

## Chapter 30

### ZONING\*

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\* **Cross References:** Any ordinance pertaining to rezoning saved from repeal, § 1-6(12); buildings and building regulations, Ch. 6; environment, Ch. 12; streets, sidewalks and other public places, Ch. 22; subdivisions and other divisions of land, Ch. 24.

**State Law References:** Authority of village to zone, MCL 125.581 et seq.

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## ARTICLE I.

### IN GENERAL

#### Sec. 30-1. Title and citation of chapter.

This chapter shall be known and cited as the "Village of Capac Zoning Ordinance."  
(Ord. No. 100, § 1.01, 1-17-1994)

#### Sec. 30-2. Conformity with chapter provisions.

No building or structure, or part thereof, shall be erected, constructed, placed, altered or moved; and no new use or change in use shall be made of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.  
(Ord. No. 100, § 2.01, 1-17-1994)

#### Sec. 30-3. Definitions.

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

*Accessory building* means a building related to and secondary to the main use of the premises.

*Accessory use* means a use naturally and normally incidental and subordinate to the main use of the premises.

*Alterations* means any change, addition or modification in construction of the structural members of a building, such as walls, partitions, columns, beams or girders.

*Attached condominium unit* means a residential condominium unit which is physically attached to one (1) or more other condominium units.

*Board of appeals* means the duly appointed board of zoning appeals for the village.

*Building* means a structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or personal property. This shall include tents, awnings, vehicles, trailers or mobile homes situated on private property and used for purposes of a building.

*Dwelling, duplex*, means a building used or designed as a residence for two (2) families.

*Dwelling, multiple*, means a building used or designed as a residence for three (3) or more families.

*Dwelling, single-family*, means a building used or designed exclusively as a residence for one (1) family.

*Dwelling unit* means any house, building, mobile home or portion thereof which is designed for or occupied as a residence or sleeping quarters for a person or family as a single unit.

*Erected* means built, constructed, reconstructed, moved upon or any physical operations on the premises required to construct a building. Excavations, fill or drainage relating to the construction or placement of a structure shall be considered a part of erecting.

*Excavating* means the removal of sand, stone, gravel or dirt from its natural location.

*Family day care home* means a private home in which at least one (1), but less than seven (7), minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

*Farm* means all of the associated land, operated as a single unit on which bona fide farming is carried on, including livestock and poultry raising, feedlots, dairying, crop production, forestry, tree and shrub nurseries, greenhouses, sod farms, truck gardens and similar enterprises involving agricultural production. This shall include portable sawmills used for the purpose of processing the wood grown on the farm on which the sawmill is located.

*Farm building* means any building or structure, other than a dwelling, which is customarily used on farms for the pursuit of their agricultural activities.

*Filling* means the depositing or dumping of any matter onto or into the ground.

*Floor area* means the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls. The floor area of a building shall include the basement floor area when more than one-half (1/2) of the basement height is above the finished lot grade.

*Greenbelt* means a strip of land of specified width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip.

*Group day care home* means a private home in which more than six (6), but not more than twelve (12), minor children are given care and supervision for periods of less than twenty-four (24) hours a day, unattended

by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

*Junk* means any motor vehicles, machinery, appliances, product, merchandise, scrap metals or other scrap materials that are deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

*Junkyard* means any property used for the storage, keeping, dismantling or abandonment of junk outside of an enclosed building.

*Kennel* means any lot or premises on which four (4) or more dogs, six (6) months old or older, are kept either permanently or temporarily.

*Livestock* means horses, cattle, sheep, goats, mules, donkeys, hogs and other hoofed animals.

*Lot of record* means any parcel of land which is separately described in a deed, land contract or similar legal document evidencing a conveyance of ownership and recorded with the county register of deeds.

*Mobile home* means a house trailer, trailer coach and doublewide mobile home, or a dwelling unit designed for long-term occupancy and designed to be transported after fabrication on its own wheels or as one (1) or more units. This includes all units which could be licensed under the provision of Public Act No. 300 of 1949 (MCL 257.1 et seq., MSA 9.1801 et seq.).

*Mobile home park* means any parcel of land which has been designed, improved or used for the placement of three (3) or more mobile homes for dwelling purposes.

*Parking space* means an area of not less than nine and one-half (9 1/2) feet wide by twenty (20) feet long, designed for the parking of a motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits, and being fully accessible for the storage or parking of permitted vehicles.

*Pond* means a natural or artificial lake or impoundment; a river, stream or creek which may or may not be serving as a drain as defined by state statute; or any other body of water that has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.

*Professional offices* means an office for the practice of his calling by a physician, veterinarian, oculist, lawyer, accountant, insurance or real estate agent, architect, minister, engineer, musician, teacher, artist, magistrate or similar occupations, but not including the customary home occupations or the personal service businesses such as barber shops and beauty salons, provided that the facilities of the offices for medical professions shall not include any facilities for the overnight care nor any more than such facilities used for the immediate treatment of patients; and further provided that the facilities for the veterinarian shall be completely enclosed and soundproof and odor proof with no exterior runs or cages and shall not include any facilities for the overnight care of animals except for medical treatment.

*Quarrying* means the removal of sand, clay, gravel, soil or similar material from its natural location for sale or use on a parcel of land other than the parcel on which the material was originally located.

*Setback* means the distance between a building and a road centerline or a property line.

*Sign* means any device designed to inform, advertise or attract attention.

*Sign area* means the total of the surface of one (1) side of a sign computed in square feet. The total shall be determined by multiplying the total height of the sign surface by the total width of the sign surface area.

*Sign, permanent*, means any sign designed or intended to be placed on a parcel of land for more than six (6) months.

*Sign, temporary* means any sign which is placed on a parcel of land for less than six (6) months of a calendar year; also, any sign which is not permanently attached to real estate in accordance with the construction requirements of the building code.

*Site condominium development* means a condominium project containing detached single-family residence condominium units which are not attached to other units.

*State licensed residential facility* means a structure constructed for residential purposes that is licensed by the state pursuant to Public Act No. 287 of 1972 (MCL 331.681 et seq., MSA 16.610(1) et seq.) or Public Act No. 116 of 1973 (MCL 722.111 et seq., MSA 25.358(11) et seq.) which provides resident services under twenty-four (24) hour supervision or care.

*Structure* means anything constructed, erected or placed on a parcel of land which is permanently located in the ground or attached to something having a permanent location. This shall include buildings, mobile homes, premanufactured units, modular units and similar items. Any structure located on the same premises for more than six (6) months shall be deemed to be permanently located within the meaning of this definition.

*Swimming pool* means any structure or container intended for swimming, located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches. Ponds shall not be deemed to be swimming pools.

*Travel trailer park* means any parcel of land designed, improved or used for the placement of three (3) or more travel trailers or tents (used for recreation, camping or travel use) for overnight accommodations.

*Travel trailers* means recreational vehicles, camping trailers, truck campers and motor homes, or vehicular-type portable structures, primarily designed as temporary living accommodations for recreational camping or travel use. These vehicles can either be towed, hauled or affixed to another vehicle and driven from one (1) site to another without requiring a special transportation permit for travel.

*Use* means the purpose for which a parcel of land or a building is designed, arranged or intended or the purpose for which it is occupied, maintained or leased.

*Yard* means an open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is

unoccupied and unobstructed from the ground upward.  
(Ord. No. 100, § 16.01, 1-17-1994; Ord. No. 99-4, § 2(B), 6-30-1999)

**Cross References:** Definitions generally, § 1-2.

AN ORDINANCE TO AMEND CHAPTER 30  
TO THE CODE OF ORDINANCE OF THE VILLAGE OF CAPAC

THE VILLAGE OF CAPAC ORDAINS:

SECTION 1. Amendment to Section 30-3.

The following definition for *medical marijuana home occupation* is added to Section 30-3 of the Village of Capac Zoning Ordinance:

Medical marijuana home occupation means the cultivation of medical marijuana by a registered primary caregiver as defined in Sec. 3 of the Act, MCL §333.26423(g), in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL §333.26423(e), within a single family dwelling that is the registered primary caregiver's primary residence and which cultivation is in conformity with the restrictions and regulations contained in the Act and in the State Regulations developed by the Michigan Department of Community Health (MCDH). Medical Marijuana Home Use does not include any multi-family dwelling.

SECTION 2. Amendment to Section 30-255.

The following Section 3(b) is added to Section 30-255 of the Village of Capac Zoning Ordinance regarding Accessory land uses in the R-1 District:

(3) Home occupations

- (b) Medical marijuana home occupations. In addition to the requirements herein applicable to all home occupations, medical marijuana home occupations must meet the following:
  - (i) The medical use of marijuana must comply at all times and in all circumstances with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  - (ii) A registered primary caregiver operating a medical marijuana home occupation must not be located within 1,000 feet of a school, as measured from the outermost boundaries of the lot or parcel on which the home occupation and school is located.
  - (iii) Not more than one primary caregiver per parcel may be permitted to grow or cultivate medical marijuana.
  - (iv) Not more than five qualifying patients may be assisted with the medical use of marijuana within any given calendar week.
  - (v) All medical marijuana must be contained within an enclosed, locked facility inside a primary or accessory building.

