style-type: none"> • N/A
Front Yard Setback and Building Frontage	<ul style="list-style-type: none"> • 0 feet minimum front yard setback • 5 feet maximum front yard setback • The building façade shall be built to within 5 feet of the front lot line for 75 percent of the street frontage length • See subsection (4).
Minimum Side Yard Setback	<ul style="list-style-type: none"> • 0 feet side yard setback for walls without windows • 10 feet side yard setback for walls that contain windows
Minimum Rear Setback	<ul style="list-style-type: none"> • 10 feet minimum rear yard setback
Building Height	<ul style="list-style-type: none"> • 24 feet and 2 stories minimum building height • 42 feet and 3 stories maximum building height • The first story shall be a minimum of 14 feet in height, floor to floor



- (4) *MU-2 front yard building setback and building frontage exceptions.* In the MU-2 zone, 75 percent of the length of the ground level street-facing façade of the building must be built within five feet of the front lot line. The planning commission may grant exceptions to allow a greater building setback and/or a lesser building frontage requirement(s) where the front yard and/or side yard area(s) is used for one or more of the following:
- a. Widening the sidewalk along the frontage of the building.
 - b. Providing a public gathering area or plaza that offers seating, landscape enhancements, public displays, fountains, or other pedestrian amenities.

- c. Providing outdoor seating for the proposed use.
- d. Providing pedestrian access to off-street parking areas.
- e. Parking lot. (See subsection (5))



- (5) *Parking.* Parking within the downtown overlay district shall be provided as follows:
- a. Because this overlay district is intended to encourage pedestrian/transit friendly design and compact mixed-use development that requires less reliance on automobiles, land uses within the downtown overlay district shall be exempt from the table of parking requirements set forth in section 42-404 (8).
 - b. On-street parking shall be allowed on all street frontages, as permitted by the downtown streetscape plan.
 - c. Off-street parking lots (not located in the road right-of-way) are permitted only in side and rear yards.
 1. When parking is located within a side yard (behind the front building line) and has frontage on a public road right-of-way, no more than 25 percent of the total site frontage or 60 feet, whichever is less, shall be occupied by parking lot.
 2. For a corner lot, no more than 25 percent of the cumulative site frontage or 60 feet, whichever is less, shall be occupied by a side yard parking lot. The building shall be located at the corner of the lot adjacent to the intersection.
 3. For a double frontage lot or a lot that has frontage on three public road rights-of-way, no more than 35 percent of the cumulative site frontage or 60 feet, whichever is less, shall be occupied by a side yard parking lot. The building shall be located at the corner of the lot adjacent to the intersection.
 - d. Where an off-street parking lot is visible from a street, it shall be screened by a three-foot tall screen wall located between the parking lot and the sidewalk.
 - e. Driveway access to off-street parking lots shall be located to provide safe separation from the street intersections and shall be aligned with driveways on the opposite side of the street.
- (6) *Fences.* Fences are prohibited within the downtown overlay district, except as set forth in section 42-405(c).

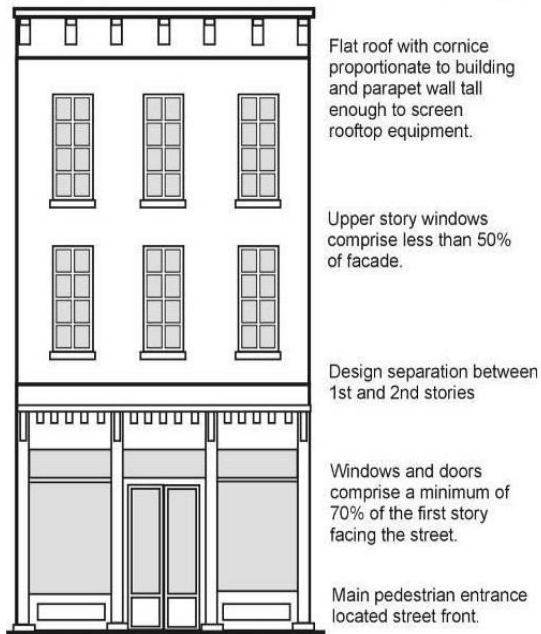
- (7) *Dumpsters.* Dumpster facilities are permitted only in rear yards and shall be subject to section 42-406(d)(9).

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-255. - Commercial/mixed use architectural requirements.

Mixed-use buildings that contain commercial use on the ground floor and all non-residential buildings shall meet the following architectural design requirements. It is not the intent of this section to regulate architectural style of buildings or limit creativity, but to ensure that the necessary functional and design elements to create and foster a mixed-use, pedestrian-oriented environment are incorporated into all building designs. Buildings should respect the existing architectural style of the area while advocating a more harmonious approach to contemporary design.

The following example is intended to illustrate the application of the design standards in this ordinance. It shall not be interpreted as requiring a specific architectural style or limit innovations in design.



- (1) *Front façade requirements.* Walls that face a public street, plaza, green, park or off-street parking area shall include windows and architectural features customarily found on the front of a building, such as awnings, cornice work, edge detailing or decorative finish materials.
- Blank walls longer than 20 feet shall not face a public street.
 - All buildings shall have a main entrance located on the front façade. Main entrances shall have design details that enhance the appearance and prominence of the entrance so that it is recognizable from the street and parking areas.
 - For buildings with a front façade of more than 100 feet in length, there shall be a minimum of one usable entrance every full 50 feet of frontage along the front public sidewalk and shall provide architectural variation to visually break up the building.
 - Garage doors shall not be permitted on a front façade.
- (2) *Windows and doors.*

- a. *Storefront/ground floor.* Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed and painted. No less than 70 percent of the storefront/ground floor façade shall be clear glass panels and doorway. Glass areas on storefronts shall be clear, or lightly tinted. Mirrored glass is prohibited. Required window areas shall be either windows that allow views into retail space, working areas or lobbies, pedestrian entrances, or display windows set into the wall. Windows shall not be blocked with opaque materials or the back of shelving units or signs. The bottom of the window must be no more than three feet above the adjacent exterior grade.



- b. *Upper stories.* Openings above the first story shall be a maximum of 50 percent of the total façade area. Windows shall be vertical in proportion and shall be compatible with the rhythm and proportion of windows on other buildings along the block.



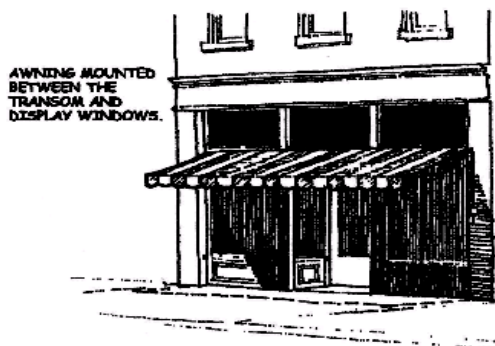
(3) *Roof design.*

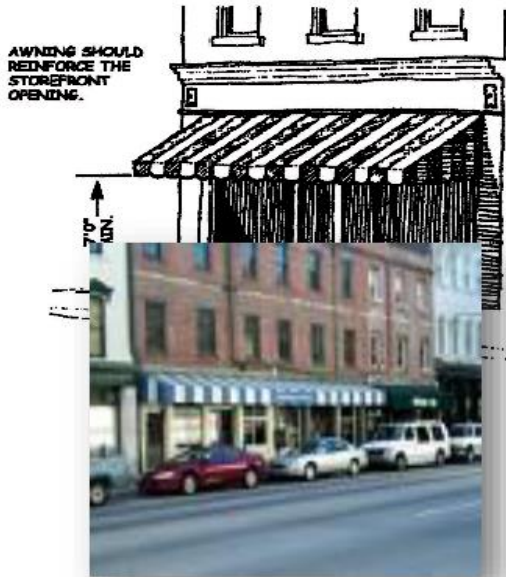
- a. Unless otherwise approved by the planning commission, buildings should have a flat roof appearance from the street with a decorative cornice that is designed proportionate to the size of the building and length of the wall.
- b. Flat roofs shall be enclosed by parapets. (Shown below)
- c. All rooftop mounted equipment shall be screened from view on street-facing sides of the building.
- d. Parapets and other screening treatment shall blend with the design of the building in terms of color, materials, scale and height.



Enclosed rooftop parapet

- (4) *Building materials.* The following exterior finish materials are required on the front façade and any wall facing a street, plaza, green, park or off-street parking area. These requirements do not include areas devoted to windows and doors.
 - a. All walls exposed to public view from a street, plaza, green, park or off-street parking area shall be constructed of not less than 60 percent brick, stone or glass.
 - b. The remaining façade or wall area may include wood siding or fiber cement siding. Exterior insulation finish systems (EFIS) may be used for architectural detailing above the first floor.
- (5) *Awnings.* The canvas awning was an important design element in the traditional storefront. It provided shelter for pedestrians from sun and rain, added color, and acted as a transition between the storefront and the upper story. The awning can also be used as a location for building signage. Storefronts may be supplemented by awnings provided that the following conditions are met:





- a. Awnings shall fit storefront openings or individual window openings.
 - b. The awning shall be positioned immediately above the first floor window area of the façade, attached below the storefront cornice or sign panel, and should not cover the piers on either side of the storefront.
 - c. The awning should be mounted such that its valance is provided a minimum of eight foot clearance from the sidewalk.
 - d. Fabric awnings are encouraged. The traditional commercial awning material is canvas and its profile is the watershed design. Other profiles tend to be too contemporary when placed on a traditional façade.
 - e. Awning color should be selected to insure compatibility with the building and with the color of adjacent buildings.
 - f. Historically incompatible canopies, awnings, and imitation mansard roofs made of metal, rough-sawn wood, plastic, shakes, or asphalt roofing are prohibited.
 - g. Internally-illuminated or plastic awnings are prohibited, with or without signs.
- (6) *Corner buildings.* Buildings situated at a corner shall possess a level of architectural design that incorporates accents and details that accentuate its prominent location. This can be accomplished through height projections incorporated into a design feature such as a building peak, tower, or similar accent with the highest point located at the intersecting corner, which may be up to an additional ten feet above the height limit. The building architecture can be designed to focus on accentuating the geometry of the corner location. A main entrance may be on a street-facing wall and either at the corner or within 25 feet of the corner.

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-256. - Attached single family residential architectural requirements.

Attached single family residential dwellings shall meet the following architectural design requirements:

The following example is intended to illustrate the application of the design standards in this ordinance. It shall not be interpreted as requiring a specific architectural style or limit innovations in design.



- (1) *Front façade.*
 - a. All residential units shall provide a pedestrian door facing the front lot line.
 - b. All dwellings shall include a front porch with steps. The porch shall have a minimum depth of four feet and a minimum area of 24 square feet.
 - c. The front façade of all residential units shall be at least 25 percent windows or doors.
 - d. The requirement for a front porch and window/door requirements in subsections b. and c. above shall not apply to live/work units where the first floor façade is designed as a storefront meeting the requirements of section 42-255(2). above.
- (2) *Building materials.* All buildings shall utilize building materials that are in keeping with traditional architectural styles. Permitted wall materials include, brick, stone, wood, and fiber cement siding. Vinyl siding is prohibited.
- (3) *Garages.* Garages shall be located in the rear yard and may be accessed by a rear alley or from a side street.

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-257. - Modifications to architectural requirements.

The planning commission may approve modifications to the architectural requirements of sections 42-255 and 42-256 in order to allow for creativity and flexibility in design. A front elevation drawing of the proposed building shall be provided superimposed on a color drawing or photograph of the entire block showing the relation of the proposed building design to other buildings along the block, which shall be utilized to evaluate the proposed building design based upon all of the following criteria:

- (1) Demonstrates innovation in architectural design, provided the building design shall be in keeping with the desired character of the downtown, as articulated in the Downtown Design Guidelines Booklet—Village of Paw Paw.
- (2) The building is oriented towards the front sidewalk with a functioning entrance and enhances the continuity of the pedestrian-oriented environment. A modification shall not result in an increased dominance of vehicular parking or garage doors along the front of the building.

- (3) The roof design shall not be out of character with other buildings along the block and shall be within the minimum and maximum height requirements of the district.
- (4) The exterior finish materials shall be of equal or better quality and durability as those permitted herein, with the intent to allow for new technologies in building material while maintaining the desired character of the downtown.
- (5) Ground floor windows shall be provided along the front sidewalk to maintain the pedestrian orientation of the streetscape and upper story windows shall not be incompatible with the rhythm and proportions of windows on other buildings along the block.

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-258. - Streetscape design requirements.

- (a) *Street design standards.* All streets shall be constructed to meet the requirements of the Village of Paw Paw. Modifications to existing streets shall be consistent with the Village of Paw Paw Master Plan to the maximum extent practical, as determined by the village council.
- (b) *Sidewalks.* Sidewalks in the downtown overlay district shall be provided as set forth in the Village of Paw Paw Sidewalk Ordinance.
- (c) *Street trees.* one canopy tree shall be provided for every 40 feet of frontage planted within tree grates in the sidewalk.
- (d) *Street lights.* Pedestrian level street lighting of a decorative nature shall be installed along all sidewalks and shall be designed to promote the traditional character of the area. Light fixtures shall meet the specifications of the Village of Paw Paw.
- (e) *Alleys.* Alleys shall be permitted in the downtown overlay district and shall be required where necessary to provide access to parking lots, loading areas and garages at the property.
 - (1) Alleys serving as access to residential garages shall be located within an easement with minimum pavement necessary for circulation and emergency vehicle access.
 - (2) Alleys accessing commercial parking lots and loading areas in the rear of a site may be used as drive aisles in interior block parking lots with parking spaces along the alleys.
- (f) *Street furniture.* Benches and trash receptacles shall be provided by the developer in park and plaza areas and along adjoining sidewalks where the planning commission determines that pedestrian activity will benefit from these facilities.
- (g) *Bicycle facilities.* All developments shall be designed to accommodate bicycle travel, including the provision of bike racks. All parking structures and parking lots for commercial, recreational and institutional uses shall include sufficient bike racks to allow the parking of a minimum of one bike for every ten automobiles or one bike for every 3,000 square feet of building floor area, whichever is greater.
- (h) *Street cafés.* Street cafés (or dining platforms) are allowed within the downtown overlay district, subject to the Village of Paw Paw street cafe standards.

(Ord. No. 449, § 4, 12-22-2014)

Sec. 42-259. - Signs.

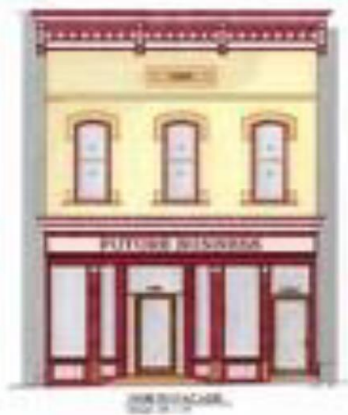


Because it is the purpose to catch people's eye, signage also has a major impact on the appearance of a façade and the streetscape. It is important that signage enhance, and not detract from, the building and streetscape.

When locating signage, work with the building's character and architectural composition. Design signage so that it is compatible with your building and not dominate or detract from the historic character of the building and clutter the streetscape.

(1) Sign guidelines.

- a. *Sign types.* In the past, streetscapes had a variety of sign types that not only identified the business, but also the name of the buildings, dates of construction, etc. The signs were simple, bold and well crafted. Lettering was in clear, no-nonsense styles, maximizing the contrast between the background and the lettering.



- b. Varying sign types can be found in the historic streetscape including: (1) storefront (wall) signs, (2) projecting signs, (3) hanging signs, (4) awning signs, (5) window signs, and (6) architectural signs. Every building should select the most appropriate sign type for its architecture and location.
- c. Sidewalk signs are temporary signs used to attract customers but can add vibrancy to a streetscape and expand the presence of a business if the design is creative and thoughtful.
- d. *Quantities and locations.* Storefronts should be limited to two permanent signs—one primary and one secondary. The primary sign should be located above storefront display windows but below the sills of second floor windows. On many examples of turn-of-the-century buildings a continuous brick ledge or corbelling is used to separate the second floor and above from the storefront below. This space is ideal for sign placement, as it was often created for this purpose.



- e. Types of secondary signage include hanging, window, awning, or any sign that is located below the primary sign. If a projected sign is planned, placement will be critical to avoid interferences with adjacent signs and architecture of the storefront itself. These signs should be located below second story window sills and be no less than eight feet above the sidewalk. Window signs should consist of a material and color that contrasts with the display, while being small enough to not interfere with the display area. The use of awning valances for signs is encouraged and is often an integral part of the awning pattern and style.
- f. *Size.* Big does not necessarily mean powerful. Primary signs of proper size can combine with the entire storefront to become more meaningful than just the sign itself. The sign must be subordinate to the building, not the opposite. Actual size may vary, but signboards, if used, need not exceed two and a half feet high. This size is appropriate for distances the sign will be read from in a downtown setting. Letters should not be less than eight inches nor more than eighteen inches high. Lettering should account for at least 50 and no more than 60 percent of a signboard.



- g. *Message.* Messages should be kept simple in content. The major function of the sign is to introduce the storefront and its contents. Wording should be minimal and slogans avoided. Descriptive words should be used rather than providing listings of items to be sold. Simple wording is easily read by pedestrians and street traffic.
- h. *General.*
 - 1. The maintenance and restoration of any existing historic signs is encouraged in lieu of replacement.
 - 2. Signage for a business not located within the building is not acceptable.
 - 3. Signage should be located in such a way as to not obscure any architectural features of the building.
 - 4. Signs are important to the store owner for reasons of advertising, identity, and image. As they are an extremely visible element of the storefront, signs must be used carefully

so as not to detract from facades. With a little forethought and careful planning, signage can embrace the store owner's needs as well as Paw Paw's image.

(2) *Sign standards.*

a. *General.*

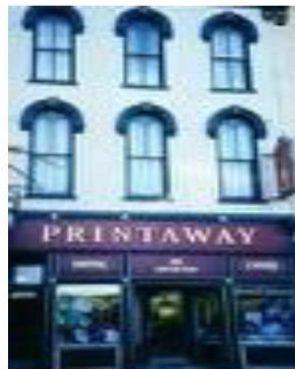
1. Permitted signs: storefront (wall), projecting, hanging, awning, window, architectural, and temporary sidewalk signs as defined by this article.
2. Prohibited signs: roof, freestanding, animated, flashing, signs that obscure the unique or historically-significant architectural detail of a building façade, and temporary signs, as defined by section 42-3 (not including temporary sidewalk signs as defined by this article).
3. Exempt signs: those signs identified by section 42-435 are exempt from the provisions of this article.
4. Area/height: sign area and height shall be measured as established by the definitions of "sign area" and "sign height" set forth in section 42-3.
5. Color: sign colors must relate to the paint scheme of the building. Bright white and intense background colors are discouraged. Fluorescent colors are prohibited.
6. Lighting: signs can be illuminated with directional spotlights or indirect lighting. Signs may not be internally-illuminated.
7. Design: sign construction and sign copy must be of professional quality. Primary signage should identify a business and not a brand-name product. If more than one sign is used, the signs must be compatible in style.
8. Sign installation: all signs, except window signs, require a sign permit and building and electrical permits as required. All signs shall be installed avoiding visible guy wires or other stabling devices.
9. Sign permits: no sign shall be erected constructed, relocated or altered until a sign permit has been obtained from the village in accordance with section 42-441.
10. Signs established within the downtown overlay district are not subject to article VI — Signs, except as set forth in this article.

b. *Sign area and number.*

1. A maximum total sign area of one square foot per lineal foot of width of the storefront is permitted.
2. For establishments with frontage on more than one street, additional sign area of ½ square foot per lineal foot of width of the establishment along the secondary frontage is permitted.
3. No establishment shall be permitted more than 100 square feet of total sign area.
4. Each storefront shall be entitled to a minimum of 30 square feet of sign area.
5. A maximum of two signs is permitted per storefront.
6. A maximum of four signs is permitted per establishment.
7. Window and architectural signs are permitted in addition to these maximums.



- c. *Storefront (wall) signs.* Storefront signs are those which are located on the horizontal band dividing the storefront windows from the upper façade of the building.
1. Storefront (wall) signs shall be located above storefront display windows but below the sills of second floor windows
 2. Signs shall be placed in traditional locations, such as above transoms; below storefront cornices; or within the sign panel area on the façade.
 3. Signs may not extend over the side piers, or beyond the parapet or building face.
 4. Guidelines:
 - The storefront sign should be used to display primarily the name of the business only. Use only one line of lettering if possible, leaving out secondary information.
 - Use simple, bold lettering with sufficient contrast between the lettering and the background.
 - Graphics in the sign are included in the maximum allowable area.