- (vi) All necessary building, electrical, plumbing and mechanical permits must be obtained for any portion of the building in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marijuana are located.
- (vii) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. and 7:00 a.m. must employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
- (viii) That portion of the building where energy usage and heat exceed typical residential use, such as grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers must be subject to inspection and approval by the Village of Capac fire department to ensure compliance with the Michigan fire protection code.
- (ix) The premises must be open for inspection upon request by the building official, the fire department and law enforcement officials for compliance with all applicable laws and rules, during the stated hours of operation/use and as such other times as anyone is present on the premises.

SECTION 3. Amendment to Section 30-280.

The following Section 4(b) is added to Section 30-280 of the Village of Capac Zoning Ordinance regarding Accessory land uses in the R-2 District:

(4) Home Occupations

- (b) Medical marijuana home occupations. In addition to the requirements herein applicable to all home occupations, medical marijuana home occupations must meet the following:
  - (i) The medical use of marijuana must comply at all times and in all circumstances with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  - (ii) A registered primary caregiver operating a medical marijuana home occupation must not be located within 1,000 feet of a school, as measured from the outermost boundaries of the lot or parcel on which the home occupation and school is located.
  - (iii) Not more than one primary caregiver per parcel may be permitted to grow or cultivate medical marijuana.
  - (iv) Not more than five qualifying patients may be assisted with the medical use of marijuana within any given calendar week.

- (v) All medical marijuana must be contained within an enclosed, locked facility inside a primary or accessory building.
- (vi) All necessary building, electrical, plumbing and mechanical permits must be obtained for any portion of the building in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marijuana are located.
- (vii) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. and 7:00 a.m. must employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
- (viii) That portion of the building where energy usage and heat exceed typical residential use, such as grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers must be subject to inspection and approval by the Village of Capac fire department to ensure compliance with the Michigan fire protection code.
- (ix) The premises must be open for inspection upon request by the building official, the fire department and law enforcement officials for compliance with all applicable laws and rules, during the stated hours of operation/use and as such other times as anyone is present on the premises.

SECTION 4. Amendment to Section 30-305.

The following Section 4(b) is added to Section 30-305 of the Village of Capac Zoning Ordinance regarding Accessory land uses in the R-3 District:

(4) Home Occupations

- (b) Medical marijuana home occupations. In addition to the requirements herein applicable to all home occupations, medical marijuana home occupations must meet the following:
  - (i) The medical use of marijuana must comply at all times and in all circumstances with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  - (ii) A registered primary caregiver operating a medical marijuana home occupation must not be located within 1,000 feet of a school, as measured from the outermost boundaries of the lot or parcel on which the home occupation and school is located.

- (iii) Not more than one primary caregiver per parcel may be permitted to grow or cultivate medical marijuana.
- (iv) Not more than five qualifying patients may be assisted with the medical use of marijuana within any given calendar week.
- (v) All medical marijuana must be contained within an enclosed, locked facility inside a primary or accessory building.
- (vi) All necessary building, electrical, plumbing and mechanical permits must be obtained for any portion of the building in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marijuana are located.
- (vii) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. and 7:00 a.m. must employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
- (viii) That portion of the building where energy usage and heat exceed typical residential use, such as grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers must be subject to inspection and approval by the Village of Capac fire department to ensure compliance with the Michigan fire protection code.
- (ix) The premises must be open for inspection upon request by the building official, the fire department and law enforcement officials for compliance with all applicable laws and rules, during the stated hours of operation/use and as such other times as anyone is present on the premises.

SECTION 5. No Other Amendment.

Except as amended above, this Ordinance does not amend any other provision of the Village of Capac Ordinances.

SECTION 6. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, rule, regulation, section or subsection is declared void or inoperable for any reason by any court, it shall not affect any other part or portion thereof other than the part declared void or inoperable.

#### **Sec. 30-4. Conflicting regulations.**

Whenever any provisions of this chapter impose more stringent requirements than are imposed by the provisions of any other law or ordinance, the provisions of this chapter shall govern.  
(Ord. No. 100, § 14.01, 1-17-1994)

#### **Sec. 30-5. Street frontage.**

Every dwelling or other principal building shall be located on a lot or parcel which shall front upon a public street.  
(Ord. No. 100, § 14.02, 1-17-1994)

#### **Sec. 30-6. Garage sales, rummage sales, and similar activities.**

Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the following conditions:

1. All such sales shall require a zoning permit. Each request shall be for a period of no more than four (4) consecutive days. In no instance shall more than two (2) garage sales, rummage sales or similar activity be held in any one location within any twelve (12) month period.
2. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.
3. All such sales shall be conducted a minimum of twenty (20) feet from the front lot line of the premises of such sale.
4. Hours of operation of a garage sale or similar activity shall be conducted between the hours of 8 am. and 6 pm.
5. No sign advertising a garage sale or similar activity shall be placed on public property. Two signs advertising a garage sale are permitted to be placed upon private property with the consent of the owner of said property and shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.

(Ord. No. 100, § 14.03, 1-17-1994; Ord. No. 2004-06, § 2, 5-26-2004)

#### **Sec. 30-7. Moving of buildings.**

No structure shall be moved upon any premises in the village until a zoning compliance permit shall have been secured. Any such structure shall fully conform to all the provisions of this chapter in the same manner as a new structure. No structure shall be moved to any site within the village until the owner has posted a cash deposit in an amount specified by the village council, guaranteeing full compliance with all applicable ordinances. The site from which a building or structure has been moved shall be graded level and all debris shall

be cleared away.

(Ord. No. 100, § 14.04, 1-17-1994)

**Sec. 30-8. Occupancy of buildings other than completed dwellings.**

Garages, barns, accessory buildings and basements shall not be occupied either temporarily or permanently as dwellings.

(Ord. No. 100, § 14.05, 1-17-1994)

**Sec. 30-9. Single-family dwellings, mobile homes, prefabricated housing.**

No single-family dwelling (site built), mobile home, modular housing or prefabricated housing located outside a mobile home park or mobile home subdivision or condominium subdivision shall be permitted unless said dwelling unit conforms to the following standards:

- (A) Square footage for each such dwelling unit shall comply with minimum square footage requirements of this Ordinance for each zoning district in which it is to be located.
- (B) Dimensions for each such dwelling unit shall have a minimum width across any front, side or rear elevation of twenty-four (24) feet and shall comply in all respects with the Michigan State Construction Code Commission, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.
- (C) Foundations for each such dwelling unit shall be firmly attached to a permanent foundation constructed on site and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.
- (D) Undercarriage for each such dwelling unit shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- (E) Storage area for each such dwelling unit shall contain storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- (F) The architecture of all dwelling units shall be aesthetically compatible in design and appearance with other residents in the vicinity. All homes shall have a roof overhang of not less than six (6) inches on all sides and have at least a three (3) to twelve (12) pitch. The dwelling shall not have less than two (2) exterior doors with the second one being either in the

rear or side of the dwelling unit. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

- (G) The compatibility of design and appearance shall be determined in the first instance by the Village Zoning Administrator. Any determination of compatibility shall be based upon the character, design, and appearance of one or more residential dwelling within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20%) percent of the lots situated within said area; or, where said area is not so developed, by the character, design, and appearance of one or more residential dwellings throughout the Village.
- (H) Additions for all such dwelling units shall contain no additions or rooms or other area, which is not constructed with similar quality materials and workmanship as the original structure, including permanent attachment to the principal building and construction of a foundation as required herein.

(Ord. No. 2004-02)

### **Sec. 30-10. Signs.**

All outdoor signs shall be regulated as follows:

- (1) No sign shall overhang or encroach upon any public road or street right-of-way or obstruct the vision of motor vehicle operators. All freestanding signs shall be set back at least five (5) feet from all public or private road and street right-of-way lines and from all property lines, except in the CBD zoning district.
- (2) Temporary signs promoting political candidates or election issues shall be permitted in all districts, provided that such sign shall not exceed thirty-two (32) square feet in area. All such signs shall be removed no less than ten (10) days after the election.
- (3) Signs advertising real estate for sale or rent or directing the public to such real estate are permitted in all districts, provided that they are not larger than sixteen (16) square feet in area.
- (4) Signs are permitted in residential zoning districts which advertise for sale either agricultural produce grown on the premises or personal property owned by a resident of such premises, provided that such produce or personal property was not purchased for the purpose of resale. Such signs shall not exceed sixteen (16) square feet.
- (5) Signs advertising commercial, industrial or other facilities located on the same parcel of land as the facility advertised may be permitted after site plan review and issuance of a building permit, subject to the following conditions:
  - a. Any direct illumination for the sign shall be shielded from the view of persons on public roads or adjacent properties.

- b. No more than one (1) permanent sign shall be permitted for each business.
  - c. Permanent signs shall not exceed one-hundred (100) square feet in sign area unless flush with the side of a building.
  - d. Permanent signs which are flush with the side of a building may not be extended above or beyond the wall on which they are located. No roof signs shall be permitted, except on the front or side of mansard roofs.
  - e. A maximum of two (2) temporary signs shall be permitted at any one (1) time for any retail business.
  - f. A temporary sign shall not exceed sixteen (16) square feet in area.
- (6) Signs located on parcels of land separate from the commercial, industrial or other facilities advertised on the signs may be permitted by the planning commission after site plan review and issuance of a building permit, subject to the following conditions:
- a. Any direct illumination for the sign shall be shielded from the view of persons on public roads or adjacent properties.
  - b. No such sign shall be permitted within six hundred sixty (660) feet of any other sign permitted pursuant to subsection (5) or subsection (6) of this section.
  - c. No such sign shall exceed one hundred (100) square feet in sign area.

(Ord. No. 100, § 14.07, 1-17-1994)

### **Sec. 30-11. Landscape Standards: Obscuring Earth Berms, Greenbelts, walls, Rights-of-Way Buffers.**

Intent: The intent of this Section is to improve the appearance of proposed developments including off-street parking and vehicular use areas and property abutting public rights-of-way, require buffering between incompatible land uses, promote the public health, safety and general welfare by reducing noise and air pollution and light glare.

The construction in any use district that abuts any other use district or an existing residentially used lot or parcel, except for adjoining single-family or two-family districts or dwellings, shall not be approved, unless a greenbelt, with a fence, a protective wall or a landscaped earthen berm has been properly located, and meets planning commission requirements.

- (1) The planning commission shall determine the height of a protective faced brick or approved poured concrete decorative wall from four (4) to six (6) feet when not specifically determined by this Chapter, in a manner as to be in harmony with the general character of the neighborhood; and the color of the brick facing shall be compatible with brick used in the area. Such determination shall be made prior to the approval of a site plan. When it is determined that a masonry wall will not be desirable, a twenty (20) foot wide greenbelt buffer strip with a four (4)

foot to six (6) foot chain link fence with or without view-obscuring vertical pickets, or a landscaped earthen berm or other suitable screening may be substituted by the planning commission. Only Industrial land uses may apply for the use of chain link fencing. All required greenbelts shall be constructed with the plant material cited in subsection (5) as provided below or according to the berm standards provided in subsection (6) below.

- a. Required walls shall be located on the lot line except where underground utilities or drainage requirements interfere. Required walls, upon approval by the planning commission, may be located on the opposite side of an alley right-of-way from a non-residential district that abuts a residential district when mutually agreeable by all affected property owners. The continuity of the required wall on a given block will be a major consideration in reviewing such a request.
  - b. Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Chapter and except as otherwise approved by the planning commission. Masonry walls may be constructed with an opening which does not exceed twenty (20) percent of the surface. (As calculated height x width) Where walls are approved with an opening, the opening shall be placed so as not to reduce the minimum height requirement.
  - c. All walls shall rest on a concrete foundation which extends at least forty-two (42) inches in depth below the finished grade of the land.
  - d. No wall shall be constructed of exposed concrete block or cinder block nor shall it be painted.
- (2) Unless otherwise expressly directed by the provisions of this Chapter, all protective walls or greenbelts shall be provided when required along and immediately joining the zoning district boundary line and shall be installed so that it lies wholly on the land of the owner seeking approval for placement.
  - (3) All protective walls and greenbelts required by this Chapter shall be completely installed prior to the issuance of a certificate of occupancy.
  - (4) In any case where the development of the land and/or buildings has been fully completed and a certificate of occupancy would be otherwise issued, and the completed installation of the wall, greenbelt and/or landscaped berm required is prevented by inclement weather or acts of nature beyond the control of the owner, then the owner may request a temporary certificate of occupancy for a period not exceeding six (6) months as provided for in Section 30-68(8).
  - (5) Wherever in this Chapter a greenbelt, screening berm or landscaping berm is used in conjunction with an obscuring fence, it shall be planted and maintained with permanent plant materials.

All trees shall have a central leader and a radial branching structure, park grade trees are not acceptable, and all acceptable trees shall be balled and bur lapped. Suitable planting materials and spacing requirements are as follows:

a. Plant material spacing and distance between plant materials.

- i. Plant material shall not be placed closer than four (4) feet from the fence line or property line.
- ii. The required minimum and maximum distances between proposed plant materials within this section for screening purposes are as follows:

<b>Plant Material Types</b>	Evergreen Trees	Narrow-leaf Trees	Small Broad-leaf Shrubs	Large Deciduous Shrubs	Deciduous Ornamental Trees	Deciduous Trees (Canopy)
Evergreen Trees	Min. 10' Max. 20'	Min. 12'	Min. 20'	Min. 12'	Min. 6'	Min. 5'
Narrow-leaf Trees	Min. 12'	Min. 5' Max. 10'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Small Broad-leaf Shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3' Max. 4'
Large Deciduous Shrubs	Min. 6'	Min. 5'	Min. 5'	Min. 6'	Min. 4' Max. 6'	Min. 5'
Deciduous Ornamental Trees	Min. 12'	Min. 10'	Min. 15'	Min. 8' Max. 15'	Min. 6'	Min. 3'
Deciduous Trees (Canopy)	Min. 20'	Min. 15'	Min. 20' Max. 30'	Min. 15'	Min. 5'	Min. 3'

b. Suggested planting material and relating sizes:

- i. Evergreen Trees shall not be less than seven (7) feet in height. When not used as screening they may vary in size from five (5) feet and greater providing that 75% are seven (7) feet in height. They shall be spaced apart no less than ten (10) feet on center when used as screening.  
Spruce: White, Serbian,  
Pine: Scotch, White, Red,
- ii. Narrow-leaf Trees shall not be planted more than five (5) feet on center. When planted in informal groupings, they shall be spaced not more than ten (10) feet on centers. When planted in rows, they shall be planted not more than five (5) feet on centers.  
Chinese Juniper, Mungo Pine, Spreader Yew, Arborvitae, Viburnum
- iii. Small Broad-leaf Shrubs shall be planted not more than five (5) feet on center and shall have a minimum height of 18 inches.  
Cotoneaster, Euonymus, Boxwood, Japanese Holly, Andromeda, Rhododendron

- iv. Large Deciduous Shrubs shall not be planted more than four (4) feet on center and when planted in informal groupings shall be spaced not more than six (6) feet on centers. When planted in single rows shall be not more than four (4) feet on centers. Mature height greater than 8'.  
Smoke tree, Burning Bush, Quince, Forsythia, Lilac, Honeysuckle, Witch-hazel
- v. Deciduous Ornamental Trees shall not be less than two (2) inches in trunk caliper. When planted in informal groupings, they shall be spaced not more than fifteen (15) feet on centers.  
Flowering Crabapple, Flowering Plum, Flowering Pear, Magnolia, Rose of Sharon, Dogwood
- vi. Deciduous Trees (canopy trees) shall not be less than three (3) inches in trunk caliper. For the purpose of this Chapter, the measurement of the caliper of trunk shall be taken six (6) inches above ground level up and including four (4) inch caliper size and twelve (12) inches above the ground level for larger trees. Large deciduous trees are to be staked and selected to encourage diversity.  
Oak, Sycamore, Norway Maple, Birch, Beech, Honey Locust, Lindens

c. Trees not permitted:

- i. Ash
- ii. Box Elders
- iii. Soft Maples
- iv. Fruit Trees
- v. Nut Trees with the exception of Oak trees
- vi. Willows
- vii. Elms
- viii. Poplars
- ix. Cottonwood
- x. Black Locust
- xi. Mulberry
- xii. Ginkgo (female)

- xiii. Ailanthus (Chinese Tree of Heaven)
  - xiv. All thorned trees and shrubs
  - xv. Ribes (Gooseberry)
- d. All landscaped screened areas and all lawn areas shall be provided with an irrigation system. Interior planting islands within required parking areas can be reviewed on a case-by-case basis when considering the requirements of this subsection.
  - e. All perimeter required yard areas shall be irrigated.
- (6) Wherever required by this Chapter, a berm shall be constructed in accordance with the following general standards as determined by the planning commission. No earthen berm shall be required to separate identically zoned land uses except where a special land use permit is required. In addition, no earthen berm shall be required where land uses are separated by a street, road, highway or freeway.

An earthen berm or wall may be placed upon adjacent residential property in order to provide continuity with an adjoining berm or wall, provided permission for such placement is received from the adjacent property owner(s) in the form of a recorded permanent easement for such berm or wall. Screening will be reviewed relative to the length and width of the screening so as to ensure that the required horizontal and vertical obscuring effect of the proposed land uses will be achieved.