- d. *Projecting signs.* Projecting signs are at right angles to the building face, either fixed to the wall or hanging from a bracket. The major advantage of projecting signs over storefront or window signs is their ability to be seen by pedestrians and motorists from a distance down the street. If they get too large, however, they can obscure each other, so it is important to keep them small and simple.



1. Only one projecting sign per storefront is permitted.
2. Projecting signs shall be located no higher than the cornice or parapet line, whichever is lower.
3. Signs shall be located so as not to obscure any unique or historically-significant architectural detail of the façade.



4. The sign shall not extend further than four and one-half feet from the face of the building and shall not exceed 20 square feet in area.
5. Projecting signs shall not be less than eight feet from the grade beneath and shall not extend above the second story window sill or roof line, whichever is lower.

e. *Hanging signs.*



1. Small horizontal hanging signs suspended over the entry or from a canopy are encouraged.
2. Hanging signs shall not exceed four square feet in area.

3. Hanging signs shall be provided a minimum of eight foot clearance from the sidewalk.



- f. *Awning signs.* Another option for a primary sign location can be an awning, provided the awning is properly integrated with the building.
1. The area of a ground floor awning sign shall not cover more than 30 percent of the total surface area of the awning.



2. Signs on two side panels of an awning shall be considered as one sign for purposes of calculating total number of allowable signs.
 3. The use of awning valances for signs is encouraged. Six to eight inch letters are sufficient.
- g. *Window signs.* Window signs were historically applied on the inside of the glass, painted directly onto the storefront glass, upper floor windows and doorways. The main focus of this style of signage is to target and inform approaching pedestrians. Therefore, window lettering typically provides more detailed information about the business. Today, most window signs are made of vinyl and applied to the outside of the window.



1. Permanent window signs may include graphics painted on glass, vinyl letters applied to glass, a clear acrylic panel behind the window, or small neon window signs.
2. Permanent window signs may not occupy more than 1/3 of the total area of the window.
3. Window signs shall not count toward total allowable sign area for the building.
4. Lettering should be white or light in color since windows appear dark.



5. Guidelines:

- It may often be desirable to keep the display space clear. In these cases, insert the sign at the base or the head of the window, or both.
- Keep the lettering small remembering that the reader will be in close proximity to the sign. Use several lines where necessary and consider curving the top line at the head of the window.



- Lettering formed with neon may be used in the inside of the window, provided the size, light intensity, color and style are consistent with the theme of the building.
- Total sign area in the window should not exceed one-third of the window area.
- Display street numbers on or directly above the door, and business hours on the inside of the door or in an adjacent window.



h. *Architectural signs:* Architectural signs are integrated into the building fabric and are constructed of permanent materials such as stone or metal. Names and the dates of construction were common signs included on the façade. They were typically located in the roof parapet detailing or in a cornerstone detail. These add a sense of history and place to the character and fabric of the village.

1. Guidelines:

- Preserve existing architectural signs.
- Promote the use of the original building names in new signage.

i. *Sidewalk signs.* Sidewalk signs are portable signs of A-frame or swinging style construction used during hours a business is open and stored inside when not in use. According to the National Main Street Center, temporary sidewalk signs can add vibrancy to a streetscape and expand the presence of a business if the design is creative and thoughtful.

1. Only one sidewalk sign per storefront is permitted.



2. Sidewalk signs shall not occupy more than nine square feet of sidewalk and shall not exceed four feet in height.

3. Sidewalk signs shall be subject to the following placement standards:



- i. Must be placed in front of the storefront holding the permit for the sign.
 - ii. Shall be located a minimum of two feet from the curb and allow five feet of unobstructed sidewalk.
 - iii. Shall not be located within 25 feet of an intersection (measured perpendicularly).
 - iv. Shall be spaced a minimum of 20 feet from each other.
 - v. Placement is permitted during business hours but not before 8 AM or after 9 PM.
 - vi. The sidewalk shall be completely clear of snow prior to placement of the sign.
 - vii. Shall not be placed on snow banks.
 - viii. Sidewalk signs shall be of A-frame or swinging style construction and shall be sturdy and stable enough to withstand typical winds without flipping over or sliding.
 - ix. The surface of a sidewalk sign shall be durable and weatherproof.
 - x. Sidewalk sign copy shall be painted or printed on the sign surface. Loose paper faces are not permitted.
 - xi. Sidewalk signs shall not be illuminated by any means except natural light and existing street lights.
- (3) *Nonconforming signs.*
- a. Lawful existing signs: A permanent sign lawfully existing on December 22, 2014 (Ordinance No. 449) which does not fully comply with the provisions of this article shall be deemed a lawful nonconforming sign and may be allowed to remain if the sign is properly maintained and if it has no serious adverse effects on the public health, safety and general welfare.
 - b. Lawful nonconforming signs: Lawful nonconforming signs shall be subject to Section 42-439 (b) and (c).
- (4) *Abandoned signs.* Any sign that the village determines to be abandoned, as defined by section 42-3, shall be removed by the owner of the property on which the sign is located. If the property owner cannot be found, the village may remove the sign and recover from said owner the full costs of removing and disposing of the sign.
- (5) *Violations.*
- a. It is a violation of this article to install, create, erect or maintain any sign that does not fully comply with the requirements of this article.
 - b. Each sign installed, created, erected or maintained in violation of this article is considered a separate violation when applying the penalty portions of this Ordinance.

(Ord. No. 449, § 4, 12-22-2014; Ord. No. 462, § 6, 7, 10-23-2017)

Sec. 42-260. - Reserved.

DIVISION 9. - P PARKING DISTRICT

Sec. 42-261. - Purpose.

The P parking zoning district is intended to provide vehicular parking facilities that are associated with business or industrial districts. Such facilities are effective as buffer zones between such districts and residential districts.

(Ord. No. 394, § 9.1, 7-14-2003)

Sec. 42-262. - Principal permitted uses.

In the P district, no uses shall be permitted unless otherwise provided in this chapter, except the following: Premises in this district shall be used only for vehicular parking areas subject to all regulations hereinafter provided.

(Ord. No. 394, § 9.2, 7-14-2003)

Sec. 42-263. - Limitation of use.

Limitation of uses in the P district shall be as follows:

- (1) Parking areas shall be used for parking of private passenger vehicles only.
- (2) Parking may be with or without charge.
- (3) No business involving the repair of vehicles or services to vehicles permitted thereon or sale, or other storage, or display thereof, shall be conducted from or upon such premises.
- (4) All P districts shall be contiguous to a business district or industrial district; provided, however, that there may be a private drive, public alley or public street between such P district and such business or industrial district.
- (5) No sign shall be erected or placed on the premises except that not more than one directional sign at each point of ingress and egress may be erected or placed. Such signs may also contain information on parking price and duration and shall not exceed 12 square feet in area nor 15 in height.
- (6) Construction, lighting and screening requirements shall be in accordance with sections 42-404 and 42-405.
- (7) Every such parking area shall be surfaced with an asphalt, concrete or similar durable and dustless surface, and shall be graded and drained to dispose of all surface water to the nearest adjoining street and away from adjoining street and away from adjoining properties. Screening shall be provided per the requirements of this chapter.

(Ord. No. 394, § 9.3, 7-14-2003)

Sec. 42-264. - Uses subject to a special use permit.

The following uses are subject to a special use permit in the P district.

- (1) Single-family dwellings.
- (2) Two-family dwellings.

(3) Parking structures.

(Ord. No. 394, § 9.4, 7-14-2003)

Sec. 42-265. - Development requirements.

Area, height, bulk and placement requirements for the P district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 9.5, 7-14-2003)

Secs. 42-266—42-280. - Reserved.

DIVISION 10. - RO RESTRICTED OFFICE DISTRICT

Sec. 42-281. - Statement of purpose.

The RO restricted office zoning district is intended to accommodate various types of office uses performing administrative, professional and personal services. These uses can serve as a transitional use between more intensive land uses such as commercial districts or major thoroughfares and less intensive land uses such as single- and two-family districts. The RO district is also intended to allow for users that do not generate large volumes of traffic, traffic congestion or parking problems.

(Ord. No. 394, § 10.1, 7-14-2003)

Sec. 42-282. - Principal permitted uses.

In the RO district, no uses shall be permitted unless otherwise provided in this chapter except the following:

- (1) Two-family and three-family dwellings.
- (2) Office buildings and uses when goods or wares are not commercially created, exchanged or sold.
- (3) Public utility buildings but not including storage yards.
- (4) Business and private schools operated for a profit completely within an enclosed building.
- (5) Photographic studios.
- (6) Funeral homes and mortuaries.
- (7) Insurance offices, brokerage houses and real estate offices.
- (8) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (9) Off-street parking and loading in accordance with the requirements of article V of this chapter.
- (10) Museums, libraries, and art galleries.
- (11) Public and/or municipal buildings.

(Ord. No. 394, § 10.2, 7-14-2003; Ord. No. 434, § 4, 6-27-2011; Ord. No. 475, § 3, 10-14-2019)

Sec. 42-283. - Uses subject to special use permit.

The following uses are subject to a special use permit in the RO district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Commercial child care centers.
- (2) Office complexes (two or more structures).
- (3) Medical or dental clinics.
- (4) Pharmacy or apothecary shops; stores limited to corrective garments or bandages, optical stores or restaurants provided, however, they are located within the building to which they are an accessory and do not have a direct outside entrance for customer use.
- (5) Private service clubs, fraternal organizations and lodge halls.
- (6) Hospitals.
- (7) Personal service establishments.

(Ord. No. 394, § 10.3, 7-14-2003)

Sec. 42-284. - Development requirements.

Area, height, bulk and placement requirements for the R-1 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For permitted use and use subject to a special use permit, a site plan shall be submitted in accordance with article V of this chapter.

(Ord. No. 394, § 10.4, 7-14-2003)

Secs. 42-285—42-300. - Reserved.

DIVISION 11. - I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 42-301. - Purpose.

The purpose of the I-1 district is to establish a zone where designated industrial and commercial businesses may locate and intermingle, which produce a minimum amount of adverse effect on adjoining premises, are compatible with one another, and do not require large land or building areas for operation nor large yard areas for isolation or protection from adjoining premises or activities.

(Ord. No. 394, § 11.1, 7-14-2003)

Sec. 42-302. - Principal permitted uses.

In the I-1 district, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

- (1) Wholesale and warehousing. The sale at wholesale or warehousing of automotive equipment, alcoholic beverages, dry goods and apparel, groceries and related products, raw farm products except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, paper and paper products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this district, and truck terminals.
- (2) Testing and research laboratories.
- (3) Tool and die shops.

- (4) Facilities for the printing or forming of box, carton and cardboard products.
- (5) Electric transformer stations and substations, electric transmission towers, gas regulators and municipal utility pumping stations.
- (6) Indoor tennis, paddleball, or racquetball courts.
- (7) Bakeries.
- (8) Cold storage plants.
- (9) Bottling works, including milk bottling or distribution stations.
- (10) Manufacture of food products.
- (11) Tin shops or plumbing supply shops.
- (12) Coal or building materials storage yards.
- (13) Kennels.
- (14) Veterinary hospitals or clinics.
- (15) Contractors' storage yards.
- (16) Automobile storage and parking.
- (17) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (18) Off-street parking in accordance with article IV of this chapter.
- (19) Other uses similar to but not more objectionable than uses permitted in this district.
- (20) Public and/or municipal buildings.
- (21) Indoor or outdoor commercial recreation facility such as a bowling center, theater, skating rink, racquet club, miniature golf, video amusement establishment, pool and billiard establishment or similar uses.

(Ord. No. 394, § 11.2, 7-14-2003; Ord. No. 475, § 3, 10-14-2019; Ord. No. 480, § 8, 8-10-2020)

Sec. 42-303. - Uses subject to a special use permit.

The following uses are subject to a special use permit in the I-1 district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Planned industrial parks.
- (2) Public garages, motor vehicle repair shops, automobile paint and bump shops or car washing establishments.
- (3) Telecommunications towers, per this chapter.
- (4) Hospitals.
- (5) Medical and dental clinics.
- (6) Open-air businesses.

(Ord. No. 394, § 11.3, 7-14-2003; Ord. No. 405, 7-11-2005; Ord. No. 480, § 9, 8-10-2020)

Sec. 42-304. - Development requirements.

Area, height, bulk and placement requirements for the I-1 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. Any use permitted in the I-1 district

must comply with applicable county and state health and pollution laws and federal regulations. For all permitted uses and uses permitted by special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 11.4, 7-14-2003)

Secs. 42-305—42-320. - Reserved.

DIVISION 12. - I-2 GENERAL INDUSTRIAL DISTRICT

Sec. 42-321. - Purpose.

The purpose of the I-2 district is to provide areas where heavier types of industry may best utilize essential public and private facilities and utilities while minimizing the negative impacts typically associated with this kind of industry.

(Ord. No. 394, § 12.1, 7-14-2003)

Sec. 42-322. - Principal permitted uses.

Principal permitted uses in the I-2 district shall be as follows:

- (1) All permitted uses in the I-1 district.
- (2) Establishments which assemble and manufacture automobiles, automobile bodies, parts and accessories, electrical fixtures, batteries and other electrical apparatus and hardware.
- (3) Establishments that process, refine or store food and foodstuffs.
- (4) Breweries, wineries, bump shops, distilleries, machine shops, metal buffing shops, plastering and polishing shops, metal and plastic molding shops, extrusion shops, lumber and planing mills, painting and sheet metal shops, undercoating and rust proofing shops and welding shops.
- (5) Municipal sewage treatment plants.
- (6) Truck terminals.
- (7) Bulk storage of gasoline, fuel oil, fuel gas, propane, kerosene, diesel fuel or any flammable liquid.
- (8) Any uses similar to and not more objectionable than the above.
- (9) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (10) Off-street parking in accordance with section 42-404.

(Ord. No. 394, § 12.2, 7-14-2003)

Sec. 42-323. - Uses subject to a special use permit.

The following uses are subject to a special use permit in the I-2 district. All uses are subject to restrictions listed in article IV of this chapter.

- (1) Automobile disposal and junkyards.
- (2) Central dry cleaning plants and laundries.
- (3) Open-air businesses.

(Ord. No. 394, § 12.3, 7-14-2003; Ord. No. 480, § 10, 8-10-2020)

Sec. 42-324. - Open storage.

All storage of building, contracting, or plumbing materials, sand, gravel, stone, lumber, equipment, and other supplies in the I-2 district, shall be located within an area not closer than 150 feet from any street right-of-way line. The storage of lumber, coal, or other combustible material in the I-2 district shall not be less than 20 feet from any interior lot line, and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets, and on all sides which abut any residential or business district, by a solid six-foot wall or fence sufficient to serve as a permanent retaining wall or fence.

(Ord. No. 394, § 12.4, 7-14-2003)

Sec. 42-325. - Performance standards.

Before the issuance of any building or occupancy permit in the I-2 district, the applicant shall sign an agreement that the use of the property will meet the following performance standards, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant:

- (1) *Fire and explosion hazards.* All activities in the I-2 district shall be carried on only in buildings conforming to the single state construction code, and the operation shall be carried on in such a manner and with such precaution against fire and explosion hazards as to produce no explosion hazards to a use on an adjacent property as determined by the state. Flammable liquids other than fuels used for heating shall be stored in an entirely closed building which shall be used for no other purpose, or in underground tanks provided:
 - a. Said storage building is not closer than 100 feet to any building occupied by one or more humans.
 - b. Every factory or manufacturing building or other building permitted only in the industrial area shall be equipped with automatic sprinklers or other automatic fire extinguishers approved by the building inspector and the chief of the fire department as being sufficient in view of the nature and extent of the fire risk.
- (2) *Smoke, fumes, gases, dust, odors.* There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to create a public nuisance.
- (3) *Liquid or solid waste.* The discharge of untreated industrial waste into a reservoir, pond, lake or stream is prohibited. All methods of sewerage and industrial waste treatment and disposal shall be approved by the county health department and the state department of environmental quality.
- (4) *Vibration.* There shall be no vibration that is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.
- (5) *Noise.* There shall be no noise emanating from the operation that will be more audible beyond the boundaries of the immediate site than 80 decibels.
- (6) *Glare.* There shall be no direct or sky-reflected glare exceeding 1.5 footcandles or which would be damaging to the human eye measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrances or exits of service drives leading to a parking lot.

(Ord. No. 394, § 12.5, 7-14-2003)

Sec. 42-326. - Development requirements.

Area, height, bulk and placement requirements for the I-2 district, unless otherwise specified, are as provided in the schedule of regulations in article V of this chapter. For all permitted uses and uses permitted subject to a special use permit, a site plan shall be submitted in accordance with section 42-402.

(Ord. No. 394, § 12.6, 7-14-2003)

Secs. 42-327—42-340. - Reserved.

DIVISION 13. - VILLAGE REVITALIZATION AREA PLANNED UNIT DEVELOPMENT (PUD)

Sec. 42-341. - Purpose.

The purposes of this district are to:

- (1) Permit greater flexibility in the regulation of land and encourage creative and imaginative design in development through the use of planned unit development legislation, as authorized by the Michigan Zoning Act (Public Act 110 of 2006, as amended).
- (2) Provide for a harmonious mixture of varied housing choices with the integration of small-scale, specialty retail/service establishments, civic and cultural facilities, and recreational opportunities.
- (3) Provide for pedestrian-friendly building and street design; common parking arrangements; active streetscapes; and, waterfront conservation design elements.
- (4) Provide useful and desirable open space along the waterfront as an integral part of the development;
- (5) Provide functional connectivity to the downtown through area-wide pedestrian routes and recreational assets.
- (6) Provide for redevelopment that facilitates the enhancement of the Kalamazoo Street corridor as a gateway into the community.
- (7) Further the vision and redevelopment strategies set forth in the Village Revitalization Area Subarea Plan of the Village of Paw Paw Master Plan.

(Ord. No. 453, § 4, 8-10-2015)

Sec. 42-342. - Applicability.

The PUD district is intended to apply to the area encompassed by the Village Revitalization Area Subarea Plan set forth in the Village of Paw Paw Master Plan.

The PUD district is designed to accomplish the overall land use pattern, building form, street system, and arrangement of open space networks envisioned by the Subarea Plan.

(Ord. No. 453, § 4, 8-10-2015)

Sec. 42-343. - Planned unit development provisions.

(a) *Permitted Uses:*

- (1) Single family, two-family, and multiple-family dwellings.
- (2) Nonresidential uses of an educational, cultural, or recreational character.
- (3) Retail shops and service establishments, including restaurants.

- (4) Professional office, such as legal, financial, medical and similar or allied profession.
 - (5) Community center, conference center, performing arts/cultural center.
 - (6) Mixed use establishment, allowing both permitted residential and nonresidential uses in the same building.
 - (7) Housing for the elderly.
 - (8) Home occupation.
 - (9) State licensed residential facilities as defined and required by Section 206 of Public Act No 110 of 2006, as amended.
 - (10) Family day care home.
 - (11) Foster care (small group) facility.
 - (12) Publicly owned and operated parks and recreational facilities.
 - (13) Accessory uses or buildings customarily incidental to the above principal uses.
 - (14) Public and/or municipal buildings.
 - (15) Outdoor display of merchandise as an accessory use to the principal use of the parcel.
- (b) *Special land uses:*
- (1) Outdoor sales or outdoor activity accessory to a principal use.
 - (2) Farmers' market.
 - (3) Breweries, wineries, and distilleries.
 - (4) Assembly of finished or semi-finished products; packaging of previously prepared material; and processing or compounding of commodities such as drugs, cosmetics, and food products when established within a building existing as of (date of adoption of PUD district).

(Ord. No. 453, § 4, 8-10-2015; Ord. No. 475, § 3, 10-14-2019; Ord. No. 480, § 11, 8-10-2020)

Sec. 42-344. - Development area requirements.

The requirements set forth below shall apply in determining development area within the District:

- (1) The total development area occupied by residential uses shall not exceed 50 percent of the planned unit development area as defined by the Village Revitalization Subarea Plan—Village of Paw Paw Master Plan.
- (2) The total development area occupied by nonresidential uses shall not exceed 25 percent of the planned unit development area as defined by the Village Revitalization Subarea Plan—Village of Paw Paw Master Plan.
- (3) Development area shall be determined using the total lot area less land area dedicated to designated green space, including waterfront and green space connections, and interior streets.

(Ord. No. 453, § 4, 8-10-2015)

Sec. 42-345. - Green space requirements.

Within the planned unit development there shall be designated an amount of green space not less than 15 percent of the total planned unit development area, subject to the following standards:

- (1) Designated green space shall be of functional value as it relates to opportunities for wildlife habitat, natural feature preservation, recreation, visual impact, and accessibility.