- a. Berms may be either, rigidly architectural or smooth, flowing, or natural forms.
  - i. Architectural berms shall be designed with straight lines, uniform slopes and crisp angular changes in direction.
  - ii. Natural (free-flowing) berms are required where plantings will enhance the free-flowing quality of the ground topography, and shall not be permitted unless covered with appropriate plantings.
- b. Berms should not appear to be artificial or non-natural. All berms must be naturally proportioned.
  - i. A slope of 3:1 shall be designed where only grass is intended to be used for covering the area. (Three (3) feet of horizontal plane for each one (1) foot of vertical height) Berms shall have a nearly flat horizontal area at their crests of at least two (2) feet in width. The side slopes of a berm shall be protected from erosion by sodding or seeding. Sodding shall be used only if the sodded areas are provided with irrigation. If slopes are seeded, seeding shall be protected with a straw mulch held in place by netting until a permanent lawn is established. Netting shall be removed after lawn has set. A slope of 2:1 shall be used where shrubbery and ground cover are used.

- ii. An obscuring wall may be provided in lieu of a berm where site conditions restrict the use of a berm and where the planning commission finds the proposed wall an acceptable alternative upon evaluation of the objects to be screened, the type of land use to be protected, the effectiveness of noise attenuation, topographical conditions, and appearance of the proposed wall.
- (7) Wherever screening is not otherwise required alongside or rear property lines of an industrial, commercial or office development, a minimum ten (10) foot wide landscaping greenbelt shall be established along such property lines. Such landscaped greenbelt areas shall include tree and shrub plantings. Wherever a landscaped greenbelt is required for non-screening purposes, it shall conform to the requirements of subsection (5).
- (8) Tree plantings along all streets, roads and or dedicated easements, shall be provided within every zoning district. The trees shall be spaced evenly in a linear fashion. One (1) tree shall be planted for every thirty (30) feet of roadway frontage and shall be planted five (5) feet outside the road right-of-way. Tree plantings shall not impair the clear vision triangle. The trees shall be a minimum of two and one-half (2 ½) inch caliper at time of planting. Tree types shall be selected from the list included in Section 30-11(5) herein.
- (9) Landscape Planting Buffers Abutting the Rights-of-Way is to improve the appearance of the rights-of-way including screening off-street parking and vehicular use areas of property abutting public rights-of-way.
  - a. Landscape planting buffers abutting the rights-of-way or private roadways shall contain a minimum of a twenty (20) foot wide buffer area. Where adjacent to parking and vehicular use areas the buffer shall include a berm with a minimum height of thirty-six (36) inches, a 3:1 slope, a crest of two (2) foot width, and which is landscaped according to Section 30-11(5) with a minimum opacity of 90% (during summer) and 80% (during winter) so as to provide an intermittent visual obstruction height of twenty (20) feet.
  - b. Where adjacent to non-parking and non-vehicular use areas, the buffer area shall include a berm with a minimum height of thirty (30) inches, a 3:1 slope, a crest of two (2) foot width, and which is landscaped with clusters or groupings of shrubs to provide a visual interest along the berm.
  - c. Plantings shall include one (1) tree, canopy or evergreen, every thirty-five (35) linear feet of the required planting buffer. An obscuring wall may be provided in lieu of a berm where the conditions are more desirable and with planning commission approval.
- (10) Plant substitutions. The zoning administrator may approve revisions to landscaping plans due to seasonal planting problems and lack of plant availability. Minor revisions may be approved when there is no reduction in the quality of plant material, no significant change in size or location of plant material, the new plant material is compatible with the area, and the new plant material is of the same general category (i.e., deciduous shade or evergreen trees) and the same general design characteristics (mature height and/or crown spread) as the material being replaced.

(Ord. No. 100, § 14.08, 1-17-1994; Ord. No. 2004-06, § 2, 5-26-2004)

**Sec. 30-12. Fences.**

- (1) Fences: Residential perimeter fences are subject to the following requirements:
  - a. Fences on all lots of record and parcels in all residential districts, which enclose property and/or are within a required side yard:
    - i. Shall not exceed six (6) feet in height.
    - ii. Shall not extend toward the front of the lot nearer than the minimum front yard setback distance, unless an existing house already extends into the minimum front yard, in which case the fence may extend to the front of the house. The requirements of this section shall not apply to decorative fencing (i.e., split rail), of no more than twenty (20) feet in length or four (4) feet in height when erected as part of an approved landscape plan.
  - b. The restrictions of section (a), above, shall not apply to residential fences on:
    - i. Lots in excess of two (2) acres within a recorded plat;
    - ii. Lots with frontage of at least two hundred (200) feet within a recorded plat; or
    - iii. Acreage parcel not within a recorded plat
  - c. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.
  - d. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than twenty-five (25) percent of their total area except that nothing in this section shall prevent the erection of fencing for tennis courts, backstops or the like.
- (2) Fences: Nonresidential perimeter fences shall be permitted in nonresidential districts provided:
  - a. No fence shall extend into a front or exterior side yard.
  - b. No fence shall exceed eight (8) feet in height, except barbed wire placed along the top of a fence may project beyond the maximum height limitation of a fence, but no fence, including barbed wire, shall exceed an overall height of eleven (11) feet.

c. No fence shall carry electrical current or charge of electricity.

- (3) Clear Vision Zone: There shall be a clear vision zone at all corners of intersection roads, or road junctions, consisting of a triangular area defined by the point of intersection of the right-of-way lines and the two (2) points extended along such lines a distance of twenty-five (25) feet from the point of intersection, and within which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two (2) feet to eight (8) feet above centerline elevation of abutting streets, except that not more than two (2) trees with trunks of not more than thirty (30) inches in diameter each, and clear of any branches for such heights may be located within such area.

(Ord. No. 100, § 14.09, 1-17-1994; Ord. No. 2004-06, § 2, 5-26-2004)

### **Sec. 30-13. Temporary structure or building.**

No structure or building shall be used for dwelling purposes that do not comply with the requirements of this Ordinance or applicable building codes except as provided in this Ordinance.

- (1) Permitted temporary buildings and uses.

No temporary dwelling shall be erected or moved onto a lot or parcel and used for dwelling purposes except during construction of a permanent dwelling on the premises, which has been issued a building permit. The reasonable date for removal of the temporary dwelling, established on the permit issued by the Zoning Administrator, shall not exceed six (6) months from the date of occupancy of the temporary dwelling. The temporary dwelling shall be connected to public facilities.

- (2) Temporary construction structures.

Temporary building and/or structures used for storage of equipment and construction offices may be used only during construction of a permanent structure, which has been issued a building permit. The temporary building and/or structure shall be removed from the site prior to issuance of a certificate of occupancy.

- (3) Special events and other temporary uses.

The Zoning Administrator may grant temporary use of land and associated structures for special events and other temporary uses. The following conditions apply to specific temporary uses:

- A. Carnival, circus and musical concerts or other transient entertainment or recreational enterprises:
1. Maximum duration: ten (10) days.
  2. Operator or sponsor: Non-profit entity
  3. Location: Shall not be located in or adjacent to any developed residential area except on church, school, Village property.
- B. Sidewalk or tent sales or other similar outdoor sales

1. Maximum duration: seven (7) days.
2. Location: In commercial districts only.
3. Sidewalk Coverage: Shall not cover more than fifty (50%) percent of the width of the sidewalk.
4. Parking Lot Coverage: Sufficient number of parking spaces shall remain to meet the existing zoning requirements for that district.

C. Christmas tree sales

1. Maximum duration: forty-five (45) days.
2. Location: Shall not be located in or adjacent to any developed residential areas.
3. Clean-up: Stumps, branches, and other debris shall be completely removed from the site.

(4) Temporary placement of a portable building (construction trailers) and use permits.

- A. At temporary building and use permit shall require the issuance of a zoning permit from the Zoning Administrator under Sec. 30-67. The Zoning Administrator may also require the applicant to submit a plot plan under Sec. 30-567. Applications must be accompanied by payment of a fee in accordance with the duly adopted fee schedule to cover costs of processing the application.
- B. The Zoning Administrator shall make a determination that the location of any temporary buildings or uses will not adversely affect adjoining properties, nor adversely affect public health, safety, and the general welfare of the Village\_ The permit shall establish a reasonable date for removal of the temporary structure and/or use, and shall set forth other conditions of permission as deemed necessary by the Zoning Administrator. Any temporary buildings shall be placed so as to conform to all yard requirements of the zoning district in which it is located.
- C. In order to protect the adjacent property owners and citizens of the Village, the Village shall impose conditions and restrictions on all temporary buildings and uses to insure the following:
  1. Adequate off-street parking shall be provided.
  2. The applicant shall specify the exact duration of the temporary use.
  3. Electrical and utility connections shall be approved by the Building Official.
  4. Adequate site and surrounding area clean up shall be completed following the removal of the temporary building or use.
  5. A minimum of one (1) toilet shall be provided for each fifty (50) persons

estimated to attend.

6. Closure of commercial or similar activity shall be from midnight to 9:00 a.m.
7. One security person shall be provided for each fifty (50) persons estimated to attend.
8. There will be no gambling or use of alcohol or controlled substances contrary to law.
9. There will be no generation of bright lights, loud noises, or strong odors at a level or intensity to create a public nuisance to adjacent properties.
10. The Village may require a deposit by the applicant with the Village Clerk in the form of a certified check, cash, or a surety bond in an amount sufficient to hold the Village free of all liabilities incident to the operation of a temporary building or use, to indemnify any adjoining land owner for any damages resulting from the operation of such activity and to ensure proper and complete clean-up after temporary use and removal of all temporary buildings. The amount of such bond, cash, or check shall be estimated by the Zoning Administrator. The Village shall rebate to the applicant upon satisfactory removal of all temporary buildings and uses. Such rebate shall be based upon the report and recommendation of the Zoning Administrator. The Zoning Administrator may refer application to the Village Engineer for review of the proposed improvements and recommendations of performance guarantees.

(Ord. No. 2004-02)

**Sec. 30-14. Recreational vehicle occupancy.**

The owner or lessee of any premises occupied by a single-family dwelling may permit the temporary occupancy of not more than one (1) recreational vehicle at a time for guests or visitors for a period not to exceed three (3) months in any calendar year. No recreational vehicles may be occupied on the property during the other nine (9) months of a calendar year. Recreational vehicles shall be deemed to include travel trailers, motor homes, truck campers and similar vehicles, but shall not include mobile homes.

(Ord. No. 100, § 14.11, 1-17-1994)

**Sec. 30-15. Prohibited structures.**

No bus, motor vehicle body, semitrailer or similar item shall be placed on any property for use as a storage structure or other building purpose.

(Ord. No. 100, § 14.12, 1-17-1994)

**Sec. 30-16. Public services.**

Certain facilities provided by public utility companies and by the village government shall be permitted in all zoning districts. Facilities permitted by this section shall include local transmission lines, sewers, water lines, pumping stations, substations, poles and related equipment. Any buildings or towers shall be subject to site plan review requirements and must be located in a commercial or industrial zoning district. (Ord. No. 100, § 14.13, 1-17-1994)

**Sec. 30-17. Site condominium developments.**

Repealed.

(Ord. No. 100, § 14.4, 1-17-1994; Ord. No. 95-1, § 1, 3-13-1995; Ord. No. 2003-07, § 2, 10-29-2003)

**Sec. 30-18. Accessory Uses and Structures.**

Accessory uses and structures, except as otherwise permitted in this Chapter, shall be subject to the following regulations.

- A. Attached: An accessory structure, including carports, breezeways, sunrooms, or similar structures which are attached to the principal building, shall comply in all respects with, the requirements of this Chapter applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered habitable floor area, unless heater.
- B. Separation Distance: A detached accessory structure, unless attached and made structurally a part of the principal building, shall not be closer than ten (10) feet to any structure on lot/parcel or any side or rear property line in zoning districts R-1, R-2, RM., or MHP. In all R-3 zoning districts, detached accessory structures shall not be closer than ten (10) feet any structure, closer than three (3) feet to the side property line, or closer than five (5) feet to the rear property line.
- C. Detached accessory structures in any RI, R2, R3,, RM, MHP zoning district shall not be constructed in the front yard setback.
- D. Height: No accessory structure within, any Ri, R2, R3, RM, MHP zoning district shall exceed sixteen feet six inches (16V) in height. This restriction shall not apply to agricultural buildings or structures on parcels greater than twenty (20) acres in size, or accessory buildings allowed by special land use land permit.
- E. Setbacks: Detached accessory structures area subject to all setback requirements applying to the principal building; provided, however, when physical characteristics prevent compliance with this section, the Zoning Board of Appeals may vary the requirements of this section in such a manner as to contribute to the public safety and general welfare.
- F. Lot Coverage: An accessory structure shall not occupy more than twenty-five (25) percent of the area of any side and/or rear yard and combination of both. An accessory structure may occupy up to fifty (50) percent of the area of any side and/or rear yard and a

combination of both, if it is nonconforming lot of record, and provided that the side and rear yard setbacks are still met.

G. Comer Lots: On a corner lot in any residential district, no accessory building or structure shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot. In all cases, the garage entrance shall be located to allow adequate distance and off-street parking.

H. Accessory land uses shall be required to follow all other applicable regulations for each zoning district.

(Ord. No. 2004-2).

### **Sec. 30-19. Refuse container; screening.**

Refuse containers shall be required for all principal land use activities other than single and two-family residential uses. Refuse containers shall be located in the rear of lot and placed upon a solid foundation of cement or asphalt material and at the same grade as the required parking area. The location of the refuse container shall not occupy space calculated for required parking area. Refuse management companies shall have proper and adequate turning radii for refuse removal.

Refuse containers for other than single and two-family residential uses shall be screened from view from any adjacent land use or public right-of-way, excluding alleys, but only if the alley is not visible from any adjacent property.

Screening shall consist of a six (6) foot high opaque wall or fence with a security gate. Live landscape material shall be planted around all sides of the refuse container, except for those sides not abutting an asphalt parking area or driveway. Landscape material shall not interfere with the operation or function of the refuse container.

The refuse container area and the area around the refuse container shall be properly maintained by the property owner or tenant. There shall be no storage outside the refuse container or above the six (6) foot height of the refuse container.

(Ord. No. 100, § 14.16, 1-17-1994; Ord. No. 95-1, § 2, 3-13-1995; Ord. No. 2004-06, § 2, 5-26-2004)

### **Sec. 30-20. Penalty for violation of chapter.**

Any person, or anyone acting on behalf of any person, who shall violate any of the provisions of this chapter, or who shall fail to comply with any of the required conditions of the zoning board of appeals or the planning commission shall, upon conviction, be subject to the penalty in section 1-12.

(Ord. No. 100, § 22.01, 1-17-1994)

### **Sec. 30-21. Nuisance per se.**

Any building or structure which is used, erected, altered, razed or converted or any use of any premises

which is begun or changed and in violation of any provision of this chapter, is hereby declared to be a nuisance per se.

(Ord. No. 100, § 22.02, 1-17-1994)

**Sec. 30-22. Permitted yard encroachment.**

The minimum yard size and setback requirements of this Ordinance are subject to the following encroachments.

- (A) Architectural elements of existing buildings such as cornices, eaves, gutters, chimneys, pilasters, outside stairways, fire escapes and similar features that are necessary to the integrity of the building or the health and safety of the occupants shall be permitted to encroach upon a required yard no more than five (5) feet.
- (B) Attached terraces, patios, porches, and decks that are not covered with a roof shall be permitted to encroach upon a required yard provided that the attachment or paved area is no closer than ten (10) feet from a side or rear lot line. However, if the yard proposed to be encroached upon abuts a public street or approved private road the principal building and/or structure setback shall be observed and no encroachment is permitted.
- (C) Awnings may project into a required yard no more than five (5) feet.

(Ord. No. 2004-2).

**Sec. 30-23. Front setback reductions.**

Any required front setback in any residential district may be reduced below the minimum requirements when the average front setback of existing principal buildings within two hundred (200) feet of a proposed principal building area less than the minimum required, in which case the required minimum front setback shall be based on the established average.

(Ord. No. 2004-2).

**Sec. 30-24. Allocation of lot area and configuration of lots.**

- (A) No portion of a lot can be applied more than once in complying with the provisions for lot area and setbacks.
- (B) The depth of lots created after the effective date of this Ordinance shall not be more than four (4) times longer than their width, excluding flag lots. The 4:1 ratio for maximum lot depth to width shall apply to the flag portion of a flag lot only in the case when the flag lot has less than one hundred (100) feet of road frontage. When a flag lot has one hundred (100) feet or more of road frontage, the maximum 4:1 ratio of depth to width standard shall apply to the entire lot.

- (C) Lots created after the effective date of the Ordinance shall also comply with the Village Land Division Ordinance.

**Sec. 30-25. Height requirement exceptions.**

The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy.

- (A) Those structures which are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles, and monuments, are exempt, but shall not exceed an overall height of seventy-five (75) feet.
- (B) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers and antennas for police and fire, fire hose towers, cooling towers, or other structures where the manufacturing process requires a greater height, but not to exceed one hundred (100) feet in height.
- (C) Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) above the district's height limitation, provided, that such structural extensions shall have no window openings.
- (D) Those public utility structures, but not including wireless communication, towers, except upon receipt of a special use permit.
- (E) Those agricultural buildings and structures, such as barns, silos, grain elevators and the like, but not to exceed one hundred (100) feet in height.

(Ord. No. 2004-2).

**Sec. 30-26. Unsafe buildings.**

Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

(Ord. No. 2004-2).

**Sec. 30-27. Structural damage.**

Any structure or building which may be in whole or in part destroyed by fire, windstorm, or other such cause, if rebuilt, shall be rebuilt in accordance with this Ordinance and other pertinent codes and

ordinances or shall be restored to a safe and healthy condition with all debris removed from the site within ninety (90) days from the occurrence of such damage.

(Ord. No. 2004-2).

**Sec. 30-28. Street Vacation.**

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all areas included therein shall henceforth be subjected to all appropriate regulations of that district within which such area is located.

(Ord. No. 2004-2).