- (2) Designated green space shall be located along the waterfront and, where possible, along the interior street system of the planned unit development so as to be visible and accessible to the public. Designated green space shall be designed to effectively connect open spaces throughout the planned unit development.
- (3) Any significant and/or sensitive environmental resources shall be included within the designated green space.
- (4) The following land areas shall not be included as designated green space for purposes of meeting minimum green space requirements:
 - a. The area of any road right-of-way or private road easement;
 - b. Parking and loading areas;
 - c. Storm water detention/retention basins, unless designed as a natural wetland;
- (5) Structures or buildings which are accessory to the designated green space may be allowed and shall be erected only in accordance with the approved site plan.
- (6) Designated green space shall be set aside through an irrevocable conveyance approved by the planning commission, such as recorded deed restrictions; covenants that run perpetually with the land; a conservation easement; or land trust.

Such conveyance shall assure that the green space is protected from development, except as approved by the planning commission. Such conveyance shall also:

- a. Indicate the proposed allowable uses(s) of the designated green space;
- b. Require that the designated green space be maintained by parties who have an ownership interest in the green space;
- c. Provide standards for scheduled maintenance of the green space;
- d. Provide for maintenance to be undertaken by the village in the event that the designated green space is inadequately maintained, or is determined by the village to be a nuisance, with the assessment of the costs for maintenance upon the green space ownership.

(Ord. No. 453, § 4, 8-10-2015)

Sec. 42-346. - Design requirements.

- (a) *Access.* The planned unit development shall have direct access onto Commercial Avenue, Industrial Avenue, Gremps Street and/or Lake Street, as set forth in the Village Revitalization Area Subarea Plan—Village of Paw Paw Master Plan.
- (b) *Interior street system.* The planned unit development shall be served by an interior street system designed to facilitate the general development pattern set forth in the Village Revitalization Subarea Plan—Village of Paw Paw Master Plan.

Interior streets may be public and/or private subject to planning commission approval. All private interior streets within the planned unit development shall be subject to the village public street standards.

Interior streets shall be provided bike lanes as set forth in the Village of Paw Paw Complete Streets Resolution.

- (c) *Building height and placement standards.* The following tables set forth the height, bulk and setback standards applicable to buildings within the planned unit development.
 - (1) Buildings within nonresidential use areas.

Maximum Lot Size	<ul style="list-style-type: none"> • N/A
Maximum Floor Area	<ul style="list-style-type: none"> • N/A
Front Yard Setback and Building Frontage	<ul style="list-style-type: none"> • 0 feet maximum front yard setback • The building façade shall be built to within 0 feet of the front lot line for 100 percent of the street frontage length • See subsection (2).
Minimum Side Yard Setback	<ul style="list-style-type: none"> • 0 feet side yard setback for walls without windows • 10 feet side yard setback for walls that contain windows
Minimum Rear Yard Setback	<ul style="list-style-type: none"> • 10 feet minimum rear yard setback
Building Height	<ul style="list-style-type: none"> • 24 feet and 2 stories minimum building height • 42 feet and 3 stories maximum building height • The first story shall be a minimum of 14 feet in height, floor to floor

(2) *Nonresidential use area exceptions.* For buildings within nonresidential use areas, 100 percent of the length of the ground level street-facing façade of the building must be built to the front lot line. The planning commission may grant exceptions to allow a greater building setback and/or a lesser building frontage requirement(s) where the front yard and/or side yard area(s) is used for one or more of the following:

- a. Providing a public gathering area or plaza that offers seating, landscape enhancements, public displays, fountains, or other pedestrian amenities.
- b. Providing outdoor seating for the proposed use.
- c. Providing pedestrian access to an off-street parking area.

The planning commission may also grant exceptions to the minimum building height requirement where the front façade design is determined to be adequately similar in appearance to buildings with two stories.

(3) Buildings within residential use areas.

Minimum Lot Size	<ul style="list-style-type: none"> • Overall density of 6 dwelling units per acre
Minimum Lot Width	<ul style="list-style-type: none"> • N/A

Front Yard Setback and Building Frontage	<ul style="list-style-type: none"> • 6 feet maximum front yard setback • The building façade shall be built to within 6 feet of the front lot line for 75 percent of the street frontage length • See subsection (4).
Minimum Side Yard Setback	<ul style="list-style-type: none"> • 0 feet side yard setback for walls without windows • 10 feet side yard setback for walls that contain windows
Minimum Rear Setback	<ul style="list-style-type: none"> • 10 feet minimum rear yard setback
Building Height	<ul style="list-style-type: none"> • 42 feet and 3 stories maximum building height

- (4) *Residential use area exceptions.* For buildings within residential use areas, 75 percent of the length of the ground level street-facing façade of the building must be built within six feet of the front lot line. The planning commission may grant exceptions to allow a greater building setback and/or a lesser building frontage requirement(s) in order to establish consistency in building placement with adjacent residential development or where the front yard and/or side yard area(s) is used for one or more of the following:
- Providing a public gathering area or plaza that offers seating, landscape enhancements, public displays, fountains, or other pedestrian amenities.
 - Providing outdoor seating for the proposed use.
 - Providing pedestrian access to an off-street parking area.
 - Parking area. (See subsection (6))
- (5) *Existing buildings.* Buildings existing within the planned unit development prior to (date of adoption of pud district) shall not be subject to the height and placement standards set forth above.

Any expansion or modification of an existing building shall be subject to established building height and placement standards, unless specifically waived by the planning commission through a finding that the deviation meets the purpose of the planned unit development set forth in section 42-341.

- (d) *Parking.* Parking within the planned unit development shall be provided as follows:
- Except as specified herein, parking shall be provided as set forth in section 42-404 and may be established through:
 - On-site parking;
 - Common parking facilities; and/or
 - On-street parking.

The planning commission may approve reduced on-site parking, or the paving of only a portion of the parking area, leaving a portion as grass for overflow parking, if it is demonstrated

that adequate parking otherwise exists in a shared and/or adjacent parking facility during the principal operating hours of all uses to share said parking and access is shared.

- (2) On-street parking shall be allowed on all interior streets within the planned unit development.
 - (3) Off-street parking areas are permitted only in side and rear yards.
 - (4) When parking is located within a side yard (behind the front building line) and has frontage on an interior street, no more than 25 percent of the total site frontage or 60 feet, whichever is less, shall be occupied by the parking area.
 - (5) For a corner lot, no more than 25 percent of the cumulative site frontage or 60 feet, whichever is less, shall be occupied by a side yard parking area. The building shall be located at the corner of the lot adjacent to the intersection.
 - (6) For a double frontage lot, no more than 35 percent of the cumulative site frontage or 60 feet, whichever is less, shall be occupied by a side yard parking area.
 - (7) Where an off-street parking area is visible from a street, it shall be screened by a three-foot tall screen wall located between the parking lot and the sidewalk.
 - (8) Driveway access to off-street parking areas shall be located to provide safe separation from the street intersections and shall be aligned with driveways on the opposite side of the street.
- (e) *Dumpsters.* Dumpster facilities are permitted only in rear yards and shall be subject to section 42-406 (d)(9).
- (f) *Utilities.* Public water and sanitary sewer facilities are required as part of the planned unit development. All utilities, including telephone, electric, and cable television, shall be placed underground.
- (g) *Storm water management.* Storm water management systems shall be designed to achieve compliance with zoning ordinance standards and are required to:
- (1) Incorporate and/or use natural drainage systems existing on the site.
 - (2) Protect the surrounding natural environment.
 - (3) Retain the natural retention and storage capacity of nearby wetlands or waterways.
 - (4) Not increase flooding or the possibility of polluting surface water or groundwater.
- (h) *Shoreline/waterfront preservation:* In order to provide useful and desirable connectivity along the waterfront, protect the quality of Briggs Pond, and preserve natural storm water systems, development within this district shall be governed by the following:
- (1) A greenbelt, a minimum of 50 feet in depth and linear in character, shall be provided along the shoreline of Briggs Pond and shall be designed so as to:
 - a. Be unoccupied by buildings/structures;
 - b. Prevent water quality degradation;
 - c. Retain natural vegetation;
 - d. Decrease shoreline erosion;
 - e. Provide visual access to the waterfront;
 - f. Facilitate a public waterfront walkway;
 - g. Allow for support of waterfront recreational opportunities.
 - (2) A public walkway shall be provided along the waterfront of Briggs Pond within the planned unit development. The walkway shall be designed to facilitate extension beyond the boundaries of the planned unit development.
 - (3) Waterfront property shall be developed in consideration of the following design features:

- a. Buildings should be oriented in consideration of the water frontage and consistent with the form-based standards set forth in subsection 6.
 - b. Parking and loading areas shall be visually buffered from the abutting waterfront with landscaped areas of a mixture of trees and shrubs, primarily of naturally occurring species.
 - c. On-site linkages to the abutting greenbelt/waterfront walkway are encouraged to support waterfront access.
- (4) Wetlands shall be retained as part of the natural storm water and green space system within the planned unit development to:
- a. Reduce infrastructure costs;
 - b. Reduce frequency of flooding;
 - c. Preserve green space and wildlife habitat.

(Ord. No. 453, § 4, 8-10-2015)

Sec. 42-347. - Architectural requirements.

(a) *Nonresidential/mixed use buildings.* Mixed-use buildings that contain nonresidential use on the ground floor and all nonresidential buildings shall meet the following architectural design requirements. It is not the intent of this section to regulate architectural style of buildings or limit creativity, but to ensure that the necessary functional and design elements to create and foster a mixed-use, pedestrian-oriented environment are incorporated into all building designs.

(1) *Front façade.*

- a. Walls that face a street, plaza, green, park or off-street parking area shall include windows and architectural features customarily found on the front of a building, such as awnings, cornice work, edge detailing or decorative finish materials.
- b. Blank walls longer than 20 feet shall not face a street.
- c. All buildings shall have a main entrance located on the front façade. Main entrances shall have design details that enhance the appearance and prominence of the entrance so that it is recognizable from the street and parking areas.
- d. For buildings with a front façade of more than 100 feet in length, there shall be a minimum of one usable entrance every full 50 feet of frontage along the front public sidewalk and shall provide architectural variation to visually break up the building.
- e. Garage doors shall not be permitted on a front façade.

(2) *Windows and doors.*

- a. *Storefront/ground floor.* Ground floors shall be designed with storefronts that have windows, doorways and signage, which are integrally designed and painted. No less than 70 percent of the storefront/ground floor façade shall be clear glass panels and doorway. Glass areas on storefronts shall be clear, or lightly tinted. Mirrored glass is prohibited. Required window areas shall be either windows that allow views into retail space, working areas or lobbies, pedestrian entrances, or display windows set into the wall. Windows shall not be blocked with opaque materials or the back of shelving units or signs. The bottom of the window must be no more than 3 feet above the adjacent exterior grade.
- b. *Upper stories.* Openings above the first story shall be a maximum of 50 percent of the total façade area. Windows shall be vertical in proportion and shall be compatible with the rhythm and proportion of windows on other buildings along the block.

- (3) *Building materials.* The following exterior finish materials are required on the front façade and any wall facing a street, plaza, green, park or off-street parking area. These requirements do not include areas devoted to windows and doors.
 - a. All walls exposed to public view from a street, plaza, green, park or off-street parking area shall be constructed of not less than 60 percent brick, stone or glass.
 - b. The remaining façade or wall area may include wood siding or fiber cement siding. Exterior insulation finish systems (EFIS) may be used for architectural detailing above the first floor.
- (4) *Awnings.* An awning acts as a transition between the storefront and the upper story and can also be used as a location for building signage. Storefronts may be supplemented by awnings provided that the following conditions are met:
 - a. Fabric awnings are encouraged. The traditional commercial awning material is canvas and its profile is the watershed design.
 - b. Awnings shall fit storefront openings or individual window openings.
 - c. The awning shall be positioned immediately above the first floor window area of the façade, attached below the storefront cornice or sign panel, and should not cover the piers on either side of the storefront.
 - d. The awning should be mounted such that its valance is provided a minimum of eight foot clearance from the sidewalk.
 - e. Awning color should be selected to insure compatibility with the building and with the color of adjacent buildings.
 - f. Imitation mansard roofs made of metal, rough-sawn wood, plastic, shakes, or asphalt roofing are prohibited.
 - g. Internally-illuminated or plastic awnings are prohibited, with or without signage.
- (b) *Residential buildings.* Attached and detached residential dwellings shall meet the following architectural design requirements:
 - (1) *Front façade.*
 - a. All residential units shall provide a pedestrian door facing the front lot line.
 - b. All residential units shall include a front porch or landing with steps, with a sidewalk extending from the steps to the street sidewalk.
 - c. The front façade of all residential units shall be at least 25 percent windows and doors.
 - d. The requirement for a front porch or landing with steps and window/door requirements set forth in subsections b. and c. above shall not apply to live/work units where the first floor façade is designed as a storefront meeting the requirements of subsection (a) of this section.
 - (2) *Building Materials.*
 - a. All buildings shall utilize building materials that are in keeping with traditional architectural styles. Permitted wall materials include, brick, stone, wood, and siding.
 - (3) *Garages.*
 - a. *Attached residential dwellings.* Garages shall be located in the rear yard and may be accessed by a rear alley or from a side street.
 - b. *Detached residential dwellings.* Garages shall be located in the rear yard and may be accessed from the frontage street by a single driveway.
- (c) *Modifications to architectural requirements.* The planning commission may approve modifications to the architectural requirements of subsections (a) and (b) in order to allow for creativity and flexibility in design. A front elevation drawing of the proposed building shall be provided superimposed on a color

drawing or photograph of the entire block showing the relation of the proposed building design to other buildings along the block, which shall be utilized to evaluate the proposed building design based upon all of the following criteria:

- (1) Demonstrates innovation in architectural design, provided the building design shall be in keeping with the desired character of the area, as articulated in the Village Revitalization Area Subarea Plan—Village of Paw Paw Master Plan.
- (2) The building is oriented towards the front sidewalk with a functioning entrance and enhances the continuity of the pedestrian-oriented environment. A modification shall not result in an increased dominance of vehicular parking or garage doors along the front of the building.
- (3) The roof design shall not be out of character with other buildings along the block and shall be within the minimum and maximum height requirements of the district.
- (4) The exterior finish materials shall be of equal or better quality and durability as those permitted herein, with the intent to allow for new technologies in building material while maintaining the desired character of the area.
- (5) Ground floor windows shall be provided along the front sidewalk to maintain the pedestrian orientation of the streetscape and upper story windows shall not be incompatible with the rhythm and proportions of windows on other buildings along the block.

(Ord. No. 453, § 4, 8-10-2015)

Sec. 42-348. - Streetscape design requirements.

- (a) *Sidewalks.* Sidewalks within the planned unit development shall be provided as set forth in the Village of Paw Paw Sidewalk Ordinance.
- (b) *Street trees.* One canopy tree shall be provided for every 40 feet of frontage planted within tree grates in the sidewalk.
- (c) *Street lights.* Pedestrian level street lighting of a decorative nature shall be installed along all sidewalks and shall be designed to promote the character of the area. Light fixtures shall meet the specifications of the village.
- (d) *Alleys.* Alleys shall be permitted in the planned unit development and shall be required where necessary to provide access to parking lots, loading areas and garages.
 - (1) Alleys serving as access to residential garages shall be located within an easement with minimum pavement necessary for circulation and emergency vehicle access.
 - (2) Alleys accessing nonresidential parking areas and loading areas in the rear of a site may be used as drive aisles in interior block parking lots with parking spaces along the alleys.
- (e) *Street furniture.* Benches and trash receptacles shall be provided by the developer in park and plaza areas and along adjoining sidewalks where the planning commission determines that pedestrian activity will benefit from these facilities.
- (f) *Bicycle facilities.* The planned unit development shall be designed to accommodate bicycle travel, including the provision of bike racks. All parking areas for nonresidential uses shall include sufficient bike racks to allow the parking of a minimum of one bike for every 10 automobiles or one bike for every 3,000 square feet of building floor area, whichever is greater.
- (g) *Street cafés.* Street cafés are allowed within the planned unit development, subject to the village street cafe standards.
- (h) *Signs.* Signage within the planned unit development shall be subject to the sign standards set forth in section 42-259 for the downtown overlay district, with the exception of the following:

- (1) *Existing buildings.* A building lawfully existing as of September 9, 2019 that does not meet the zero-foot maximum front yard setback requirement (i.e. is not built to the front lot line) is allowed one ground sign, subject to the following:
 - a. The ground sign shall not exceed the sign area allowed by section 42-259(b)(2)a.—d.
 - b. The number of signs allowed for the site by section 42-259(b)(2) shall include the ground sign.
 - c. The ground sign shall not exceed five feet in height, and shall be located a minimum of five feet from all lot lines.
- (2) *PUD district development sign.* One ground sign shall be allowed at each entrance to the PUD district, not to exceed a total of two signs for the district. Each ground sign shall not exceed 75 square feet in area or five feet in height, and shall be located a minimum of ten feet from the abutting street right-of-way.

(Ord. No. 453, § 4, 8-10-2015; Ord. No. 473, § 3, 9-9-2019)

Sec. 42-349. - Procedural guidelines.

- (a) *Application requirements.* The application for development approval within the planned unit development district shall be made according to the development review process set forth in this section.
- (b) *Effect of approval.* After a site plan has been approved and construction of any part thereof commenced, no other type of development will be allowed on the site without further approval by the planning commission and after proceedings conducted as in the original application.
- (c) *Conformity to approved plan.* Property within the planned unit development district which is the subject of site plan approval must be developed in strict compliance with the approved site plan. If construction and development do not conform to same, the approval thereof shall be forthwith revoked by the village. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.
- (d) *Amendment to approved plan.* A proposed amendment or modification to a previously approved site plan within the planned unit development district shall be submitted for review in the same manner as the original application.
- (e) *Project phasing.* When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the occupants and residents of the planned unit development and surrounding area.

Each phase of the development shall be commenced within one year of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the site plan shall become null and void.

- (f) *Performance bond.* The planning commission may require that a performance bond, bank letter of credit, or cash bond in such amounts as may be determined be deposited with the village to ensure completion of the site in accordance with the approved plans. The bond shall be for the purpose of securing the health, safety, and welfare of village residents and adjacent property owners.

Such bond or bank letter of credit, if required, shall be set at a minimum of 100 percent of the cost of the unfinished work for which the bond was required. The village shall provide for the rebate of any cash bond filed in reasonable proportion to the ratio of the work completed, provided the amount remaining on deposit still provides reasonable security for the completion of the unfinished improvements related to the deposit.

- (g) *Development agreement.* No building permit shall be issued for development and no construction activity commenced within the planned unit development until an affidavit containing the legal description of the planned unit development and the subject development site within the planned unit development; the date and terms of the site plan approval; and a declaration that all improvements will be carried out in accordance with the approved site plan is recorded with the register of deeds for VanBuren County.

All required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be filed with the village and recorded at the register of deeds.

- (h) *Revocation.* In any case where construction of the approved site plan has not commenced within one year of the date of the final approval, all approvals shall be null and void.

- (i) *Development review process.*

- (1) *Pre-application meeting.* An applicant desiring to submit an application for site plan review within the planned unit development district is encouraged to attend a pre-application meeting with the planning commission. The purpose of the pre-application meeting is to determine general compliance with the planned unit development eligibility and design requirements, and to identify issues of significance regarding the proposed application.

The applicant shall present the following information for a pre-application meeting:

- a. Sketch plan of the proposed development site layout;
- b. Accurate legal description of the development site;
- c. Names and addresses of all current owners of the development site;
- d. Total site acreage;
- e. Number of acres to be developed by use;
- f. Number of acres of undeveloped land;
- g. Number of acres of designated open space;
- h. Number and type of residential units;
- i. Details of nonresidential use;
- j. Details of vehicular and pedestrian circulation system;
- k. Location and details of known natural features.
- l. Relationship of the development site design to the existing/planned layout of the planned unit development.

- (2) *Preliminary plan review.* An application for development approval within the planned unit development district shall be subject to mandatory preliminary plan review by the planning commission. The review is intended to provide an indication of the issues and concerns that must be resolved prior to site plan review.

Preliminary plan approval shall not constitute an approval of a detailed site plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the site plan. A request for a modification to the approved preliminary plan shall be submitted for review in the same manner as the original preliminary plan was submitted and reviewed.

- (3) *Preliminary plan requirements.* Engineering details of a preliminary plan are not required to be developed beyond a level of detail required to determine the feasibility of the proposed layout. The preliminary plan, drawn to a reasonable scale, shall provide the following information:

- a. Boundaries of the planned unit development and the development site;
- b. General location map showing existing land use and ownership within the planned unit development and of adjacent land;

- c. Topography of the development site and its relationship to adjoining land;
- d. Location of existing/proposed streets adjacent to and within the planned unit development; proposed connection to and/or extension of existing streets within the planned unit development;
- e. Pedestrian and vehicular circulation systems and related parking facilities on the development site and their relationship to existing/planned systems within the planned unit development;
- f. Delineation of proposed residential and nonresidential areas on the development site, indicating for each area its size, number and composition of buildings, dwelling unit density, building envelopes, height and orientation of buildings;
- g. Designated open space system and recreation areas;
- h. Proposed landscaping, including greenbelts, berms, and/or screening;
- i. Storm water drainage system;
- j. Public facilities.

The following documentation shall accompany the preliminary plan:

- a. Name, address and telephone number of:
 - All persons with an ownership interest in the land within the planned unit development district, together with a description of the nature of each entity's interest;
 - All engineers, attorneys, architects or registered land surveyors associated with the development site;
 - The developer or proprietor of the development site;
 - Any person authorized to represent the owner in the review process.
 - b. Accurate legal description of the planned unit development and development site;
 - c. Total acreage of the planned unit development and development site;
 - d. Number and type of units to be developed;
 - e. General statement as to how open space and recreation areas are to be owned and maintained;
 - f. General indication of the proposed sequence and approximate time frames of development phases;
 - g. A narrative describing how the development site design is consistent with the village revitalization area subarea plan, the purposes of the planned unit development district, and the capacity and availability of necessary public facilities to the development; and, the impact the development will have on adjoining properties.
- (4) *Additional information.* During the preliminary plan review process, the planning commission may require additional information they determine is reasonably necessary to demonstrate compliance with the planned unit development standards. Such information may include, but not be limited to, hydrological tests, traffic studies, or wetland determinations.
- (5) *Site plan review.* The planning commission shall hold a public hearing on an application for development approval within the planned unit development district.

An application for development approval within the planned unit development district shall be subject to site plan review by the planning commission. The detailed site plan shall conform to the approved preliminary plan and incorporate any revisions or recommendations made by the planning commission at the preliminary plan review.

An application for development approval within the planned unit development district shall be subject to final approval by the village council.

If a detailed site plan is not submitted for review within six months of preliminary plan approval, the planning commission may require resubmission of the preliminary plan for further review and possible revision.

- (6) *Site plan requirements.* The following information shall be included on, or attached to, all site plans:
- a. An update of the approved preliminary plan pursuant to the site plan informational requirements set forth in section 42-402.
 - b. Engineering plans presented in sufficient detail to indicate compliance with village standards.
 - c. Easements, deed restrictions, and other documents pertaining to pedestrian and vehicular systems; the designated open space system; and recreation areas;
 - d. If condominium ownership is proposed, all documentation required by the condominium regulations of the village.
- (7) *Review criteria.* Approval of a site plan within the planned unit development district shall be determined on the basis of the site plan review criteria set forth in section 42-402, as well as the following criteria:
- a. The overall design and land uses proposed in connection with the planned unit development shall be consistent with the purpose of the planned unit development concept and the specific design standards set forth herein.
 - b. The proposed development site shall be serviced by the necessary public facilities to ensure the public health, safety, and welfare of the residents and users of the development.
 - c. The proposed development site shall be designed to minimize the impact of traffic generated by the development on the surrounding land uses and road network.
 - d. The proposed development site shall be designed so as to be in character with surrounding conditions as they relate to bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
 - e. The proposed development site shall be designed and constructed so as to preserve the integrity of the existing on- and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources.
 - f. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and/or access.
 - g. The proposed development site shall comply with all applicable federal, state, and local regulations.

(Ord. No. 453, § 4, 8-10-2015)

Secs. 42-350—42-360. - Reserved.

ARTICLE IV. - SUPPLEMENTAL REGULATIONS

Sec. 42-361. - General regulations.

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

it is located. In case any building or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this chapter, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance. If construction on a building is lawfully begun prior to adoption of this chapter, nothing in this chapter shall be deemed to require any change in the planned or designed use of any such building provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within one year from the effective date of the ordinance from which this chapter is derived, or affecting amendment.

- (b) *Application of regulations.* The regulations set by this chapter throughout the village and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use. All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located. No building or other structure shall hereafter be altered:
 - (1) To accommodate or house a greater number of persons or families than permitted by the zoning district.
 - (2) To have narrower or smaller rear setbacks or yards, front setbacks or yards, or other side setbacks or yards, other than permitted.

No yard setback, lot or parcel existing at the time of passage of the ordinance from which this chapter is derived shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards, setbacks, lots or parcels created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this chapter.

- (c) *Building permit required; basis for eligibility.* In accordance with other village codes, ordinances and regulations duly adopted by the village council, and in accordance with this chapter, no building shall hereafter be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this chapter, eligibility for a building permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures.
- (d) *Certificate of occupancy required.* No new principal building or dwelling subject to the provisions of this chapter shall be occupied, inhabited or used until a certificate of occupancy is issued by the building inspector.

(Ord. No. 394, § 13.1, 7-14-2003)

Sec. 42-362. - Structures.

- (a) *Restoring unsafe buildings.* Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the building inspector or the county health department or any other lawfully authorized entity. A building or structure condemned by the building official may be restored to a safe condition provided a change of use or occupancy is not contemplated nor compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is equal to or in excess of its state equalized value, the structure shall be made to comply in all respects with the requirements for materials and methods of construction for structures hereafter erected.
- (b) *Structure to have access.* Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots so as to provide safe and convenient access for fire protection, and required off-street parking.
- (c) *One single-family structure per building site.* No single-family detached residential structure shall be erected upon a building site with another single-family detached residential structure. In addition, every

building hereafter erected or structurally altered to provide dwelling units shall be located on a building site as herein defined.

- (d) *Exceptions to height regulations.* The height limitations contained in this chapter do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Ord. No. 394, § 13.2, 7-14-2003)

Sec. 42-363. - Lots.

- (a) *New lots to be buildable.* All newly created lots shall have buildable area. The net buildable area of a building site shall be a contiguous piece of land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of land.
- (b) *Minimum frontage.* All buildable lots shall have a minimum of 66 feet of frontage on a public or private road or 50 feet of frontage on a public or private cul-de-sac, measured at the building setback line.
- (c) *Minimum building site size.* No new building sites shall be created which do not meet the minimum building site size regulations of this chapter.
- (d) *Corner building sites.* On a corner building site, each building site line which abuts a street shall be deemed to be a front building site line, and the required setback along lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining required yards shall be required side setback and which the required rear setback.
- (e) *Existing platted lot.* Any residential lot laid out on an approved plat or a legally recorded parcel existing at the time of adoption of the ordinance from which this chapter is derived, that fails to comply with the minimum requirements of this chapter may be used for a single-family dwelling, provided said lot or parcel is in single ownership as defined in this chapter and further provided that 90 percent of all yard requirements are complied with. An existing platted lot or recorded parcel which contains 90 percent or more of the required area and width may be utilized as a separate lot. The use of more than one lot in common ownership where the same do not comply with 90 percent of the minimum requirements of this chapter shall be determined by the board of zoning appeals on the basis of neighborhood character. For the purpose of this section, the board of zoning appeals shall use the following standards to determine neighborhood character:
- (1) *Two lots.* If each of the two adjacent lots in question has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least 60 percent of the total number of developed lots within 400 feet on both sides of the same street, each of said lots in question shall be construed to be in character with the neighborhood. If not, the two lots shall be considered a single lot.
 - (2) *Three lots.* If each of the three lots in common ownership has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least 60 percent of the total number of developed lots within 400 feet on both sides of the same street, each of said lots shall be construed to be in character with the neighborhood. If not, the three lots shall be considered one or two lots meeting the zone district requirements.
 - (3) *Four or more lots.* If each of the four or more lots in common ownership are less than the minimum requirements, they shall be resubdivided into one two or three lots meeting the zone district requirements.

(Ord. No. 394, § 13.3, 7-14-2003)

Sec. 42-364. - Nonconforming uses, structures or combinations.

- (a) *Continuance of nonconforming uses, buildings/structures or combinations.*
- (1) Lawful nonconforming uses or buildings/structures in existence at the time of passage of this ordinance from which this chapter is derived or amendments thereof, may be continued. A change in the ownership, tenancy, or occupancy of such nonconforming use or building/structure shall not affect such continuation rights.
 - (2) Land now occupied by an unlawful nonconforming use or building/structure shall not be eligible for a zoning permit until the unlawful nonconformity is removed.
 - (3) If the nonconforming use of any land or building/structure shall terminate for a continuous period of six months or more, such use shall not be reestablished and any future use of such land or structure shall be in conformity with the provisions of this section.
- (b) *Nonconforming uses.*
- (1) The density, occupied area, or manner of operation of a nonconforming use shall not be altered by expansion, extension, or enlargement.
 - (2) Ordinary maintenance and repair of an existing building/structure devoted to a nonconforming use which does not result in an increase in the density, occupied area, or manner of operation of the nonconforming use may be made.
 - (3) An existing building/structure devoted to a nonconforming use shall not be altered by expansion, extension, or enlargement which would result in an increase in the density, occupied area, or manner of operation of the nonconforming use, except for the improvement and/or enclosure of an existing exterior stairwell.
 - (4) In the event a nonconforming use or an existing building/structure devoted to a nonconforming use is damaged by fire, wind, or an act of God or the public enemy, the same may be rebuilt or restored provided the cost of restoration thereof does not equal or exceed the state equalized value of such use or building/structure. Such determination shall be made by either the building inspector or village manager or his designee. No such restoration may result in an increase in the density, occupied area, or manner of operation of the original nonconforming use.
 - (5) A nonconforming use may be changed to another nonconforming use if the zoning board of appeals determines that such a new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a nonconforming use, or to waive the other provisions of this chapter.
- (c) *Nonconforming buildings or structures.*
- (1) Ordinary maintenance and repairs of a nonconforming building/structure which do not expand, extend or enlarge the nonconforming building/structure may be made.
 - (2) A nonconforming building/structure shall not be altered by expansion, extension, or enlargement unless each such expansion, extension, or enlargement is in conformity with the provisions of this section.
 - (3) In the event a nonconforming building/structure is damaged by fire, wind, or an act of God or the public enemy, the same may be rebuilt or repaired provided it does not exceed the size, floor area, height, and/or placement of the original building/structure and may not result in an increase of any nonconformity.

(Ord. No. 394, § 13.4, 7-14-2003; Ord. No. 441, § 4, 9-22-2014)

Cross reference— Buildings and building regulations, ch. 8.

State Law reference— Nonconforming uses and structures, MCL 125.3208.

Sec. 42-365. - Temporary use permits.

Temporary permits may be authorized by the board of zoning appeals after a public hearing, for a period not to exceed one year, for nonconforming uses incidental to construction projects on the same premises and including such uses as storage of building supplies and machinery, signs and assembly of building materials. In addition, the board of zoning appeals, after a hearing, may authorize a certificate for a dwelling house to be temporarily used as a sales and management office for the sale of homes within a subdivision for a period of one year, provided all of the following requirements are complied with:

- (1) The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.
- (2) No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.
- (3) Said dwelling shall meet all other zoning restrictions of the zone in which it is located.

(Ord. No. 394, § 13.5, 7-14-2003)

Sec. 42-366. - Special use permit.

- (a) *When required.* Special use permits are required for proposed activities which are essentially compatible with other uses, signs or activities permitted in a zoning district, but which possess characteristics or location qualities which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this chapter. A site plan in accordance with section 42-402 is required for submission and approval of all special use permit applications. Only those uses, signs, or activities specifically identified in the use districts of this chapter require special use permits.
- (b) *Procedures.* The following steps shall be taken when considering a proposed special use.
 - (1) *Filing of application; contents.* A special use permit application shall be filed by the applicant with the village along with the required site plan, fee, statement with supporting evidence to which the proposed activity meets the criteria and any other pertinent information upon which the applicant intends to rely for approval.
 - (2) *Review.* The village manager or his designee shall review the application for completeness and forward the application, with his recommendation, to the planning commission for their review and consideration.
 - (3) *Notice; contents.* The planning commission shall give public notice as required by Section 502 of Public Act No. 110 of 2006 (MCL 125.3502).
 - (4) *Review; decision.* After review of the application and public hearing or written comments, if any, the planning commission shall approve with conditions, or deny the permit based upon the standards of the special use as set forth in the appropriate use district. The decision on a special use permit application shall be incorporated in a statement of conclusion relative to the special use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

(Ord. No. 394, § 13.6, 7-14-2003)

State Law reference— Special land uses, MCL 125.3502 et seq.

Sec. 42-367. - Site design standards and regulations for special uses and certain new uses.

The following are specific regulations and design standards for uses listed in this article, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community. The following site facility and design standards with respect to certain new uses, herein specified, shall control:

- (1) *Antennas including satellite (dish) receiving stations.* Accessory antennas, including satellite receiving stations except as otherwise permitted in this chapter, shall be subject to the following regulations:
 - a. Accessory antennas shall be permitted in all districts as accessory uses provided they are not used for commercial or profit-making activities.
 - b. Where the accessory antenna is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main or principal buildings.
 - c. An accessory antenna may be erected in any required yard except a front yard, shall not project forward of the rear building line, and shall not be closer than five feet to any side or rear lot line. Movable antennas shall not revolve closer than three feet to any side or rear lot line.
 - d. An accessory antenna shall not exceed one story of 15 feet in height. The total yard area devoted to an accessory antenna use shall not exceed 100 square feet of yard area.
 - e. A corner lot, the side yard of which is substantially a continuation of the front lot line of the lot to its rear, shall be regarded as having two front yards. When an antenna is located on this type of lot, it shall not project beyond the continued front lot line of the rear lot.
 - f. In the case of double frontage lots, accessory antennas shall observe front yard requirements on both street frontages whenever there are any principal buildings fronting on said streets in the same block or adjacent blocks.
 - g. In all cases, an accessory antenna shall be anchored or fastened securely to the building or surface to which it is attached or upon which it rests.
- (2) *Automobile disposal and junkyards.* For this use, the following more restrictive provisions shall take precedent above all other provisions which may relate to setbacks, screening, etc. All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less restrictive than those in applicable state statutes, the state requirements shall prevail.
 - a. The site shall be a minimum of three acres in size.
 - b. There shall be a required yard setback of at least 100 feet from any public street and any lot line. The front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored or accumulated in any required yard area.
 - c. A solid fence or wall at least eight feet in height shall be provided along the setback lines of the entire site in order to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
 - d. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area.
 - e. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
 - f. Wherever a side or rear lot line of such use abuts a residential use or a residential zoning district, the required yard shall be doubled and shall contain plant material, grass, and structural screens to effectively minimize the appearance of the installation.

- (3) Bed and breakfast facilities.
 - a. The minimum lot size shall be 10,000 square feet with a minimum frontage of 66 feet on a public street.
 - b. A residence shall not have or be converted to more rental rooms than the number of bedrooms which existed when the application is made.
 - c. The minimum size of a rental room shall be 125 square feet.
 - d. The minimum size for manager/owner living quarters shall be 450 square feet.
 - e. A common room or area for guest relaxation is required.
 - f. For those facilities which are not owner occupied, a manager must reside on the premises and have an equity interest in the facility.
 - g. One off-street parking space shall be provided for each rental room in addition to the two off-street spaces required for single-family dwellings. Parking shall be adequately screened from adjacent residentially developed or zoned property.
 - h. Bathrooms must be furnished for guestrooms at a ratio of not less than one bathroom per two rental rooms.
 - i. The premises (including corner lots) may be permitted one advertising sign not exceeding six square feet in area.
 - j. Approval by the building inspector is required prior to occupancy of the facility. Thereafter, the building inspector shall conduct an annual compliance inspection.
 - k. Approval by the county health department is required if other than a continental breakfast is served.
 - l. The maximum stay at a bed and breakfast facility shall be 30 continuous days.
 - m. A site plan shall be submitted in accordance with section 42-402.
 - n. The use of the facility shall not, in the judgment of the village planning commission and the village council, be detrimental to adjacent land uses and the immediate neighborhood.
- (4) Bowling alley, indoor skating and similar uses.
 - a. Driveway openings to the site shall be located at least 75 feet from any intersection as measured from the intersecting street right-of-way lines to the edge of said driveway.
 - b. The main and accessory buildings shall be located a minimum of 100 feet from any residential use.
- (5) Car wash establishment.
 - a. Minimum lot size shall be 20,000 square feet.
 - b. All washing activities must be carried on within a building.
 - c. Vacuuming activities may be carried out only in the rear or side yard and at least 50 feet distant from any adjoining residential use.
 - d. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.
 - e. All floor drains from wash areas shall be equipped with sand traps before disposal into the sanitary sewer.
- (6) Central dry cleaning plants and laundries.
 - a. Minimum lot area shall be one acre.

- b. Underground storage tank installation or removal shall be pursuant to state regulations.
 - c. The storage and transport of flammable and combustible liquids shall be in accordance with the state fire safety board.
 - d. This use is prohibited within a wellhead delineation area as defined by the wellhead protection plan adopted by the village.
- (7) Child care centers.
- a. No dormitory facilities permitted on premises.
 - b. For each child cared for, there shall be provided, equipped and maintained, on the premises a minimum of 150 square feet of usable outdoor play area with a minimum total area of 5,000 square feet per facility.
 - c. The outdoor play area shall be fenced in or screened by heavily planted greenbelt from any abutting residential uses.
- (8) Churches.
- a. Minimum lot width shall be 150 feet.
 - b. Minimum lot area shall be two acres.
 - c. For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, and additional (to the minimum) foot of front, side or rear yard setback shall be provided.
 - d. The lot location shall be such that at least one property line abuts a collector street, secondary thoroughfare, or major thoroughfare. All ingress to the lot shall be directly onto said thoroughfare.
 - e. Off-street parking shall be prohibited within the required front yard setback area.
- (9) Convalescent homes.
- a. Minimum lot size shall be three acres.
 - b. The lot location shall be such that at least one property line abuts a collector street, secondary thoroughfare or major thoroughfare. The ingress and egress for all-street parking areas for guests and patients shall be directly from said thoroughfare.
 - c. The main and accessory building shall be set back at least 75 feet from all property lines.
 - d. The facility shall be designed to provide a minimum of 1,500 square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may include off-street parking areas, driveways, required yard setbacks and accessory uses.
- (10) Restaurants and other businesses with drive-through service. The following regulations shall apply to restaurants and other businesses with drive-through service. Restaurants without drive-through service shall not be subject to these requirements.
- a. The main and accessory buildings shall be set back a minimum of 30 feet from any adjacent right-of-way line.
 - b. The main and accessory buildings shall be set back a minimum of 60 feet from any adjacent residential property line.
 - c. Driveway openings to the site shall be located at least 75 feet from any intersection as measured from the intersecting right-of-way lines to the edge of said driveway.
 - d. Screening as required in article V of this chapter shall control where lot lines abut any residential district.
- (11) Emergency/transitional residences.

- a. Parking shall be provided at a ratio of two spaces plus one space per bedroom/living unit.
- b. Minimum size of a bedroom shall be 125 square feet.
- c. Minimum size of living unit for manager/owner living quarters shall be 450 square feet.
- d. Approval by the building inspector is required prior to occupancy of the facility. Thereafter, the building inspector shall conduct an annual compliance inspection.
- e. The use of the facility shall not, in the judgment of the village planning commission, be detrimental to adjacent land uses and the immediate neighborhood.

(12) Group day care homes.

- a. Must be licensed and registered by the state.
- b. A minimum of 1,800 square feet of usable outdoor play area per facility is required.
- c. The outdoor play area shall be fenced in or screened per section 42-406, subject to planning commission review and approval.
- d. The day care home shall be maintained in a manner visible consistent with the surrounding neighborhood. No signage advertising the day care home is permitted.
- e. If the state has denied, revoked, or refused to renew a license or certificate of registration of a group day care home, it shall be grounds for revocation of village approval of the group day care home.
- f. The day care home shall be principally operated by the resident of the home with not more than one nonresident employee.
- g. The lot or parcel occupied by the group day care home shall not be located closer than a minimum of 500 feet to another lot or parcel occupied by any of the following:
 - 1. Another licensed group day care home.
 - 2. An adult foster care, small group home, or large group home.
 - 3. A facility offering substance abuse treatment and rehabilitation service.
 - 4. A community correction center, residence home, halfway house, or similar facility administrated by the department of corrections.

(13) Gasoline filling stations (with or without accessory uses).