**Sec. 30-29. Annexed land.**

All territory which may hereafter be annexed. to the Village of Capac shall be automatically classified in the "R-1." Single-family rural residential zoning district until otherwise changed by ordinance after public hearing. Such public hearing shall be held as soon as practical, but in any event not later than thirty (30) days after annexation. During the time between annexation and the public hearing, no zoning or building permits shall be issued. The public hearing process shall complete the rezoning process as provided for in Sec. 30-181.

(Ord. No. 2004-2).

**Secs. 30-30--30-65. Reserved.**

**ARTICLE II.**

**ADMINISTRATION, ENFORCEMENT AND VIOLATIONS\***

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\* **Cross References:** Administration, Ch. 2.

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**DIVISION 1.**

**GENERALLY**

**Sec. 30-66. Zoning administrator.**

The provisions of this chapter shall be administered by a zoning administrator appointed by the village council. The zoning administrator shall serve under such terms and at such rate of compensation as the village council may determine.

**Sec. 30-66.1 Duties.**

- (a) Issue Permits: All applications for zoning permits, temporary dwelling permits, special land use permits, variances, appeals, requests for ordinance interpretations, requests for changes to nonconformity, shall be submitted to the zoning administrator who may issue such permits when all applicable provisions of this chapter have been met and approval has been granted by the proper body or official.
- (b) File Applications: The zoning administrator shall maintain files of all permit applications, site plan applications and plot plan applications and shall keep a record of all permits issued and shall be open for public inspection.
- (c) Prepare Reports: Prepare maps, charts, and other pictorial material when necessary or desirable. Notifies applicants of all required information and decisions made by the village council, planning commission and zoning board of appeals. Maintains all written actions taken by village council, planning commission, zoning board of appeals. Maintain all maps showing the current zoning classifications of all lands in the village, which will conform to the true copy.
- (d) Reports to the Village President and Village Council. Assists the Village President, Planning Commission Chairperson, Chairman of Zoning Board of Appeals, as well as Village Planning Consultant, Village Engineer, Village Attorney, all relevant department heads and the public in all matters related to zoning compliance and zoning enforcement.
- (e) Inspections: The zoning administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Chapter. No person shall interfere with the zoning administrator in the discharge of his/her duties. Zoning administrator shall seek a search warrant through the Village Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Chapter.
- (f) Violations: The zoning administrator shall equally apply the regulations in this Chapter to all property owners. Enforcement actions may be initiated by a complaint, or by the zoning administrator independently anytime he or she identifies a violation.
- (g) The village zoning administrator or the person designated by resolution of the council is authorized to issue and serve district court appearance tickets for any violation of the village zoning chapter, sign ordinance article VIII chapter 30, subdivision chapter, and condominium chapter.

Under no circumstances is the zoning administrator permitted to make changes in this Chapter, nor to vary the terms of this Chapter while carrying out the duties prescribed herein.

(Ord. No. 100, § 3.01, 1-17-1994; Ord. No. 2003-09, § 2, 10-29-03)

**Cross References:** Officers and employees, § 2-66 et seq.; Enforcement, § 2-161 et seq.

### **Sec. 30-67. Zoning permits.**

A zoning permit shall be acquired from the zoning administrator before any construction is undertaken, any structure is moved or any change in the use of any land or structure is undertaken within the village.

- (1) *Application.* A zoning permit shall be applied for in writing on an application form provided by the village.
- (2) *Permit issuance.* A zoning permit shall be issued by the zoning administrator whenever the proposed use complies with the provisions of this chapter and any necessary planning commission, board of appeals or village council approvals have been obtained.
- (3) *Expiration.* A zoning permit shall expire one (1) year after the date of issuance unless the proposed use has been commenced within that year. Any amendment to this chapter shall have the effect of voiding any outstanding zoning permits for uses which have not been commenced and which would violate the amendment.
- (4) *Void permits.* Any zoning compliance permit issued in error or pursuant to an application containing any false statements shall be void.
- (5) *Private restrictions.* The zoning administrator may not refuse to issue a zoning compliance permit due to violations of private covenants, agreements or deed restrictions.
- (6) *Fees.* The amount of any fees charged for zoning permits, applications or inspections shall be established by the village council.

### **Sec. 30-67.1 Administration.**

- (a) No land shall be used or occupied and no structure shall be designed, erected, altered, building constructed including parking lots, or used hereafter until a zoning permit shall have been issued by the zoning administrator. It shall be the duty of the zoning administrator to issue a zoning permit, provided he/she is satisfied that the building, structure or premises, and the proposed use thereof, conform to all the requirements of this chapter. A zoning permit issued by the zoning administrator shall be required prior to the issuance of any building permit.
- (b) Except upon a written order of the Village Zoning Board of Appeals, no zoning permit shall be issued for any building or structure where the construction, addition, alteration or use thereof would be in violation of any provision of this Chapter.
- (c) No building permit shall be issued until the zoning administrator has determined that the building, structure, or use of land, if constructed or used as planned and proposed, will conform to the provisions of this Chapter, as evidenced by issuance of a zoning permit.
- (d) If plans as required under subsection (e) are not approved, the zoning administrator must

state in writing, reasons for denial.

- (e) Every application for a zoning permit shall be accompanied by plans, as required in sec. 30-555 for site plans or 30-567. One copy of such plans shall be returned to the owner when such plans shall have been approved by the appropriate body or official.
- (f) Expiration: A zoning permit shall expire one (1) year after the date of issuance unless the proposed use has been commenced within that year. Before avoidance of a zoning permit is actually declared, the zoning administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such avoidance is effective.
- (g) Any amendment to this chapter shall have the effect of voiding any outstanding zoning permits for uses which have not commenced and which would violate the amendment.
- (h) Fees: The amount of any fees charged for zoning permits, applications or inspections shall be established by the village council. Fees for review of development proposals, inspections and the issuance of permits or certificates required under this Chapter shall be deposited with the Village Clerk in advance of processing any application or issuance of any permit.
- (i) Escrow of fees: Escrow fees shall be used to pay for professional services for engineers, community planning consultants, and any other professionals whose expertise the Village Council deems necessary in order to review the proposed application and/or site plan of an applicant. A refund of any unused escrow fees shall be refunded if the proposed development fails the approval process.

### **30-67.2 Enforcement.**

- (a) Revocation: The zoning administrator shall have the power to revoke or cancel any land zoning permit in case of failure or neglect to comply with any provision of the Chapter, or in case of any false statement or misrepresentation made in the application. The owner or his/her agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.
- (b) Cancellation of a permit: Cancellation of any permit issued for a special land use, planned unit development (Open Space) or variance shall not occur before a hearing by the body which granted the permit. The zoning administrator may issue a stop work order to halt all construction activities and usage pending a decision on cancellation of said permit.
- (c) Private restrictions: The zoning administrator may not refuse to issue a zoning compliance permit due to violations of private covenants, agreements or deed restrictions.
- (d) Permit issuance: A zoning permit shall be issued by the zoning administrator whenever the proposed use complies with the provisions of this Chapter and any necessary planning commission, board of appeals or village council approvals have been obtained.

- (e) **Relevance to Nonconformity:** It shall not be necessary for an owner of a legal non-conforming structure or use, existing before the effective date of this Chapter to obtain a zoning permit in order to maintain its legal non-conforming status. However, no non-conforming building, structure, or use shall be renewed, changed, expanded, or extended pursuant to Article VI until a zoning permit has been issued by the zoning administrator.
- (f) **Withholding permit:** The zoning administrator may withhold any zoning permit pending verification that an applicant has received county, state, or federal permits, including but not limited to, septic, water, soil erosion and sediment control permits, wetlands permit, floodplain, culvert, driveway or building permits. Likewise, wherever this Chapter authorizes permit approval by the planning commission and/or village council may condition final approval of the requested development activity upon the receipt of any of the above-mentioned county, state or federal approvals and/or direct zoning administrator not to issue a zoning permit until said permit from other agencies have been obtained.
- (g) **Performance Guarantee:** A performance guarantee may be required as a condition to the issuance of any zoning permit in order to insure conformance with the requirements of the Code of Ordinances and/or Village Engineering Standards.
- (h) **Certificate of Zoning Compliance:** No structure or use/activity shall be occupied without first receiving a certificate of zoning compliance. A certificate of zoning compliance shall be issued by the zoning administrator following an inspection that confirms that all requirements of the previously issued zoning permit, approved site plan or plot plan and of this Chapter have been met.
- (i) **Inspections:** The zoning administrator shall inspect the site prior to the beginning of construction and then again during the pouring of footings, or excavation for a foundation.
- (j) **Certification of Occupancy:** A certificate of occupancy shall be issued by the Construction Code Authority following an inspection that confirms that all requirements of the approved site plan with any and all conditions have been met. A certification of occupancy shall have effect only if the use/activity or structure has been issued a certification of compliance.

### **Sec 30-67.3 Violations.**

- (a) **Violations: Violations are Nuisances Per Se:** Violations of any provision of the Chapter are declared to be a nuisance per se.
- (b) **Notice of Violation:** The zoning administrator shall inspect each allegation or apparent violation. Whenever the zoning administrator determines that a violation of this Chapter exists, said zoning administrator shall issue a Notice of Violation, in writing, which specifies all circumstances found to be in violations.
- (c) **Service of Notice:** Such notice shall be directed to each owner of, or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be

served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.

- (d) **Violation Correction Period:** All violations shall be corrected within a period of fifteen (15) days after the violation notice is issued. Should a violation not be corrected within this time period the zoning administrator shall notify the owner, or party of interest in writing, of the time and place of a hearing to be held before the “Bureau” of Civil Infractions Sec. 2-196 Code of Ordinances.

(Ord. No. 100, § 3.02, 1-17-1994; Ord. No. 2003-10, § 2, 10-29-2003)

### **Sec. 30-68. Certificates.**

No land, buildings, structures, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate;

- (1) *Certificate Not to be Issued.* No certificates of occupancy shall be issued for any building, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Chapter.
- (2) *Certificates Required.* No building, structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- (3) *Certificates Including Zoning.* Certificate of Occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Chapter.
- (4) *Certificates for Existing Buildings.* Certificates of Occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found such buildings, structures, or parts thereof, or such uses of land, are in conformity with the provisions of this Chapter.
- (5) *Record of Certificates.* A record of all certificates issued shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (6) *Certificates for Dwelling Accessory Buildings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- (7) *Application for Certificates.* Application for certificates of occupancy shall be made in writing to the Zoning Administrator on form furnished by Zoning Department, and such certificates shall

be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Chapter. If such certificate is refused for cause, the applicant shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period.

- (8) *Temporary Certificate of Occupancy.* Temporary certificates of occupancy may be issued for a part of a building or structure prior to the occupancy of the entire building or structure, provided that such temporary certificates of occupancy shall not remain in force longer than a period of one (1) year provided that such portions of this Chapter. If such temporary certificates of occupancy are requested, the Zoning Administrator may require the permittee to furnish a cash deposit, certified check, irrevocable bank letter of credit or surety bond, in an amount equal to the total estimated cost of completing construction of the specific site improvements including contingencies, as established by the Village Engineer.

No certificate of occupancy shall be issued whether or not a temporary certificate of occupancy has been issued unless the following standards have been met:

- a. That the building or structure is in full conformity with this Chapter and the State of Michigan Construction Code.
- b. That the interior space to be lived in or otherwise used is finished so as to meet minimum square foot standards of this Chapter for the particular type of dwelling unit or other use as specified in the zoning district where located.
- c. That the term “finished” noted in subsection (b) above means that all interior walls and ceilings shall be sealed with dry wall or other approved materials, that all floors shall be covered with a surface permitting safe and sanitary walking thereon, and that said finished space shall otherwise meet all requirements of the State of Michigan Construction Code.
- d. That other space provided in any building or structure in excess of minimum Chapter requirements shall be so completed as not to cause hazards to occupants therein by reason of exposed wiring, plumbing, stairwells, or inadequate protection from weather conditions.
- e. That all unfinished site improvements which are included on an approved site plan, or which are otherwise required by this Chapter shall be constructed, installed, or placed on the property, and be approved by the Village Engineer within six (6) months of obtaining a temporary certificate of occupancy. Failure to finish and obtain approval of said improvements shall constitute a violation of this Chapter giving rise to the penalties provided for herein, and constitute a basis for relief in Circuit Court.

(Ord. No. 100, § 3.03, 1-17-1994; Ord. No. 2004-06, § 2, 5-26-2004)

**Secs. 30-69--30-100. Reserved.**

## **DIVISION 2.**

### **PLANNING COMMISSION\***

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\* **State Law References:** Authority to appoint a planning commission, MCL 125.584, MSA 5.2934.

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#### **Sec. 30-101. Membership.**

There is hereby established a village planning commission. The planning commission shall consist of seven (7) members appointed by the village president with the approval of the village council. As required by state law, one (1) member of the village council shall serve as a member of the planning commission. The members shall be representative of major interests as they exist in the village. Each member shall be appointed for a term of three (3) years, except the village council member whose term shall not exceed the member's term on the village council. The planning commission shall elect a chairman, vice-chairman and secretary from its members. The terms of these offices shall be one (1) year.

(Ord. No. 100, § 17.01, 1-17-1994; Ord. No. 99-6, § 2(17.01), 8-2-1999)

#### **Sec. 30-102. Powers.**

The planning commission shall have the power to review and approve site plans pursuant to article VII of this chapter, to hear and decide requests for special land use approval pursuant to division 3 of this article, and to hear and make recommendations on zoning amendment requests pursuant to division 5 of this article. The planning commission shall also have the power to prepare and adopt a plan as a guide for the development of the village as provided for in the Village Planning Act.

(Ord. No. 100, § 17.02, 1-17-1994)

#### **Sec. 30-103. Penalty.**

Any violations of this Code shall be civil infractions and, upon conviction thereof, shall be punishable as provided in section 1-12.

(Ord. No. 99-6, § 5, 8-2-1999)

#### **Secs. 30-104--30-130. Reserved.**

## **DIVISION 3.**

### **SPECIAL LAND USE\***

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\* **State Law References:** Special land uses, MCL 125.584a, MSA 5.2934(1).

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#### **Sec. 30-131. Application.**

For all special land uses, a written application shall be submitted to the planning commission. Such

application shall contain a description of the proposed use, a legal description and street location of the property on which the proposed use would be located, the signature of the property owner, the signature of the petitioner, if different from the property owner, and a scale drawing of the site. The scale drawing shall show existing and proposed buildings, driveways, points of ingress and egress, parking areas, fencing, landscaping, signs and road rights-of-way.

(Ord. No. 100, § 19.01, 1-17-1994)

### **Sec. 30-132. Hearing.**

Requests for special land uses may be heard and decided at any regular or special meeting of the planning commission, provided that the petitioner has presented all required information and proper notice has been given. Notices of public hearing on special land uses shall be sent to the person requesting the special land use and to owners and occupants of property within a minimum of three hundred (300) feet from the property lines of the property which is the subject of the request for special land use. Notice shall be sent by regular mail and shall be sent to the property owners as shown on the latest tax assessment roll. A notice shall also be published once in a local newspaper. All notices shall be given not less than five (5) days, nor more than fifteen (15) days, prior to the hearing.

(Ord. No. 100, § 19.02, 1-17-1994)

### **Sec. 30-133. Standards.**

Requests for special land uses shall be granted or denied based on the following standards:

- (1) The location, size and character of the proposed use shall be in harmony with, and appropriate to, the surrounding neighborhood.
- (2) The proposed use shall not result in the creation of a hazardous traffic condition.
- (3) The site layout, intensity of use and time periods of use shall not be such as to create a nuisance due to dust, noise, smell, vibration, smoke or lighting.
- (4) All specific requirements of the zoning district where the proposed use would be located shall be complied with.

(Ord. No. 100, § 19.03, 1-17-1994)

### **Sec. 30-134. Decision.**

The planning commission may deny, approve or approve with conditions any request for a special land use. The decision of the planning commission shall be incorporated in a statement containing the conclusion on which the decision is based and any conditions imposed. Any condition imposed shall meet all of the following requirements:

- (1) Be designed to protect natural resources; the health, safety and welfare, and the social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.

- (2) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(Ord. No. 100, § 19.04, 1-17-1994)

**Sec. 30-135. Expiration of approval.**

Planning commission approval for a special land use shall expire one (1) year from the date of the meeting at which permission is granted unless the premises has actually been occupied by the approved use or unless construction has been undertaken to prepare the premises for the approved use within the one (1) year period.

(Ord. No. 100, § 19.05, 1-17-1994)

**Secs. 30-136--30-145. Reserved.**

**DIVISION 4.**

**ZONING BOARD OF APPEALS\***

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\* **State Law References:** Authority to appoint board of appeals, MCL 125.585, MSA 5.2935.

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**Sec. 30-146. Membership.**

There is hereby established a zoning board of appeals. The zoning board of appeals shall consist of five (5) members appointed by the village council. One (1) member shall be a member of the planning commission. The remaining members shall be electors who are not employees or contractors of the village. Each member shall be appointed for a term of three (3) years, except that the term of office of the member who is also a member of the planning commission shall terminate if his membership on the planning commission terminates before the end of the three-year term. The zoning board of appeals shall elect a chairman, vice-chairman and secretary. Two (2) alternate members may also be appointed by the village council to serve for three-year terms. An alternate member may be called to serve on the zoning board of appeals whenever a regular member abstains due to conflict of interest or whenever a regular member is absent. An alternate member shall continue to serve on a case until a final decision is made.