- a. Minimum lot area shall be 12,000 square feet for an automobile service station and 10,000 square feet for a filling station.
- b. Minimum lot width shall be 100 feet for a public garage or automobile service station and 80 feet for a filling station.
- c. An automobile service station and filling station shall be located not less than 40 feet from any right-of-way line and not less than 25 feet from any side or rear lot line abutting residentially used property.
- d. Ingress and egress drives shall not be more than 30 feet in width.
- e. No more than one curb opening shall be permitted for every 50 feet of frontage (or major fraction thereof) along any street.
- f. No drive or curb opening shall be located nearer than 25 feet to any intersection or adjacent residential property line. No drive shall be located nearer than 30 feet, as measured along the property line, to any other drive on the premises. Curb cuts shall not be permitted where it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
- g. A raised curb of six inches in height shall be constructed along all street frontages at the right-of-way line, except for drive openings.

- h. The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier or curb.
- i. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline dispensing pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.
- j. When adjoining residentially used or zoned property, a five-foot masonry wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line. All masonry walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within 25 feet of any right-of-way line, subject to approval by the village council.
- k. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a five-foot masonry wall and shall comply with requirements for the location of accessory buildings. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles for any overnight period shall not exceed more than two vehicles awaiting repairs for each indoor repair stall located within said premises and in no event shall the outdoor storage or parking of any such vehicle be permitted for a period exceeding five days.
- l. The sale or rental of new or used cars, trucks, trailers, and any other vehicles on the premises shall be permitted only by approval of the village council under such terms and conditions as may be imposed by said council to ensure adequate ingress and egress from said property and to ensure adequate traffic safety.
- m. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.

(14) Hospitals.

- a. Minimum lot area shall be ten acres.
- b. The lot location shall be such that at least one property line abuts a major thoroughfare. The ingress and egress for off-street parking facilities for guests and patients shall be directly from said major thoroughfare.
- c. Minimum main and accessory building setback shall be 100 feet.
- d. Ambulance entrances, MRI or similar vehicles, helicopter pads and/or emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or by a masonry wall of six feet or more in height.
- e. No power plant or laundry exclusively serving the medical facility shall be located nearer than 300 feet to any adjacent residential use.

(15) Hotel or motel.

- a. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not to adversely affect traffic flow on adjacent streets. No more than two driveway openings from a major thoroughfare shall be permitted.
- b. Where the front yard is used to provide access, a five-foot-wide greenbelt shall be provided within the front yard, except for driveway openings.
- c. Each unit of commercial occupancy shall contain a minimum of 250 square feet of gross floor area.

(16) Housing for the elderly.

- a. Minimum lot size shall be two acres.

- b. Accessory services in common use may include, but are not limited to, the provision of central dining facilities and outdoor recreational facilities, lounges and workshops.
 - c. Each dwelling unit shall contain at least 250 square feet of area, not including kitchen and sanitary facilities.
 - d. Development of site and structures shall be in accordance with U.S. Department of Housing and Urban Development Minimum Property Standards, Multifamily Housing, as it applies to housing for the elderly.
 - e. No housing for the elderly, which includes adult foster care or nursing homes, can be located closer than 500 feet to another known adult foster care, nursing home or housing for the elderly, measured from property line to property line.
- (17) Kennels.
- a. All kennels shall be operated in conformance with all applicable county and state regulations, permits being valid for no longer than one year.
 - b. For dog kennels the minimum lot size shall be two acres for the first three dogs and an additional one acre for each three additional animals.
- (18) Medical or dental clinic.
- a. Minimum lot size shall be 20,000 square feet.
 - b. Maximum building coverage shall be 35 percent.
- (19) Office developments (two or more structures). Site plan approval is required by the planning commission. In order to facilitate innovative and attractive design of office uses, office developments shall be subject to the following:
- a. Exterior walls of opposite or adjacent buildings shall be located no closer than 1.5 times the height of the higher building wall, but in no case closer than 50 feet.
 - b. Buildings shall be so located and arranged that all structures have access to emergency vehicles.
 - c. Maximum lot coverage shall not exceed 60 percent, including accessory uses and structures.
 - d. The ratio of total floor area to lot area shall not exceed 1.0.
- (20) Pet sales store.
- a. All animals and animal products shall be located within a completely enclosed building area.
 - b. All state requirements for the care and sale of live animals shall be met.
 - c. No nuisance shall be created for adjacent land uses.
- (21) Planned industrial parks. In order to facilitate the growth of employment, to ensure a viable tax base for the village and to prevent the conflicts of incompatible industrial uses, planned industrial parks are permitted with site plan approval by the planning commission in the I-1 district. An industrial park is hereby defined as a tract of land laid out in accordance with an overall plan which is designed and equipped to accommodate a cluster of wholesale commercial and industrial activities; providing them with all necessary facilities and services in an attractive, park-like surrounding. Planned industrial parks shall be subject to the following:
- a. In addition to a required site plan, all proposed planned industrial parks (public and private) shall first have an overall plan detailing the development concept, the spatial arrangement of site and structures and phased implementation and development, thereof.
 - b. Exterior walls of adjacent buildings shall be located no closer than 1.5 times the height of the higher building wall, but in no case closer than 50 feet.

- c. Maximum lot coverage shall not exceed 50 percent, including accessory buildings and structures.
- d. The ratio of total floor area to lot area shall not exceed 1.0.

(22) Private clubs and lodges.

- a. The lot shall be located so as to abut a collector street, secondary thoroughfare, or major thoroughfare with at least one property line.
- b. Retail sales of food and beverages may be permitted to members and guests.

(23) Open-air businesses.

- a. Minimum lot area shall be one acre.
- b. All open-air businesses shall be able to demonstrate that operations will effectively keep trash, paper, and other debris from blowing off the premises.
- c. All open-air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.
- d. Unless specifically waived by the approval body designated by this chapter, a building of not less than 500 square feet of gross floor area shall be constructed on the premises for use in connection with the open-air business.
- e. The planning commission may, to ensure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit for an open air business use, require the permittee to furnish a surety bond executed by a reputable surety company authorized as to do business in the state, in the sole discretion of the planning commission, a cash bond in the amount determined by the planning commission to be reasonable and necessary to ensure compliance hereunder. In fixing the amount of such bond, the planning commission shall take into account the size and scope of the proposed open air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions, as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- f. Areas used for activities or the display, sale, and/or rental of goods in connection with the open-air business shall meet all applicable building setback requirements.
- g. All loading activity and parking areas shall be provided on the same premises (off street).

(24) Private streets and roads.

- a. All plats and lots not fronting on a public street must be accessible by a private drive. A private drive or street is required to have a minimum driveway right-of-way of 66 feet and must be either owned or established by a driveway easement granted by the adjacent property owners. A minimum paved width of 30 feet is required.
- b. The layout of private streets in respect to their location, intersections, culs-de-sac, etc., shall conform to the village's requirements for platted streets.
- c. The construction of the roadway shall conform to the village's standards for a local road.
- d. Vertical street alignments, street grades, horizontal curves, curb openings at intersection streets, etc., shall conform to the village standards for platted streets.

(25) Telecommunication towers.

- a. *Purpose.* The regulation of commercial wireless communication service towers is necessary to protect the public health, safety and welfare while meeting the communications needs of the public. The intent of this chapter is to minimize adverse visual effects of towers, and avoid damage to adjacent properties while adequately serving the community.

- b. *Towers permitted in zoning districts.* Towers are permitted in all industrial districts (I-1 and I-2) and are permitted in the B-2 general business district as a special use if located within 300 feet of the Interstate 94 right-of-way, subject to the following conditions:
 - 1. In order to contain falling ice or debris from tower failure on-site, and to minimize conflict with adjacent properties, the base of a freestanding (monopole) or guy-wired (lattice) tower shall be set back:
 - i. From abutting residential districts, streets or public property as measured from the lower base no less than 200 feet or 300 percent of the tower height, whichever is greater.
 - ii. From any property line a distance equal to the height of the tower. Guy wire anchors shall be set back 75 feet from all property lines and shall be located on the same parcel as the tower.
 - 2. The tower base shall be enclosed by a security fence consisting of a six-foot tall chainlink fence topped with three strands of barbed wire or an eight-foot tall chainlink fence.
 - 3. A six-foot tall landscaped screen is required to screen around the exterior perimeter of the fenced area, as established under section 42-405, general lighting, screening requirements, and fences.
- c. *Lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.
- d. *Signs/color.* The use of any portion of a tower for signs other than warning or equipment information is prohibited. Towers shall be neutral in color.
- e. *Application requirements.* Application must be made for a building permit and the following information must be submitted.
 - 1. Site plan of the proposed tower location showing all existing and proposed features of the site.
 - 2. Elevation of the proposed tower height above grade, and any other improvements.
 - 3. Documentation of the purpose of the tower, the number and type of joint users to be served at this site, Federal Aviation Administration approval and an engineer's certification of structural and electrical safety. The village may request that any information submitted be certified by a licensed professional engineer.
- f. *Location/separation requirements.* All commercial wireless telecommunication towers erected, constructed or located within the village shall comply with the following requirements:
 - 1. A new commercial wireless telecommunications tower shall not be approved unless the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius of the proposed tower, due to structural inadequacies, impact on other communications devices or services, insufficient height or other verifiable reason.
 - 2. Any proposed commercial wireless telecommunications service tower shall be designed to accommodate both the applicant's equipment and that of at least two other users.
 - 3. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to the site plan, of the proposed tower regardless of topographical differences. The separation distances are as follows:

TABLE 1 EXISTING TOWERS—TYPES

	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less than 75 Feet In Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- g. *Abandoned or unused towers or portions of towers.* Abandoned or unused towers or portions of towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the village planning commission. A copy of the relevant documents (including the signed lease, deed or land contract restrictions) which requires the applicant to remove the tower and associated facilities upon cessation of the operations shall be submitted at the time of application. If a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities shall be removed by the village and the costs of removal assessed against the real property.
- h. *Antennas or towers on property owned, leased or controlled by village.* Antennas or towers located on property owned, leased, or otherwise controlled by the village shall be permitted provided a license or lease authorizing such antenna or tower has been approved by the village.

(26) Veterinary hospitals and clinics.

- a. Minimum main and accessory building setback shall be 100 feet from all lot lines.
- b. All principal use activities shall be conducted within a totally enclosed main building.

(27) Other uses.

- a. No special use shall have an adverse impact upon the public health, safety and welfare.
- b. The planning commission in its discretion may approve as a special use other uses similar to and not more objectionable than the above uses, subject to any requirements established by the planning commission.

(28) Farmers' market.

- a. Brokered produce and products may not exceed ten percent of the individual vendor space. Brokered produce must be labeled with the farm where it originated. Brokered products are only allowed if locally owned and produced by the vendor in Michigan.
- b. Vendors shall meet State of Michigan Guidelines for 'cottage food' items.

- c. A vendor space shall not exceed 12 feet in width and 30 feet in depth.
 - d. There shall be provided adequate area at each vendor space to park a single vehicle, but not a vehicle plus a trailer.
 - e. A single vendor may occupy a maximum of two vendor spaces.
- (29) Outdoor display of merchandise as an accessory use to the principal use of the parcel. Such use shall be subject to site plan review by the planning commission in accordance with section 42-202 and shall comply with the following requirements:
- a. The merchandise displayed outdoors is the same as or is related to that which is offered inside the building which constitutes the principal use of the parcel.
 - b. The size and nature of the outdoor display shall clearly be incidental and subordinate to the principal use of the parcel such that the accessory use serves to support the principal use but could not function independent of the principal use.
 - c. The area devoted to the outdoor display of merchandise shall not create unsafe conditions for motorized or non-motorized travel.
 - d. The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly and not be allowed to become unsightly or a visual nuisance. Any debris, scrap material, litter, empty shelves, racks, pallets, boxes or similar material not containing display items shall be removed from the outdoor display area.
 - e. No part of a public sidewalk shall be used for such accessory use except in the central business district provided that a minimum five feet wide and seven feet high unobstructed path is maintained at all times and the display does not create a hazard or nuisance.
 - f. No public parking lot shall be used for the outdoor display of merchandise except as allowed as a part of a special event approved by the village council.
 - g. The outdoor display of merchandise shall not be located so that it utilizes those parking spaces required by the zoning ordinance for the principal use.
 - h. The planning commission may limit the number of days and the hours of operation for such use.

(Ord. No. 394, § 13.7, 7-14-2003; Ord. No. 436, § 4, 9-26-2011; Ord. No. 451, § 5, 8-10-2015; Ord. No. 463, § 4, 3-12-2018; Ord. No. 480, § 12, 8-10-2020)

State Law reference— Site plan, MCL 125.3501.

Sec. 42-368. - Home occupations.

Home occupations shall be controlled as follows:

- (1) None other than members of the family, shall be engaged in connection with such home occupation at the same time.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (3) There shall be no change in the outside appearance of the building, no variation from the residential character of the dwelling, and no visible evidence of the conduct of such home occupation except as provided for in article VI of this chapter, regarding signs.
- (4) No home occupation shall be conducted in any accessory building.

- (5) There shall be no sale of products or services except those customarily incidental to the home occupation.
- (6) The home occupation will not create traffic congestion, parking shortages, or otherwise adversely effect the pedestrian or vehicular circulation of the area.
- (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling. If conducted in a single-family dwelling, such nuisance shall not be detectable outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers all the premises or cause fluctuations in the line voltage off the premises.
- (8) In particular, a home occupation includes, but is not limited to: beauty shop, barbershop, art studio, dressmaking, tailoring, teacher with musical or dancing instruction limited to four to six pupils at a time and instruction in a craft or fine art as required by Section 204 of Public Act No. 110 of 2006 (MCL 125.3204); author, artist, musician, accountant (one), or similar use; but shall not include animal hospital, automotive repair service, restaurant, tearoom, tavern, or similar use.

(Ord. No. 394, § 13.8, 7-14-2003)

Sec. 42-369. - Dwelling unit conversion.

The provisions of this section allow for the possibility of converting a single-family dwelling (within an existing structure) to a two-family dwelling in the R-1 or R-2 district, provided that the conversion is in conformance with the standards and procedures set forth herein:

- (1) *Dwelling unit conversion defined.* A dwelling unit conversion is defined as the process in which the owner of a single-family dwelling located in an R-1 and R-2 district may apply for conversion of said dwelling into a greater number of dwelling units than existed in the dwelling prior to conversion. Consideration of the application shall be in accordance with the procedures and standards set forth herein.
- (2) *Application, filing procedure and fee.* The owners of a single-family dwelling located in R-1 and R-2 zoning districts who wish to convert their existing single- or two-family dwelling into an additional dwelling unit shall file an application on a form prescribed by the village council with the village clerk. The application shall include a site plan with front and side elevations in conformance with the requirements of section 42-402. A separate application shall be required for each structure petitioned for dwelling unit conversion and each application shall be accompanied by a fee as adopted by resolution of the village council from time to time, no part of which shall be refunded.
- (3) *Application of review procedure.* Upon receipt of the application and site plan, the village administrator shall circulate the proposed plans to the affected departments, including utilities, fire, police, etc., upon receipt of comments and recommendations other contributing departments or individuals, the village shall render a decision about the proposed conversion in not less than 30 days.
- (4) *Conformance with standards.* All applications for dwelling unit conversion as provided in this section, shall be reviewed on the basis of whether or not the application and proposed use conform with the following standards:
 - a. The conversion will not be detrimental to the neighborhood;
 - b. The proposed conversion shall add no more than two apartments to the existing dwelling, and the maximum number of bedrooms per additional dwelling unit shall not exceed two and result in no more than three units maximum;

- c. Conversion of any dwelling unit will not result in leaving a dwelling unit whose minimum gross floor area per unit is less than 500 square feet for an efficiency unit, 600 square feet for a one-bedroom unit, and 750 square feet for a two-bedroom unit;
 - d. The owner agrees that all construction and maintenance of the structure and grounds will be in accordance with and conform to all village construction codes, including, but not limited to the single state construction code and the property maintenance code;
 - e. Each dwelling unit shall be self-contained consisting of complete lavatory and kitchen facilities and a separate living area;
 - f. Each dwelling unit shall provide adequate light and ventilation pursuant to the property maintenance code;
 - g. Stairways leading to the second or any higher floor shall be located within the walls of the building wherever practical, and stairways and fire escapes shall otherwise be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street;
 - h. Except as may be necessary for purposes of safety in accordance with subsection (4)g of this section, there shall be no major structural change in the exterior of the building in connection with the conversion, and after conversion the building shall retain substantially the same structural appearance it had before the conversion; and
 - i. There shall be provided two parking spaces per dwelling unit. The location of the off-street parking spaces shall be consistent and compatible with existing off-street parking in the neighborhood. Where possible, parking should be enclosed or screened from view from any public street. In no case shall an application be approved where parking is intended to be located in the front yard of any dwelling unit for which conversion has been applied for.
- (5) *Building permit and certificate of occupancy.* If the application is approved, the applicant shall obtain a building permit from the village prior to the construction associated with the conversion. After all construction or reconstruction has been completed, the applicant shall obtain a certificate of occupancy prior to the rental or use of the additional dwelling units. Failure to comply with the provisions of this section will constitute a violation of this chapter and will subject the offender to the penalties in this chapter.

(Ord. No. 394, § 13.9, 7-14-2003)

Sec. 42-370. - Accessory buildings.

- (a) In the case of detached accessory buildings and structures, a building permit is required. A building permit is not required for commercially purchased storage sheds. However, village zoning approval is required prior to installation.
- (b) No separate accessory building shall be erected in any required front yard and no separate accessory building shall be erected closer than ten feet to a side or rear property line. Accessory buildings are limited to no more than one story and 14 feet in height. No accessory building shall have a first floor area greater than 884 square feet.
- (c) For accessory buildings on lakefront lots, no accessory building, including boat houses, shall be located on any lot which interrupts the view shed of the lake property owners within 500 feet of the subject lot. (The view shed shall be defined as the customary horizontal and visual planes adjacent property owners have of the lake as viewed from dwellings, patios, porches, beaches, and similar areas). In those instances where view shed impact is subject to interpretation, the board of appeals shall have the power to request any reasonable information relating to the matter and issue a ruling. This provision shall not apply to docks, rafts, or moored watercraft.

(Ord. No. 394, § 13.10, 7-14-2003; Ord. No. 476, § 3, 12-9-2019)

Sec. 42-371. - Swimming pools.

- (a) *Defined.* Swimming pools as regulated in this chapter include any area capable of containing water and of being used for swimming, bathing or wading, having a depth of three feet or more at any point. Spas, hot tubs and whirlpools are included in this definition unless such device is equipped with locking covers with a key or combination-type lock while not in use.
- (b) *Fencing requirement.* Swimming pools shall be enclosed within a four-foot fence with a controlled access gate.
- (c) *Setback requirement.* Swimming pools shall meet the property line setback requirements except that swimming pools may be situated within a required side or rear yard not closer than eight feet to any side or rear property line.

(Ord. No. 394, § 13.11, 7-14-2003)

Sec. 42-372. - Marihuana establishments prohibited

- (a) Any and all types of a "marihuana establishment," as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the village, and may not be established or operated in any zoning district, by any means, including by way of a variance.
- (b) This section 42-372 does not limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421 et seq.

(Ord. No. 467, § 1, 1-14-2019)

Secs. 42-373—42-400. - Reserved.

ARTICLE V. - DEVELOPMENT REGULATIONS

Sec. 42-401. - Schedule of district regulations.

- (a) Regulations affecting the arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in the schedule of regulations.
- (b) Schedule of regulations.

Schedule of Regulations										
Zoning District	Minimum Lot Size per unit	Lot Width	Maximum Building Height	Height	Minimum Yard	Reqmnts Side Yard Limit 1 Total 2	Rear	Maximum Lot Coverage	Minimum Area	Floor
	Area in sq. ft.		Stories		Front			%		1 story
R-1	10,000	80	2.5	35	30 abl	8d/20d	25	35	1,000c	
R-2	8,700	66	2.5	35	30 abl	6d/15d	25	35	800c	

RM	1 acre		2.5	35e	25e	20/40efg	30e	25e	eff.500ce 1bd650ce	2bd800ce 3bd950ce
RMH			2.5	35						
B-1			2.5	35		hi	ij			
B-2			3	45		hi	ij			
CBD			3	45		hijk	ijk			
P			2.5	35		j				
RO			2.5	35	l					
I-1	20,000	100	3	50	50	30/60	30	50		
I-2	20,000	100	3	50	50	30/60	30	50		

(c) Footnotes to schedule of regulations.

- a. 1. Parking of vehicles in residential districts shall be limited to passenger vehicles and recreational vehicles, and not more than one commercial vehicle or trailer exceeding a class 3 classification under the US DOT Federal Highway Administration (FHWA) Vehicle Inventory and Use Survey (VIUS) standards. This section shall not apply to buses parked on school property.
2. Parking of any passenger vehicle or recreational vehicle in residential districts shall be prohibited within the front yard, except within an improved driveway or portion thereof.
3. A recreational vehicle parked within a residential district shall not be used as a dwelling, as defined by section 42-3 of this chapter.
4. This section shall not apply to a contractor's job site trailer or storage trailer or construction vehicles or equipment during construction.
- b. Where lots are on a river or a lake, the property shall be treated as a through lot and have required front yards on both frontages. For lots with frontage on Maple Lake, an accessory building may be built within the required front yard in accordance with section 42-370.
- c. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, but shall include all types of dwelling units.
- d. In the R-1 and R-2 districts, the width of side setbacks, which abut upon a street on the same side or on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front setback for said homes which front upon said side street.
- e. Site requirements. Single-family detached and two-family dwellings permitted in the RM district shall observe the same area, height, bulk, and placement requirements of the R-2 district.

- f. For every parcel on which a multiple-family dwelling is erected, there shall be provided a side setback on each side of the parcel, as indicated in the schedule. Each side setback shall be increased beyond the setback spaces indicated by one foot for each ten feet or part thereof by which the length of the multiple-family dwelling exceeds 40 feet in overall dimension along the adjoining parcel line.
- g. Where two or more multiple-family dwellings are erected upon the same parcel, a minimum setback space of 20 feet in width shall be provided between structures. This setback width shall be increased by two feet for each ten feet or part thereof, by which each multiple dwelling, having common setbacks, exceeds 40 feet in length on that side of the dwelling facing the common setback.
- h. Where any B-1, B-2 or CBD district borders on a side street, whereon a residential zoning district exists in the same block, there shall be provided a setback of five feet for all commercial buildings and parking and loading areas.
- i. Where B-1, B-2 or CBD district borders a residentially zoned district and the districts are not separated by an alley or street, there shall be a minimum building setback of ten feet from the property line.
- j. Loading space shall be provided for the rear yard in the ratio of at least ten square feet per front foot of the building. Where an alley or street exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of said alley or street. The board of appeals may waive this requirement in cases where this section causes undue hardship.
- k. Land uses within the CBD central business district zoning district shall be exempt from providing off-street parking.
- l. Where 30 percent or more of all of the frontage on one side of the street between two intersecting streets has been built up with permanent residences, the average front yard setback of such residence shall be a minimum front yard setback line for that side of the street between such intersecting streets.

(Ord. No. 394, § 14.1, 7-14-2003; Ord. No. 425, § 4, 1-10-2011)

Sec. 42-402. - Site plan review and approval.

A site plan review procedure is hereby established for the village. The purpose of a site review is to determine compliance with the provisions set forth in this chapter and to promote the orderly development of the village, the stability of land values and investments in the general welfare, and to help prevent impairment or depreciation of land values and development by the erection of structures or additions or alteration thereto without proper attention to siting and appearance. The following provisions in this section shall apply to all uses requiring site plan review by this chapter.

- (1) *Procedure.* All site plans as required by this chapter shall be submitted to the village in 11 copies, including not less than three copies sealed by an engineer, architect or landscape architect. The village shall adhere to the following procedures in the review of the site plan. All site plan reviews shall use the following procedures:
 - a. *Professional review.* Professional review by an approved architect, planner or engineer may be obtained by the village. The cost of review will be passed along to the applicant. No zoning permit will be issued until this fee is paid.
 - b. *Planning commission review.* The planning commission shall review the site plan as its next regularly scheduled meeting. The planning commission may elect to postpone a decision on the site plan until its next regularly scheduled meeting if the site plan is determined to be incomplete or has been submitted within 14 calendar days of the meeting.

- c. *Planning commission approval.* The planning commission shall recommend with specified changes and/or conditions, or recommend disapproval the applicant's request, using the standards described in subsection (4) of this section.
 - d. *Conditions or changes to be recorded.* Conditions or changes stipulated by the planning commission shall be recorded in the minutes of the meeting and made available to the applicant in writing. All three copies of recommended site plan, with or without changes, shall contain the signatures of the chair of the planning commission, and the building inspector and the applicant.
 - e. *Submitted copies to be kept on file.* Of the 11 copies submitted, two sealed copies shall be kept on file by the village, and one copy returned to the applicant.
 - f. *Village council approval or disapproval.* The village council shall have the function and power to approve or disapprove the site plan subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of these regulations and other ordinances or resolutions of the village.
 - g. *Request by council of additional council approval.* The village council shall have the function and power to request additional professional review from the village attorney, engineering consultant and/or planning consultant and/or planning consultant, and the applicant shall be responsible for any and all charges incurred therefor.
 - h. *Revocation of approval.* The site plan approval may be revoked in any case where the conditions of such approval have not been or are not being complied with, in which case the village council shall give the applicant notice of intention to revoke such approval at least ten days prior to review of the approval by the village council. After conclusion of such review the village council may revoke such approval if it feels that a violation in fact exists and has not been remedied prior to such learning.
- (2) *Submission requirements.* The following information shall accompany all plans submitted for review:
- a. Village application.
 - b. A legal description of the property under consideration.
 - c. A map indicating the gross land area of the development, the present zoning classification thereof and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements.
 - d. The names and addresses of the architect, planner, designer, or engineer responsible for the preparation of the site plan.
 - e. Drawings or sketches of the exterior and elevations, and/or perspective drawings of the building or structures under consideration.
- (3) *Site plan requirements.* The following information shall be included on the site plan:
- a. A scale of not less than one inch equals 40 feet, if the subject property is less than three acres, and one inch equals 100 feet if it is three acres or more.
 - b. Date, north point and scale.
 - c. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
 - d. The siting of all structures, including outside mechanical equipment, on the subject property and abutting properties.
 - e. The location of each proposed structure in the development area, the use to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines, and approximate location of vehicular entrances and loading points.

- f. The location of all existing and proposed drives and parking areas with the number of parking and/or loading spaces provided.
 - g. All pedestrian walks, malls and open areas.
 - h. location, height, and material of all walls, fences and screen plantings, including a general plan for the landscaping and/or screening of the development and the method by which the landscaping and/or screening is to be accomplished and maintained.
 - i. The location and right-of-way widths of all abutting streets.
 - j. Types of surfacing, such as paving, turfing or gravel to be used at the various locations.
 - k. A stormwater disposal plan, including a grading plan, with topographic elevations of the site and surrounding area, showing the proposed method of stormwater disposal, and providing design criteria and calculations in accordance with criteria identified in subsection 42-402(3)q.
 - l. Size and location of proposed sewer and water lines and connections.
 - m. The number of proposed units (for multiple-family developments).
 - n. Significant environmental features such as wetlands, shoreline, streams, woodlots, existing trees and vegetation.
 - o. Information as may be required by the planning commission and village council to assist in the consideration of the proposed development.
 - p. The location, type and intensity of proposed exterior lighting.
 - q. Storm drainage controls must be provided to maintain groundwater discharge, prevent flooding and minimize the potential for pollutants to enter waterways. For the first flush calculation, if on site retention (detention or infiltration) is proposed, stormwater (capacity) retention is required in the amount of 1,815 cubic feet per impervious acre which is equivalent to 0.5 inch of runoff per impervious acre. A minimum volume of 550 cubic feet shall be retained for sites less than 0.3 acres of impervious surface. For stormwater which is to be directed off site, detention must be provided with a 25-year storm event, volume to be released at 0.15 cubic feet per second per contributing catchment acre.
- (4) *Standards.* In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the planning commission shall determine whether the site plan meets the following criteria, unless the planning commission determines that one or more of such criteria are inapplicable:
- a. The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.
 - b. Pedestrian walkways shall be provided as deemed necessary by the planning commission for separating pedestrian and vehicular traffic.
 - c. Recreation and open space areas shall be provided in all multiple-family residential developments.
 - d. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in this chapter, unless otherwise provided.
 - e. The requirements for fencing, walks, and other protective barriers shall be complied with as provided in this [chapter] and as deemed appropriate by the planning commission.
 - f. The site plan shall provide for adequate storage and loading space for the use therein.
 - g. Security measures shall be provided as deemed necessary by the police chief for resident protection in all multiple-family residential developments.

- h. Fire protection measures shall be provided as deemed necessary by the fire chief in conformance with all applicable laws of the state for the protection of residents and/or occupants of the structures.
 - i. The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided.
- (5) *Site plan amendment.* Any structure, use, or site change proposed subsequent to site plan approval must be approved through a site plan amendment by the village council after recommendation from the village planning commission. Incidental and minor variations of the approved site plan may be approved pursuant to subsection 42-402(8) and shall not invalidate prior site plan approval.
- (6) *Phased construction.* Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the inter-relationship of the proposed project to the future stages, including the following:
- a. Relationship and identification of future structures, roadways, drainage, water, and sewer.
 - b. Pedestrian and vehicular circulation.
 - c. Time schedule for completion of the various phases of the proposed construction.
 - d. Temporary facilities or construction of same as required to facilitate the stated development.
- (7) *Expiration of approved site plans.* Approved site plans shall commence construction within a period of 12 consecutive months after date of approval by the village council. Site plans failing to comply with this provision shall be deemed expired. Developers/owners of this project shall be notified of the expiration in writing and informed of site plan approval if the project is to proceed.
- (8) *Site plan requirements for incidental and minor variations of the approved site plan.* The village designee, as appointed by the village council to expedite the review of incidental and minor variations of the approved site plan that do not affect access, circulation, parking requirements, drainage or landscaping requirements, may approve a site plan containing the following information:
- a. A legal description of the property under consideration.
 - b. The land uses of the area surrounding the project.
 - c. Date, north point, and scale.
 - d. The dimensions of all lot and property lines.
 - e. The location of all structures on the subject property.
 - f. Significant environmental features such as wetlands, shorelines, streams, and trees.
 - g. The nature of the proposed project.

(Ord. No. 394, § 14.2, 7-14-2003; Ord. No. 413, § 6, 4-14-2008; Ord. No. 423, §§ 5—8, 9-27-2010)

State Law reference— Site plan, MCL 125.3501.

Sec. 42-403. - Planned developments.

- (a) *Intent and purpose.* Planned developments are provided, herein by special use permit in order to allow for some degree of flexibility and innovation in the design of developing areas, as well as to allow for an efficient and aesthetic use of land. Based upon the standards and criteria contained in this article, the planning commission shall review and recommend with conditions, a modification in bulk requirements in order to allow certain forms of development containing both privately owned sites and

common property, and which are planned collectively as a single unit. This section is also provided in order that the growing demand for housing by young married couples, senior citizens and existing residents may be met by a greater variety of innovative housing types, and by the planning and design of structures with the benefit of cost effective land utilization in such development.

- (b) *Clustered residential development (subdivision).* In any R-1 and R-2 district in which single-family detached dwellings are a use permitted by right, the minimum required lot areas for such use, as set forth in the schedule of regulations, may be reduced by an amount not to exceed 25 percent: provided that a quantity of land at least equivalent to the total amount deducted from all lots shall be dedicated for open space so that the overall gross density for the entire area shall not exceed that permitted in the applicable zoning district.
- (1) *Site eligibility.* The minimum area necessary to qualify as a cluster development shall not be less than two contiguous acres of land.
 - (2) *Special use permit approval.* Any subdivision plan wherein the clustered residential development concept is proposed shall be subject to the provisions for special use permit approval and must be in accordance with all of the procedures and provisions set forth in the subdivision regulations of the village.
- (c) *Planned unit development.* A residential planned unit development (PUD) shall be developed through the special use permit procedure. The granting of a special use permit for a planned unit development is permitted in all zoning districts.
- (1) *Site eligibility.* The minimum area necessary to qualify as a planned unit development shall not be less than two continuous acres of land. However, an owner of land less than the minimum required area may apply if the subject land is adjacent to a lawfully approved or constructed PUD having uses similar to the one proposed.
 - (2) *Combination of residential and nonresidential uses and structures.* As a planned single unit, planned unit developments may be constructed in any combination of residential and nonresidential uses and structures (except mobile homes and principal commercial uses), provided that:
 - a. At least 25 percent of the total area is reserved for open space and natural drainage. This area may consist of land included as part of the required yard setbacks, roads, greenbelt areas, drainage easements, open space or any recreational amenity; but shall not include any areas used for structures, or off-street parking and loading.
 - b. Full compliance with the provisions of this chapter and the tables/schedules contained herein shall be met, unless waived by the village council.
 - (3) *Density and open space requirements for planned unit developments with residential uses.*
 - a. In addition to subsection (b) of this section, in a proposed planned unit development, that part of the planned unit development that is dedicated to residential uses may not exceed a net residential density of 1.5 times the maximum number of units allowed per acre under conventional single-family lot sizes as shown in the schedule of regulations for that part of the total area. The number of dwelling units shall be rounded to the nearest whole number.
 - b. This density is granted, provided that at least 25 percent of the total area devoted to the residential planned unit development is reserved for open space and natural drainage. This area may consist of land included as part of the required yard setback, roads, greenbelt areas, drainage easements, open space or any outdoor recreational amenity; but shall not include any area used for structures, or off-street parking and loading.
 - (4) *Residential density bonuses.* Bonuses in net residential density for that area devoted to the residential planned unit development may be permitted by the planning commission, provided that additional land is reserved and dedicated for open spaces as follows:

If	Then the density multiplier for determining the maximum number of units allowed per acre shall be:
25% of total area devoted to residences is reserved for open space,	1.50 × Conventional family density
30% of total area devoted to residences is reserved for open space,	2.00
35% of total area devoted to residences is reserved for open space,	2.50
40% of total area devoted to residences is reserved for open space,	3.00
45% of total area devoted to residences is reserved for open space,	3.50

- (d) *Preapplication conference with planning commission for concept review.* Prior to formal application submission for a special use permit for a proposed planned development, the developer/applicant shall be required to make a presentation to the planning commission in order to discuss initial design concepts and the application of said concepts to the land in question.
- (e) *Standards and considerations.* In addition to complying with the standards for special use permits, the following special standards for a clustered residential development or a planned unit development must be met:
- (1) *Ownership.* The tract of land may be owned, leased or controlled by a single person, partnership, corporation, cooperative association, or association of individual owners (condominium). An application may be filed by the owner, jointly by the owners of all property to be included, or by a person, persons, corporation, or corporation with an option to buy said property. A plan once approved, shall be binding.
 - (2) *Utilities.* A clustered residential development and a planned unit development shall have on-site community water and sewer provided by the developer, and must be approved by all legal state, county and local agencies (health, conservation, etc.) who are in authority and have jurisdiction. All utilities shall be placed underground.
 - (3) *Permitted residential housing types and uses.* The following are considered eligible for inclusion in an application:
 - a. Principal planned unit development uses and structures.
Residential planned unit developments:
 1. Single-family detached homes (excluding mobile homes).
 2. Two-family homes.
 3. Single-family attached homes.

4. Multiple-family structure (apartments).
 5. Industrial and office uses, if application is for industrial PUD.
 6. Day care centers.
 7. Limited commercial.
- b. Accessory uses and amenities.
1. Open space, passive and active.
 2. Indoor and outdoor recreational facilities.
 3. Carports.
 4. Community building and meeting hall.
 5. On-premises laundry facilities.
 6. Small scale "neighborhood retail" to serve residential planned unit developments only. Does not apply to mixed planned unit developments nor nonresidential planned unit developments.
- (4) *Site design standards.* Unless modified by the planning commission in writing at the time of application approval, compliance with the following design standards is required to be shown on the site plan:
- a. Minimum yard requirements and building setbacks from all exterior property lines shall be 30 feet.
 - b. Maximum building height three stories or 30 feet (excludes antennas, steeples, spires, etc.).
 - c. Minimum spacing between detached buildings shall not be less than the height of the higher building as measured from the lowest first floor elevation.
 - d. All sensitive natural features such as streams, wetlands, lands within the 100-year floodplains, land on slopes of 12 percent or greater, and stream or river banks, (which by virtue of soil and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by residential buildings and structures.
 - e. Ingress and egress opening from the development onto a public and private road shall be limited to one per 500 feet.
 - f. Planted and maintained landscaped buffer areas of ten feet in width are required along all exterior boundaries of the property to be developed.
 - g. Drainageways and streams shall be protected by a public easement measured 25 feet from the centerline of such triangulates or streams.
 - h. Off-street parking is required at the rate of two parking spaces per dwelling unit.
 - i. Facility site standards. The site standards for all individual uses and facilities as provided in this chapter, must be observed unless waived by the planning commission for any (or all) of the specific uses and facilities.
 - j. Common property which is privately owned. Common property is a parcel or parcels of land, a privately owned road, or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreational areas. This shall not be waived.

- k. Public easement on common property which is privately owned. When common property exists in private ownership, the owners shall grant easements, over, under and through such property to the village as may be required for public purposes.
 - l. After approval of a planned development, a site plan may be revised upon approval by the village council.
- (f) *Appeals.* Any and all administrative interpretations, decisions, any requirements of the planned development provisions of subsection (e) of this section may be appealed within 30 days to the zoning board of appeals.
- (g) *Public hearing.* A public hearing by the village council is required for all planned developments.

(Ord. No. 394, § 14.3, 7-14-2003)

Sec. 42-404. - Off-street parking and loading.

All buildings located in the village shall provide off-street parking adequate for the use intended. The dimension of off-street parking shall be in accordance with the following minimum dimensions:

Parking Pattern	Maneuvering Land Width (Feet)	Parking Space Width (Feet)	Parking Space Length (Feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane (Feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (Feet)
0° (Parallel parking)	12	8	23	20	28
30 to 53 feet (diagonal)	13	9	20	33	53
54 to 74 feet (diagonal)	18	9	21	39	60
75 to 90 feet (diagonal)	25	9	18	43	61

- (1) *Residential off-street parking.* Parking in residential zones is only permitted as an accessory use or as a transitional use and in no case is it intended that parking or access drives to parking be permitted as a principal use of any residentially zoned lot.
- (2) *Nonresidential off-street parking.* Except in parking exempt areas, provisions shall be made for off-street parking for all non-residential buildings or additions to such buildings in all districts. The

conversion of an existing residence to any other use shall be deemed to be a new use which must meet all provisions of this chapter.

- (3) *Mixed occupancies and uses not specified.* In the case of mixed uses, the total requirement for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provisions for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal store operation hours may be jointly used where adequate arrangements are made to ensure that the space is available for each function.
- (4) *Location of off-street parking facilities.* Off-street parking facilities shall be located as hereafter specified; where a distance is specified it shall be the distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve, as follows:
 - a. For all residential buildings and for all nonresidential buildings in residential zones, required parking shall be provided on the same lot with the building.
 - b. For commercial and all nonresidential uses in commercial zones, required parking shall be provided within 300 feet.
 - c. For industrial uses, required parking shall be provided within 300 feet.
- (5) *Parking areas in commercial office, parking and industrial districts.* Every parcel of land hereafter established as a public or private parking area in any commercial or industrial district or hereafter enlarged or altered shall be developed and maintained in accordance with the following requirements:
 - a. Off-street parking areas shall be effectively screened on any side which adjoins or faces premises situated in any residential district or use or institutional premises, by a screening or evergreen hedge or other material approved by the planning commission. Screening provisions in this article shall control.
 - b. Every such off-street parking area shall be surfaced in accordance with section 42-404. Any lighting in connection with off-street parking shall be so arranged as to reflect the light away from all adjoining residential buildings, zones and streets. The lighting provisions of section 42-405 shall control.
 - c. The off-street parking area shall be subject to the approval of the planning commission to ensure its adequacy in relation to traffic safety, lighting and protection of the adjacent property.
- (6) *Parking areas in residential zones.* Any person desiring to establish a parking area as an accessory use in a residential zone shall submit plans to the planning commission showing the location, size, shape, design, landscape, curb cuts, and other features of the parking lot. The establishment and operation of a parking area accessory to a commercial or industrial use in such part of any residential district that abuts either directly or across the street or alley from a commercial or industrial district is not permitted. All such parking areas and parking areas required for new multiple-family dwellings and nonresidential buildings in all residential zones may then be authorized, subject to the following conditions:
 - a. All parking areas shall be landscaped, screened, surfaced, and drained as provided in this chapter.
 - b. No part of such parking areas shall extend into the required front yard more than one-half of the yard required for a residential building, and where the lot or a portion of the lot lies between two privately owned residential properties, the full front yard area not occupied by the access drive shall be landscaped.
 - c. All such parking areas shall be at least 40 feet in width.

- d. Such parking areas shall be used solely for the parking of passenger automobiles, and no commercial repair work or sales or service of any kind shall be conducted on such parking lot. No sign, other than entrance, exit, and condition of use signs, shall be maintained, and the aggregate area of all such signs shall not exceed 12 square feet.
 - e. Each entrance to and exit from such parking lot shall be at least 20 feet distance from any adjacent property located in any residential zone, and the location and design of entrances, exits, surfacing, landscaping, marking, and lighting shall be subject to the approval of the planning commission to ensure adequate relation to traffic safety, lighting and protection of the adjacent residential area.
 - f. The village shall thereafter issue an approval, which may be revoked at any time that the aforementioned requirements are not complied with. Any person operating the premises to which said permit relates in violation of any of the conditions specified by this chapter or fixed to such permit, shall be deemed in violation of this chapter and shall be subject to the penalties prescribed in this chapter.
- (7) *Parking and storage of unlicensed vehicles.* Automotive vehicles of any kind or type without current license plates shall not be stored within the required yard on any residentially zoned property, unless within an enclosed building.
- (8) *Table of parking requirements.* The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space, so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and/or shall comply with the initial part of this section. Land uses within the CBD central business district zoning district shall be exempt from the table of parking requirements.

Use		Number of Minimum Parking Spaces Per Unit of Measure
1.	Residential	
	a. Bed and breakfast facility	1 for each sleeping room.
	b. Mobile home park	See Mich. Admin. Code R 125.1925 and R 125.1926.
	c. Residential, one-family and two-family	2 for each dwelling unit.
	d. Residential, multiple-family	2 for each dwelling unit for developments of 1—24 units. 1.75 spaces for each dwelling unit for developments of 24+ units.
	e. Senior citizen apartments	$\frac{3}{4}$ space for each unit when mass transit is provided; one space for each unit when not provided.
2.	Institutional	

a.	Adult foster care facilities	½ per bed plus 1 for each employee.
b.	Churches, temples or synagogues	1 for each 3 seats, maximum seating capacity in the main unit of worship; or 1 for each 35 square feet of gross floor area.
c.	Day-care, pre-school and nursery schools	1 for each staff member plus 1 for every 5 children or 1 space for every 10 children if adequate drop-off facilities are provided.
d.	Golf course open to the general public, except miniature or "par 3" courses	6 for each golf hole and 1 for each employee.
e.	Hospitals	1 per 600 square feet of gross floor area.
f.	Jail/detention facility	1 for each staff member plus 1 for every 5 beds, in addition to off-street loading spaces for delivery and transport vehicles.
g.	Libraries, museums, and noncommercial art galleries	1 for each 250 square feet of gross floor area.
h.	Private clubs or lodge halls	1 for each 3 occupants allowed within the maximum occupancy load as established by local county, or state fire, building, or health codes.
i.	Private golf clubs, swimming pool clubs, tennis clubs, or racquetball clubs	1 for each 2 member families or individuals.
j.	Public or private elementary and junior high schools	1 for each classroom and 1 for each 5 fixed seats of any area used for auditorium purposes or for each 35 square feet of seating area where there are no fixed seats.
k.	Sanitariums, convents, homes for the aged, convalescent homes, children's homes	1 per 600 feet of gross floor area.
l.	Senior high schools	1 for each classroom and each other room used by students plus 1 for each 10 full-time

		students in addition to requirements for auditoriums. (See subsection k.)
	m.	Stadium, sports arena, or similar place of outdoor assembly 1 for each 3 seats or 10 feet of bench.
	n.	Theaters and auditoriums (indoor) 1 for each 4 seats plus 1 for each 2 employees.
3.	Business and Commercial	
	a.	Auto body shop 1 for each 500 square feet of gross floor area plus 1 for each employee.
	b.	Automobile service stations, gasoline stations, convenience stores in conjunction with service or gas stations 2 for each lubrication stall, rack, pit or pump, plus 1 for every 200 square feet of gross floor area devoted to retail sales; plus 1 for each employee (accessory uses calculated separately).
	c.	Auto wash, auto reconditioning, auto cleaning (interior/exterior) 1 for each 1 employee, plus 1 for each 250 square feet of gross floor area devoted to reconditioning or cleaning.
	d.	Bar, lounge, tavern 1 for each 75 feet of gross floor area.
	e.	Beauty parlor or barber shop 3 for each of the first 2 beauty or barber chairs, and 1½ for each additional chair.
	f.	Bowling alleys 5 for each 1 bowling lane.
	g.	Dance club, pool or billiard parlors, roller or ice rinks, exhibition halls and assembly halls without fixed seats 1 for each 3 seats or 1 for each 100 square feet of gross floor area.
	h.	Drive-in restaurant 1 for each 100 feet of gross floor area and 1 per each 1½ full-time equivalent employees (minimum of 15).
	i.	Furniture and appliance, household equipment, repair shop, showroom of a 1 for each 800 square feet of floor area, occupied in processing or manufacturing.

	plumber, decorator, electrician or similar trade, shoe repair and other similar uses	
j.	Health spas, gymnasiums, and health clubs	10 for each club or spa plus 1 for each 200 square feet of gross floor area in excess of 1,000 gross square feet.
k.	Laundromats and coin-operated dry cleaners	1 for each 2 washing machines.
l.	Miniature golf courses	3 for each 1 hole plus 1 for each employee.
m.	Mortuary establishments	1 for each 100 square feet of gross floor area.
n.	Motel, hotel or other commercial lodging establishments	1 for each occupancy unit plus 1 for each employee, plus extra spaces for dining rooms, ballrooms, or meeting rooms based upon 1 per 3 occupants of the maximum occupancy load.
o.	Motor vehicles sales and service establishments, trailer sales and rental, boat showrooms	1 for each 400 square feet of gross floor area of sales room.
p.	Open air business	1 for each 600 square feet of lot area.
q.	Restaurant, carry-out	1 for each 100 square feet of gross floor area.
r.	Restaurant for sale and consumption on the premises of beverages, food or refreshments	1 for every 6 seats or 80 square feet, whichever is greater.
s.	Retail stores, except as otherwise specified herein	1 for each 300 square feet of gross floor area.
t.	Shopping center or clustered commercial	1 for each 300 square feet of gross floor area.
4.	Offices	
a.	Business offices or professional offices except as indicated in the following item but	1 for each 400 square feet of gross floor area.

		including courthouses and governmental offices	
	b.	Financial institutions, offices, credit union	1 for each 200 square feet of gross floor area.
	c.	Medical or dental clinics, professional offices of doctors, dentist or similar professions	1 for each 175 square feet of gross floor area.
5.		Industrial	
	a.	General manufacturing establishments	1 for every 650 square feet of gross floor area, plus 1 per each 350 square feet of office space.
	b.	Light and limited industrial manufacturing	1 for every 500 square feet of gross floor devoted to manufacturing plus 1 per each 350 square feet of office, sales or similar space.
	c.	Research and development	1 for every 350 square feet of gross floor area plus 1 per each 350 square feet of office sales or similar space.
	d.	Warehousing	1 for every 2,000 square feet of gross floor area.

- (9) *Required off-street loading berths.* In all districts every building, or part thereof, hereafter erected, which is to be occupied by manufacturing, storage, warehouse, group of stores, or other use similarly requiring the receipt of distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such buildings, off-street loading spaces in relation to floor area as follows:
- a. 5,000 to 2,000 square feet1 space
 - b. 20,000 to 50,000 square feet2 spaces
 - c. 50,000 to 100,000 square feet3 spaces
 - d. One additional space for each additional 100,000 square feet or part thereof; provided that:
 1. Each loading space shall be at least 12 feet in width, 44 feet in length, and have a clearance of 14 feet above grade.
 2. Such space may occupy all or any part of any required yard or court space, except the front yard.
- (10) *Increased parking, surfacing.* When the floor area, dwelling units, or other unit of measure employed to determine off-street parking requirements shall be increased, it shall be the duty and obligation of the owner and occupant of such residence, business or other use to provide

additional off-street parking space of sufficient area. Such parking space may be on the same lot with the main building or within a maximum distance of 350 feet from any such lot, whichever may have been originally required under this chapter. All such parking spaces herein required shall be surfaced as provided in subsection (6) of this section.

- (11) *Surfacing.* All open parking spaces required in B-1, B-2, RO, P, CBD and RM districts only shall be paved with concrete or bituminous material in accordance with plans approved by the building inspector. Such concrete pavement shall be of a minimum thickness of six inches and any bituminous paving shall be of a minimum thickness of two inches, or shall be a triple sealcoat and shall be placed upon a base of cinders or gravel of a minimum thickness of four inches. Paving of parking areas may be phased with the approval of the village council. All parking paving shall be complete within a period of 12 months after site plan approval. Off-street parking for one- and two-family dwellings need not be surfaced with concrete or bituminous material.
- (12) Existing unpaved parking lots in the B-1, B-2, RO and RM districts. Unpaved parking lots in the B-1, B-2, RO and RM districts in existence at the adoption of the ordinance from which this chapter is derived shall be paved in accordance with this section when the building to which the parking lot is accessory:
 - a. Has been vacant for a continuous period of 12 months or more and becomes occupied by a permitted use in the respective districts;
 - b. Increases its floor space for customer service and/or storage thereby requiring an increase in off-street parking which is 20 percent or more than the existing number of off-street parking spaces; or
 - c. Changes from one permitted use to another permitted use in the respective district thereby requiring an increase in off-street parking spaces which is 20 percent or more than the number of existing off-street parking spaces.
- (13) *Existing unpaved parking lots in the CBD district.* Unpaved parking lots in the CBD district in existence at the adoption of the ordinance from which this chapter is derived shall be paved in accordance with this section when the building to which the parking lot is accessory:
 - a. Has been vacant for a continuous period of 12 months or more and becomes occupied by a permitted use in the district; or
 - b. Changes from one permitted use to another permitted use. Any remaining portion of the lot that remains unpaved shall be landscaped with grass or ground cover and other suitable plant materials. The landscape plan shall be subject to the approval of the village.

(Ord. No. 394, § 14.4, 7-14-2003)

Cross reference— Stopping, standing and parking, § 36-31 et seq.

Sec. 42-405. - General lighting, screening requirements, fences and sidewalk requirements.

- (a) *Lighting.* All private lights used for the illumination of dwellings or business establishments or for the illumination of business buildings or areas surrounding them, or the illumination or display of merchandise or products of business establishments shall be completely shielded from the view of vehicular traffic using the roads abutting such business property. Lighting which is designed to illuminate the premises shall be installed in a manner which will not cast direct illumination on adjacent properties, or cause a nuisance to adjacent or nearby properties.
- (b) *Nonresidential uses abutting residentially-zoned or residentially-occupied property.* Except as otherwise provided in this chapter, all premises used for business, parking, commercial or industrial purposes shall be screened from abutting residential districts or uses. A mixed-use development shall not be considered a residential use for purposes of this section. Screening shall consist of any one or combination of the following and shall apply along side and rear property lines:

- (1) A natural buffer planted with evergreens or shrubberies which maintain their density and screening effect throughout the calendar year, not less than four feet in height at the time of planting and maintained commensurate with the adjoining residential district/land use.
- (2) A wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained, commensurate with the adjoining residential district/land use. Chain link fences and chain link fences with privacy slats are not acceptable as a screen for purposes of this section.
- (3) An earth berm not less than 15 feet in width and four feet six inches in height constructed with a one-foot rise for each two and one-half feet of horizontal rise (1 on 2.5 slope). Said berm shall be seeded with appropriate grass seed and landscaped with shrubbery and trees to enhance the screening effect and aesthetic appearance of same, and shall be maintained in a neat and attractive manner.
- (4) No such natural buffer, wall or fence shall impair safe sight distances. Further, no solid plant materials (except deciduous trees), wall or fence shall be greater than 30 inches in height within the triangle created:
 - a. 15 feet from the intersection of a driveway and the roadway (edge of pavement), measured along the edge of the driveway and the curb line of the roadway from the point of intersection; and
 - b. 25 feet from the intersection of street right-of-way lines, measured along both right-of-way lines from the point of intersection.

Nonresidential uses located opposite residentially-zoned or residentially-occupied property. Parking facilities located within the front yard of premises used for business, commercial or industrial purposes shall be screened from a residential district or use located opposite the premises. A mixed-use development shall not be considered a residential use for purposes of this section. Screening shall consist of a natural buffer planted with evergreens or shrubberies which maintain their density and screening effect throughout the calendar year, not to exceed four feet in height and maintained in a neat and attractive manner commensurate with the surrounding residential district/land use. The natural buffer shall be subject to subsection 42-405(b)(4).

(c) *Fences.*

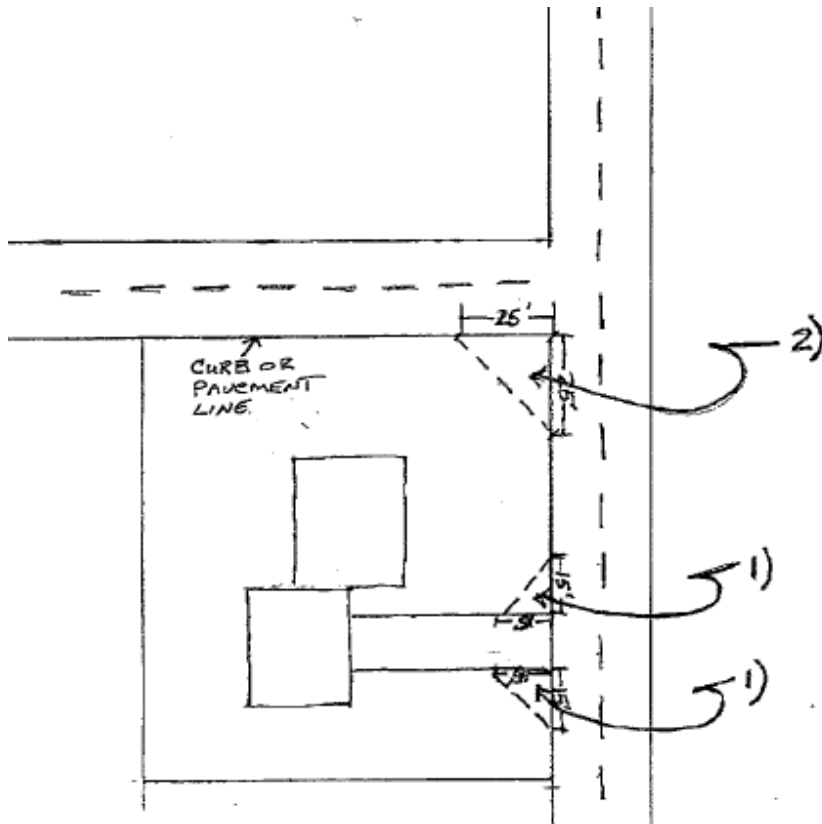
- (1) *Residentially-zoned property, residential land uses on nonresidentially zoned property, or property within the B-1, B-2, P, I-1, and I-2 districts.*

Chain link fences, chain link fences with privacy slats, and solid or privacy-style fences are permitted only in side and rear yards and may not exceed six feet in height.

Decorative or ornamental fencing (e.g. picket, post and rail, wrought iron) is permitted in side and rear yards and may not exceed six feet in height. Decorative or ornamental fencing not exceeding four feet in height or retaining walls not exceeding three feet in height are permitted in the front yard.

No wall or fence shall be greater than 30 inches in height within the triangle created:

- 1) 15 feet from the intersection of a driveway and the roadway (edge of pavement), measured along the edge of the driveway and the curb line of the roadway from the point of intersection; and
- 2) 25 feet from the intersection of street right-of-way lines, measured along both right-of-way lines from the point of intersection. See below.



The height of a fence shall be the average height of the fence elements (posts, gates, panels) as measured from the average finished lot grade to the highest point of each fence element.

Fencing that does not meet the requirements set forth above may be allowed as a special land use through a finding that the fencing does not have a material adverse impact on the occupants of adjacent properties, is compatible with the surrounding district/land use, and promotes the safety and welfare of the community.

- (2) *Property within the CBD central business district and RO restricted office district.* Fences are prohibited within the CBD and RO district, except for the following:
 - a. Fences required by subsection (b)(2) of this section.
 - b. Fencing designed to provide security for permitted and approved operations, provided it does not impede the health, safety or welfare of vehicular or pedestrian access, is located within side and rear yards, and does not exceed six feet in height. Chain link fences and chain link fences with privacy slats are not acceptable as security fencing for purposes of this section.
 - c. Dumpster enclosures.
 - d. Decorative or ornamental fencing consisting of brick, stone, and/or maintenance free material (e.g. wrought iron, polymer, aluminum) and used for property boundary demarcation or as landscape accents.
- (3) *Barbed wire fences.* Barbed wire fences are prohibited in all zoning districts, except where deemed necessary to ensure public safety.
- (4) *Approval process.* No fence shall be erected or constructed within a residential district or for a residential land use on nonresidentially zoned property unless a fence permit has first been obtained from the village.

Fencing to be erected or constructed for a nonresidential land use within the B-1, B-2, CBD, P, RO, I-1, and I-2 Districts shall be subject to site plan approval pursuant to section 42-402 of this chapter. Minor modifications to existing fencing within these districts shall be subject to administrative review/approval and shall require a fence permit.

- (d) *Appeals.* In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the zoning board of appeals shall have the right and is hereby given the authority to interpret the screening and lighting provisions and determine the purpose herein sought to be accomplished.
- (e) Sidewalks shall be constructed in compliance with chapter 32 of this Code of Ordinances.

(Ord. No. 394, § 14.5, 7-14-2003; Ord. No. 423, §§ 9—11, 9-27-2010; Ord. No. 428, § 4, 9-23-2013)

Sec. 42-406. - Minimum landscaping requirements.

- (a) For the multiple-family residential district and all site condominium projects, 25 percent of the site shall be in landscaped open space. The open space shall be landscaped with one evergreen tree or shrub for every 1,000 square feet of portion thereof, plus one small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement.) Ground cover or lawn is required in all landscaped areas.
- (b) For permitted nonresidential uses and uses subject to a special use permit in the R-1 and R-2 districts, 30 percent of the site under development shall be in landscaped open space. The open space shall be landscaped with one evergreen tree or shrub for every 1,000 square feet or portion thereof plus one small or large deciduous tree for every 1,500 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement.) Twenty-five percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 40 percent of the required open space between the building and the street. Landscaping of an adjacent right-of-way may be included in the requirement if it is maintained by the adjacent property owner.
- (c) For permitted uses and uses subject to a special use permit in the B-1, B-2, RO, I-1, and I-2 districts, 15 percent of the site shall be in landscaped open space with one evergreen tree or shrub for every 1,000 square feet or portion thereof plus one small or large deciduous tree for every 2,000 square feet or portion thereof. (Plant materials existing on the site prior to development may be included as part of the requirement.) Thirty percent of the required open space shall be between the roadway and the building. Buildings on corner lots shall have 60 percent of the required open space between the building and the roadway. Whenever feasible, a portion of the landscaping shall be placed adjacent to the building. Landscaping of an adjacent right-of-way may be included in the requirement if it is maintained by the adjacent property owner.
- (d) All areas to be landscaped shall meet the following standards:
 - (1) No synthetic plant materials such as artificial grass, shrubs, trees, or flowers shall be used to fulfill any landscaping requirements.
 - (2) Berms, whenever utilized shall be designed and landscaped to minimize erosion. Berms adjacent to public right-of-way shall have a slope no greater than 3:1, unless designed as part of a retaining wall.
 - (3) All landscaping materials shall consist of healthy specimens compatible with local climate, soil characteristics, drainage, and water supply. All plant material shall be reasonably resistant to drought and disease. Non-nursery derived stock shall not be used to satisfy these requirements.
 - (4) Living ground covers other than grass shall comprise not less than 50 percent of the required landscaped area and will provide complete coverage within two growing seasons. Vines shall not be used adjacent to pedestrian areas.

- (5) Unless otherwise specified, materials such as river rock, cobble, boulders, paving stone, patterned concrete, bark and wood chips shall be limited to small areas and shall not exceed 50 percent of the required landscape area. All such ground covers shall be at least six inches deep. Loose gravel less than three inches minimum aggregate size shall not be used in areas abutting public streets or sidewalks.
- (6) Maintenance shall include all reasonable and regular irrigation, weeding, fertilizing and pruning. Plant materials which show signs of insects, pests, diseases and/or damage shall be appropriately treated. Dead plant material shall be replaced immediately or as soon as practical under the seasonal conditions existing and according to the approved site plan. The developer and subsequent owner shall be responsible for maintaining all on-site landscaping.
- (7) Plant materials and their minimum size requirements shall be installed as approved by the village.
- (8) Landscaping plans shall be submitted as part of the required site plan (section 42-402(3)h.) and shall be subject to the site plan review and approval process set forth in section 42-402(1). Landscaping plans may be submitted as an amendment to the site plan, thereby not requiring an additional review fee but shall still be subject to the required review and approval process. A phased landscaping plan may be submitted for a project that is contemplated for staged or phased construction.
- (9) Outdoor trash containers or dumpsters. Outdoor trash containers or dumpsters may be required in the RM, B-1, B-2, CBD, I-1, I-2 and RO zoning districts when in the judgment of the village council and with the recommendations of the planning commission, the provision of such will address a health, safety or aesthetic concern. When required, the outdoor trash containers or dumpsters shall meet the following standards:
 - a. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of all-street parking areas or entrances to or exits from principal buildings. The placements of the container shall be subject to site plan review.
 - b. A solid ornamental screening wall or fence shall be provided around all sides of such containers. An access gate shall also be provided and be of such height as to completely screen said containers. The maximum height of walls, fences or gates shall be sufficient to screen the containers adequately but not less than six feet. All containers shall rest on a concrete pad.
 - c. The containers, screening walls, fences and gates shall be maintained in a neat and orderly manner, free from loose rubbish, waste paper and other debris.

(Ord. No. 394, § 14.6, 7-14-2003; Ord. No. 423, § 4, 9-27-2010; Ord. No. 452, § 4, 8-10-2015)

Editor's note— Ord. No. 423, § 4, adopted Sept. 27, 2010 changed the title of § 42-406 from minimum landscape and screening requirements to minimum landscaping requirements.

Sec. 42-407. - Miscellaneous.

- (a) *Keeping of animals.* No person shall keep or house any animal, honeybees, livestock or fowls, other than domestic household pets, except as permitted by subsection (b).
- (b) *Keeping of honeybees.* The keeping of honeybees as an accessory use to an owner-occupied single-family dwelling is permitted subject to the following requirements:
 - (1) No more than two hives per site shall be allowed.
 - (2) Each hive shall have a maximum size of 20 cubic feet.
 - (3) A flyway barrier at least six feet in height shall shield any part of a property line that is within 25 feet of a hive so that all bees are forced to fly at an elevation of at least six feet above the ground

over the property lines in the vicinity of the hive. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof and shall be subject to section 42-405(c), fences.

- (4) All hives shall be located in the rear yard and shall be located no closer than ten feet to any property line and no closer than 40 feet to any residential dwelling on an adjacent property. Notwithstanding the foregoing, the village may require that a hive be located no less than 100 feet from a sensitive site, or that the applicant shall take other measures to afford the sensitive site a greater safety buffer. For purposes of this paragraph, a sensitive site is an area where people such as the elderly, small children, individuals with medical conditions or confined animals inhabit or frequent that area and are more at risk if stinging incidents were to occur. Such areas might include, but not be limited to, schools, playgrounds, picnic areas, outdoor sports facilities, daycare centers, senior care facilities, medical facilities, kennels and horse boarding facilities. Neighboring property owners may submit evidence and supportive documents indicating that their property should constitute a sensitive site.
 - (5) A constant supply of water shall be provided on site for all hives.
 - (6) All hives shall be regularly monitored to avoid and eliminate "undesirable honeybee behavior". Undesirable honeybee behavior shall include any behavior exhibited by honeybees from a managed hive that may result in harm to others. This will include but not be limited to demonstration of characteristics of Africanized honeybees guarding a larger territorial perimeter around the hive in greater numbers than is typical of European honeybees, responding to minimal or no provocation by means of over defensiveness, aggressiveness, repeated swarming, unpredictability, reactivity, agitation during, but not limited to, inspection of the honeybee apiary. Honeybees foraging on flowering vegetation is considered normal and desirable.
 - (7) Any person who keeps honeybees in the Village of Paw Paw shall obtain a permit from the village prior to acquiring the honeybees. Application shall be made to the village clerk and the permit fee shall be as determined by resolution of the village council. The application shall contain information sufficient to demonstrate the keeping of honeybees as proposed will comply with this section 42-407(b).
 - (8) Hives shall be removed from the premises within 30 days when no longer in use.
- (c) *Keeping of hen chickens.* The keeping of hen chickens as an accessory use to a single-family dwelling in the R-1 and R-2 residential districts is permitted subject to the following requirements:
- (1) The keeping of hen chickens shall be done on a noncommercial basis and be exclusively used by the people occupying the property and their guests as a food source for the consumption of eggs or meat.
 - (2) An annual permit from the village shall be obtained by any person who desires to keep chickens in the Village of Paw Paw (June 1 to May 31). The village council may, by resolution, establish, change or revise a fee for such annual permit (or any partial year permit). The permit shall be non-transferrable and site specific. The permit shall be issued to the property owner. The village clerk shall issue the permit, but only after the village clerk, village zoning administrator, or other village official has inspected and approved the premises, and the chicken enclosure so as to ensure that the facility is sufficient for the proposed keeping of chickens. The village clerk shall maintain a record of the permit in the village offices.
 - (3) Roosters and crowing chickens are prohibited.
 - (4) A maximum of four chickens are allowed per site if the property is less than one-half acre in area; a maximum of five chickens are allowed per site if the property is one-half to one acre in area; and, a maximum of six chickens are allowed per site if the property is over one acre in area.
 - (5) Chickens shall be provided with a covered enclosure and shall be kept in the covered enclosure, except that chickens may be allowed outside of the covered enclosure if within a fully fenced rear yard. Fenced enclosures shall be subject to section 42-405(c), Fences. It shall be a violation of this ordinance to have chickens outside of the required covered enclosure or fenced area.

- (6) All covered enclosures shall be subject to section 42-370, Accessory Buildings, except that covered enclosures shall be located no closer than ten feet to any property line and no closer than 40 feet to any residential dwelling on an adjacent property. The total size of the covered enclosure shall not exceed 36 square feet in size. It shall be elevated a minimum of 18 inches off the ground and the enclosure shall not exceed five feet in height.
 - (7) Covered enclosures shall not be constructed of tarps, plastic, fabric, rubber, paper, cardboard, or other non-traditional building materials. They shall be constructed in a workmanlike manner that shall prevent rats, mice, or other rodents or vermin.
 - (8) Chickens shall not be allowed within a residence, porch, or attached garage.
 - (9) Appropriate feeder containers shall be used for all feeding and water and all unused or unconsumed food shall be adequately secured and stored after every feeding to prevent access by rats, mice, or other rodents or vermin. All feed and other items associated with the keeping of chickens shall be secured and protected in sealed containers.
 - (10) Sanitary conditions shall be maintained. Any person keeping chickens shall keep or cause to be kept all manure, or offal from such animal securely and closely confined to or buried upon the premises and in such a manner as will prevent it from being scattered from such place or deposited into or upon any street, sidewalk, alley, gutter, storm drain, ditch, lake, wetland, or waterway, and such persons shall so cover and care for the chicken manure, offal and waste as to prevent any malodorous or offensive condition to exist and prevent any nuisance to arise therefrom, except that persons shall be permitted to use chicken manure as compost on their property provided that such composting is done in a manner that does not create an offensive or malodorous condition.
 - (11) Any person keeping chickens shall not permit such chickens to become a nuisance as defined in section 42-3 or to violate any other village codes and ordinances, including, but not limited to noise, odor and blight ordinances.
 - (12) In addition to the municipal civil infraction fines provided in this ordinance, if notice has been served upon the applicant to remove one or more of the chickens, the village may assess a fine of \$5.00 per bird per day for each chicken that has not been removed. A fine of \$5.00 per bird per day may also be assessed for each chicken that is outside of the enclosure or fenced area. These fines are separate from the zoning ordinance enforcement penalties normally in effect.
 - (13) Chicken coops and related supplies shall be removed from the premises within 30 days when no longer in use.
- (d) *Noncommercial antennas and satellite receiving stations.* Antennas and satellite receiving stations, when not utilized for commercial broadcasting, are permitted as accessory uses in zoning all districts, except the parking district. Standards associated with their use shall be in accordance with article IV of this chapter.

(Ord. No. 394, § 14.7, 7-14-2003; Ord. No. 479, § 5, 4-13-2020; Ord. No. 481, § 4, 6-22-2020)

Secs. 42-408—42-430. - Reserved.

ARTICLE VI. - SIGNS^[7]

Footnotes:

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Editor's note— Ord. No. 462, § 5, adopted October 23, 2017, amended art. II in its entirety to read as herein set out. Former art. II, §§ 42-431—42-450 pertained to similar subject matter and derived from Ord. No. 394, adopted July 14, 2003; Ord. No. 402, adopted April 11, 2005; Ord. No. 413, adopted April 14, 2008; and Ord. No. 430, adopted May 9, 2011.

Sec. 42-431. - Purpose.

This article is intended to establish regulations for all signs in all zoning districts within the village in a manner consistent with the following purposes:

- (1) To protect and further the health, safety and welfare of village residents, property owners and visitors.
- (2) To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- (3) To conserve and enhance community character and the village's aesthetic environment.
- (4) To promote uniformity in the size, number and/or placement of signs within zoning districts.
- (5) To promote the economic viability of commercial areas by minimizing visual clutter and allowing for proper placement of signs to safely direct motorists to their destination.
- (6) To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the desire of business and nonbusiness uses to communicate by means of signs.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-432. - Definitions.

See section 42-3 for definitions pertaining to signs.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-433. - General sign regulations.

- (a) Signs shall be allowed only in accordance with the provisions of this article and any other applicable provisions of this chapter.
- (b) Signs shall be placed, constructed and erected in accordance with good construction practices and shall be maintained in good condition and repair.
- (c) Except as otherwise allowed by this article, all signs shall be constructed of permanent materials and shall be permanently attached to the ground or a building/structure by direct attachment to a rigid wall, frame or structure.
- (d) Signs requiring electrical service shall be constructed and operated in compliance with the electrical code in effect within the village.
- (e) Signs shall be placed only on private property except for lawful signs of governmental bodies or agencies. A sign shall not extend beyond any lot lines of the property on which it is located.
- (f) No sign or sign structure shall be placed, constructed or erected in any location or manner where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No rotating light or flashing illumination resembling a police or emergency light shall be used on or in connection with any sign.
- (g) Signs may be illuminated only in accordance with the provisions of this article.
 - (1) Signs located within 150 feet of a residential zoning district shall not be internally-illuminated.

- (2) Any externally illuminated sign shall be shielded in such a manner as to focus the light directly on the sign surface with not greater than one footcandle of illumination emanating from the sign, as measured at the property line.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-434. - Prohibited signs.

The following signs are prohibited in all zoning districts:

- (1) Abandoned signs.
- (2) Inflatable signs and balloon signs, except as allowed by Section 42-437.
- (3) Animated signs.
- (4) Banners and pennants, except as allowed by Section 42-437.
- (5) Home occupation signs.
- (6) Portable signs, except as allowed by Section 42-437.
- (7) Roof signs.
- (8) Rotating signs.
- (9) Signs on vehicles not used during the normal course of business which are parked or located for the primary purpose of displaying the advertising copy.
- (10) Signs with flashing, moving, oscillating or blinking lights, including window signs.
- (11) Temporary signs, except as allowed by Section 42-437.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-435. - Exempt signs.

The following signs are exempt from the provisions of this article:

- (1) Barber poles, animated or not, which are appurtenant to the barber business and affixed directly to the wall of the exterior of the occupied space.
- (2) Decorative signs or displays used temporarily for holidays, patriotic occasions or public, governmental or charitable purposes or events.
- (3) Public signs.
- (4) Memorial signs.
- (5) Nameplates, provided any such nameplate does not exceed 216 square inches in area and is located at a property entrance or wall of a principal residence.
- (6) Signs identifying buildings or sites designated as historic landmarks or centennial farms by state or federal agencies.
- (7) Window signs.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-436. - District regulations.

(a) Signs shall be allowed only in accordance with this section and other applicable provisions of this article.

	Wall Signs	Freestanding Signs	Projecting Signs	Sign Area	Sign Height	Sign Setbacks
R-1/R-2 (for uses other than dwellings)	1 per building per street frontage*	1 per parcel per street frontage* A minimum of 40 ft of street frontage is required for the placement of an additional sign		32 sq ft total per parcel; 24 sq ft max per single sign	10 ft	5 ft — front lot line; 15 ft — all other lot lines
RM/RMH (for uses other than dwellings)	1 per building per street frontage*	1 per parcel per street frontage* A minimum of 40 ft of street frontage is required for the placement of an additional sign		50 sq ft total per parcel; 24 sq ft max per single sign	10 ft	5 ft — front lot line; 15 ft — all other lot lines
B-1/RO (for uses other than dwellings)	1 per storefront per street frontage* 1 sq ft per lineal ft of width of the wall to which the sign will be affixed	1 per parcel per street frontage* A minimum of 40 ft of street frontage is required for the placement of an additional sign		120 sq ft total per parcel; 80 sq ft max per single sign	15 ft	5 ft — all lot lines
B-2 (for uses	1 per storefront per street frontage*	1 per parcel per street frontage* A minimum of 40	1 per storefront per street frontage*	200 sq ft total per parcel; 100 sq ft max per single sign,	30 ft	5 ft — all lot lines

other than dwellings)	1 sq ft per lineal ft of width of the wall to which the sign will be affixed	ft of street frontage is required for the placement of an additional sign	20 sq ft max per sign Subject to Section 42-259 B. 4.	except projecting signs		
CBD (for uses other than dwellings) (See Section 42-259)						
DOD (See Section 42-259)						
RA — PUD (See Section 42-348 H.)						
I-1/I-2 (for uses other than dwellings)	1 per building per street frontage*	1 per parcel per street frontage* A minimum of 40 ft of street frontage is required for the placement of an additional sign		300 sq ft total per parcel; 120 sq ft max per single sign	25 ft	5 ft — right-of-way line; 10 ft - private drives and all other lot lines
P (for uses	1 per street frontage (if no	1 per street entrance		8 sq ft max per sign	10 ft	

other than dwellings)	free-standing sign)	(if no wall sign)				
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*For buildings or storefronts with frontage on more than one street, the additional signage allowed shall be oriented toward the secondary frontage.

- (b) *Residential development signs.* One sign shall be allowed at each entrance to a platted subdivision, site condominium or other residential development, not to exceed two signs per development. Each sign shall not exceed 24 square feet in area or five feet in height, and shall be located a minimum of 10 feet from the abutting street right-of-way.
- (c) *Commercial/industrial development signs.* One sign shall be allowed at each entrance to a(n) commercial/industrial park, commercial/industrial subdivision or other commercial/industrial development, not to exceed two signs per development. Each sign shall not exceed 75 square feet in area or five feet in height, and shall be located a minimum of ten feet from the abutting street right-of-way.
- (d) *Highway signs.* Within the B-2, I-1 and I-2 Districts, one highway sign shall be allowed if the parcel is within 200 feet of the I-94 right-of-way. The sign shall not exceed 200 square feet in area or 50 feet in height, and shall be located a minimum of ten feet from the I-94 right-of-way. The sign shall be setback one foot per each foot of sign height from any residential district.
- (e) *Billboards.* Within the B-2, I-1 and I-2 Districts, not more than one billboard may be erected within 1,500 linear feet of another billboard located on the same side of a state or interstate highway. The 1,500 linear foot measurement shall not be limited to the boundaries of the village where the highway extends beyond such boundaries. Double-faced (back-to-back) structures shall be considered as one sign. The following standards shall apply:
 - (1) V-type, electronic message or changeable message billboards shall not be allowed.
 - (2) The total surface of the billboard as viewed from a single location shall not exceed 600 square feet.
 - (3) A billboard shall not be located within 500 feet of a residence.
 - (4) A billboard shall not be located closer than 100 feet from the abutting street right-of-way or 50 feet from the interior boundary lines of the premises on which the billboard is located.
 - (5) A billboard shall not be allowed where its size, height, illumination, or location would unreasonably impair visibility, light and air otherwise enjoyed by occupants of adjoining premises.
 - (6) All state permits shall be obtained as required by statute.
- (f) *Directional signs.* One directional sign shall be allowed at each driveway within a commercial or industrial district. Each directional sign shall not exceed two square feet in area or three feet in height, and shall be located within five feet of a driveway or sidewalk.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-437. - Temporary signs.

- (a) Temporary signs may be displayed within any residential district subject to the following standards: two temporary signs shall be allowed for the first 66 feet of lot frontage plus an additional temporary sign for each additional 30 feet of lot frontage. Temporary signs shall not exceed 12 square feet in total area or four feet in height per sign, and may not be placed in a prohibited sign area.

- (b) Temporary signs may be displayed within any commercial or industrial district subject to the following standards: two temporary signs shall be allowed for the first 66 feet of lot frontage plus an additional temporary sign for each additional 30 feet of lot frontage. Temporary signs shall not exceed 32 square feet in total area or six feet in height per sign, and may not be placed in a prohibited sign area.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-438. - Changeable copy signs.

Any allowed sign may include a manual or electronic changeable copy sign or electronic graphic display sign, subject to compliance with the following requirements:

- (1) The area of a changeable copy sign or graphic display sign shall be included in the maximum sign area limitation. The area of a changeable copy sign or graphic display sign shall not exceed 50 percent of the maximum allowed sign area. Only one changeable copy sign or graphic display sign shall be allowed per lot.
- (2) A changeable copy sign or graphic display sign shall not change its message more frequently than once every 12 seconds.
- (3) The message of a changeable copy sign shall, when changing, appear only in its entirety. The message shall not appear to flash, move from the center of the sign outward, move from the corners of the sign inward or demonstrate any other unusual movement, oscillation or method of appearance.
- (4) A changeable copy sign shall not display full white copy between sunset and sunrise and otherwise shall not feature a brightness level deemed to be a distraction or injurious to the vision of motorists, as determined by the village. The changeable copy sign shall be equipped with an ambient light sensor to regulate sign brightness.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-439. - Nonconforming signs.

- (a) *Lawful existing signs.* A permanent sign lawfully existing on November, 22, 1996 (Ordinance No. 367) which does not fully comply with the provisions of this article shall be deemed a lawful nonconforming sign and may be allowed to remain if the sign is properly maintained and if it has no serious adverse effects on the public health, safety and general welfare.
- (b) *Continuance of nonconforming signs.*
- (1) A nonconforming sign shall not be enlarged or expanded in area, increased in height or changed to another nonconforming sign, in whole or in part.
 - (2) A nonconforming sign shall not be structurally rebuilt or reconstructed so as to change the shape, size, type, placement or design of the structural elements of the sign; or in order to add illumination.
 - (3) A nonconforming sign shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, whether on the same site or on another site.
 - (4) A nonconforming sign shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the sign would cost more than 50 percent of the cost of an identical new sign. The village shall require submission of reliable proof of such cost. If the cost of repair or replacement exceeds 50 percent of the cost of an identical new sign, the right to continue using the nonconforming sign shall terminate and the sign shall be brought into compliance with this article.

- (5) A nonconforming sign may be altered or revised as follows: normal and usual maintenance; the replacement of landscaping below the base of the sign; the changing of the sign's background, letters, figures, graphics or other characters; or, the repair or replacement of electrical wiring or electrical devices.
- (c) *Signs accessory to nonconforming uses.* A sign related to a nonconforming use may be erected subject to compliance with the applicable provisions of this article for the zoning district in which the nonconforming use is located.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-440. - Abandoned signs.

Any sign that the village determines to be abandoned, as defined by section 42-3, shall be removed by the owner of the property on which the sign is located. If the property owner cannot be found, the village may remove the sign and recover from said owner the full costs of removing and disposing of the sign.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-441. - Sign permits.

- (a) *Sign permit required.* No sign shall be erected, constructed, relocated or altered, unless specifically exempted by this article, until a sign permit has been obtained from the village. A sign permit shall require payment of a fee as established by resolution of the village council.
- (b) *Application.* Application for a sign permit shall be made to the village and shall be reviewed in accordance with the following procedures:
 - (1) *Required information.* A sign permit application shall be completed and accompanied by detailed drawings that demonstrate the design, structure, dimensions and location of each sign. A single application and permit may include multiple signs on the same lot.
 - (2) *Issuance or rejection.* A completed sign permit application shall be reviewed by the village for compliance with the requirements of this article. A sign permit application that complies with this article will be issued a sign permit. A sign permit application that fails to comply with this article will be rejected and the applicant so notified.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-442. - Violations.

- (a) It is a violation of this article to install, create, erect or maintain any sign that does not fully comply with the requirements of this article.
- (b) Each sign installed, created, erected or maintained in violation of this chapter is considered a separate violation when applying the penalty portions of this article.

(Ord. No. 462, §§ 1, 5, 10-23-2017)

Sec. 42-443. - Severability clause.

Sections of this article shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect

the validity of this article as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

(Ord. No. 462, §§ 1, 5, 10-23-2017)