(Ord. No. 100, § 20.01, 1-17-1994)

**Sec. 30-147. Appeals.**

An appeal may be taken to the zoning board of appeals by any person wishing to appeal an ordinance provision or any final decision of the zoning administrator or the planning commission, including special land use decisions. The zoning board of appeals shall also interpret the zoning map and rule on nonconforming uses and structures whenever the determination of the zoning administrator is appealed from. All appeals must be applied for in writing on forms provided by the village. The zoning board of appeals shall give notice of the hearing to the parties involved. The zoning board of appeals shall also give notice to owners of property within a minimum of three hundred (300) feet from the property lines of the property which is the subject of the

appeal. Notice shall be by regular mail and shall be sent to the property owners as shown on the latest tax assessment roll.

(Ord. No. 100, § 20.02, 1-17-1994)

### **Sec. 30-148. Powers.**

The zoning board of appeals shall have the authority to grant a variance from the strict application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property as of January 17, 1994, the day of enactment of the ordinance from which this chapter derives, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations of this chapter would result in peculiar or exceptional practical difficulties or undue hardship upon the owner of such property. The zoning board of appeals shall decide appeals in such a manner that the spirit of this chapter is observed, public safety secured, and substantial justice done. The zoning board of appeals shall not have the authority to grant variances from the uses permitted by this chapter.

(Ord. No. 100, § 20.03, 1-17-1994)

### **Sec. 30-149. Decisions.**

The zoning board of appeals may require the appellant to provide such additional information as is necessary to make a decision. In making a decision, the zoning board of appeals may impose such conditions as it may deem necessary to comply with the spirit and purpose of this chapter. No variance may be granted or decision overruled unless at least three (3) members vote in favor thereof. The zoning board of appeals shall state the grounds of each decision. Any conditions imposed by the zoning board of appeals shall meet the following requirements:

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

(Ord. No. 100, § 20.04, 1-17-1994)

### **Sec. 30-150. Expiration of variance approvals.**

Any variance shall expire one (1) year from the date it is granted unless use of the property has begun or construction has been undertaken pursuant to the variance.

(Ord. No. 100, § 20.05, 1-17-1994)

### **Secs. 30-151--30-180. Reserved.**

## **DIVISION 5.**

### **AMENDMENTS AND REZONING**

#### **Sec. 30-181. Application.**

The village council may, after a public hearing by the village planning commission, amend the regulations or the district boundaries of this chapter. Proposed amendments to the regulations or district boundaries of this chapter may be initiated by the village planning commission, the village council or an individual petitioner. Whenever an individual petitioner requests a zoning amendment, he shall be the fee owner of the premises concerned or else have the fee owner also sign the petition. A petition for rezoning shall be submitted to the village clerk along with a rezoning fee, as established by the village council.  
(Ord. No. 100, § 21.01, 1-17-1994)

#### **Sec. 30-182. Notice of hearing.**

Notice of a public hearing by the planning commission shall be published once in a newspaper of general circulation in the village for each proposed amendment to the regulations or district boundaries. The publication shall be made not less than fifteen (15) days before the date of the hearing. If property is proposed to be rezoned, notice shall also be delivered personally or by mail to the owner of the property proposed for rezoning and the owners and occupants of all property within three hundred (300) feet of the property proposed to be rezoned.  
(Ord. No. 100, § 21.02, 1-17-1994)

#### **Sec. 30-183. Planning commission hearing and recommendations.**

After conducting the required public hearing, the village planning commission shall adopt recommendations as to the approval or denial of the proposed rezoning of property or amendment to this chapter's regulations. Upon completion of action by the village planning commission, the proposed rezoning or amendment shall be submitted to the village council.  
(Ord. No. 100, § 21.03, 1-17-1994)

#### **Sec. 30-184. Action by village council.**

Upon receipt of the recommendation of the village planning commission, the village council shall undertake consideration of the proposed rezoning or amendment. Any decision by the village council which results in the rezoning of property or the amendment of this chapter shall be incorporated in an ordinance duly adopted and published by the village council.  
(Ord. No. 100, § 21.04, 1-17-1994)

#### **Secs. 30-185--30-225. Reserved.**

## **ARTICLE III.**

### **ZONING DISTRICTS**

## **DIVISION 1.**

### **GENERALLY**

#### **Sec. 30-226. Enumeration.**

The village is hereby divided into the following zoning districts:

R-1 single-family rural residential

R-2 single-family residential

R-3 single-family residential

RM residential multiple dwellings

MHP mobile home park

CBD central business district

C commercial

I industrial

HWY highway commercial

OS office service

(Ord. No. 100, § 4.01, 1-17-1994; Ord. No. 95-4, § 2, 12-4-1995)

#### **Sec. 30-227. District boundaries and map.**

The boundaries of the zoning districts are drawn upon the map attached to this chapter and made a part of this chapter by reference. The map shall be designated the "Village of Capac Zoning Map." All existing R-2 property which has already been platted is zoned R-3.

(Ord. No. 100, § 4.02, 1-17-1994; Ord. No. 95-4, § 2, 12-4-1995)

#### **Secs. 30-228--30-250. Reserved.**

## **DIVISION 2.**

### **R-1 SINGLE-FAMILY RURAL RESIDENTIAL DISTRICT**

#### **Sec. 30-251. Purpose**

The purpose of this district is to provide open land areas for residential and agricultural properties of a

rural character that are presently without public water and sewer facilities. It is also the purpose of this District to protect and stabilize the essential characteristics of these areas until such time as it may be in the public interest to promote urban development of a greater intensity requiring higher levels of public services and utilities.

(Ord. No. 100, § 5.01, 1-17-1994, Ord. No. 2003-13, § 2, 12-10-2003.)

**Sec. 30-252. Permitted principal uses.**

Permitted principal uses in the R-1 district are as follows:

- (1) Single-family dwellings (subject to section 30-9).
- (2) State licensed residential facilities for six (6) or fewer residents.
  - a. As provided for per state statute, state licensed residential facilities mean a structure constructed for residential purposes that is licensed by the state pursuant to the adult foster care licensing act, Act 116 of 1979, as amended, that provides resident services or care of six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.
- (3) Buildings, structures and uses which are accessory to any of the permitted uses in this section.

(Ord. No. 2003-13, § 2, 12-10-2003)

**Sec. 30-253. Permitted land uses with conditions.**

Permitted land uses with conditions in the R-1 district are as follows:

**(1) Churches or Religious Institutions**

a. Location Requirements:

1. The site shall have at least one (1) lot line on a paved road.
2. All ingress and egress for the site shall be from a major thoroughfare.

b. Site Requirements:

1. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
2. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
3. No building shall be closer than fifty (50) feet from any lot line or right-of-way.

4. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot from the initial fifty (50) feet for each one (1) foot of additional height above the district height limitation. The spire is excluded.

c. Buffering Requirements:

1. Parking areas shall be screened from adjacent residential areas.
2. All exterior lighting shall be placed and/or located in such a way as to reduce all light trespass onto abutting properties.
3. Refuse containment shall be placed/located and screened.

d. Performance Standards:

1. No day care center, private school, or other accessory use shall be permitted unless all relevant permits are obtained. Separate accessory uses must receive appropriate approval.
2. Signs shall be limited to one (1) identification sign and one (1) changeable message board as long as the total of both signs, if separate, do not exceed a maximum area of thirty-six (36) sq. ft. Neither sign shall have internal lighting capability.

e. Accessory uses:

1. Columbarium's are rooms or buildings with niches for funeral urns to be stored and are to be considered accessory uses to a church or other religious institution.
2. All detached accessory use buildings or structures shall be no closer than ten (10) ft. to the principal building, no closer than three (3) ft. to the side property line and no closer than five (5) ft. to the rear property line.
3. No detached accessory use buildings shall exceed a height of sixteen ft. six inches (16'6").

**(2) Cemeteries, Crematories and/or Mausoleums.**

a. Location Requirements:

1. All ingress and egress to the site shall be to and from a major thoroughfare.
2. The site shall not interfere with the future development of a system of collector and larger streets in the vicinity.

b. Site Requirements:

1. The minimum lot or parcel size for cemeteries, crematories, and/or mausoleums shall be

twenty (20) acres.

2. No more than five (5) percent of the land area may be occupied by buildings.
3. All burial plots and all structures including but not limited to mausoleum shall be set back no less than fifty (50) feet from any lot line or right-of-way.
4. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.
5. Traffic entering or exiting the site shall be engineered to prevent off-site traffic problems. The site shall be designed to prevent queuing or staking to occur on any roadway used for access to the site.
6. Any and all lighting shall be kept to a minimum and shall never to placed/located to cause light trespass.

c. Buffering Requirements:

1. A ten (10) foot buffer zone containing screening plant materials approved by the planning commission is to be provided along all interior lot lines and shall be sufficient to achieve a screened affect.

d. Performance Standards:

1. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the St. Clair County Health Department and all applicable State requirements.

**(3) Schools: Public, Private or Parochial**

a. Location Requirements:

1. Ingress and egress to the site shall be to and from a major thoroughfare.
2. The major thoroughfare should have a least provision for alteration to accommodate large volumes of traffic which will be generated by the land use.
3. Driveways and internal circulation patterns shall be engineered to receive and handle large volumes of traffic.
4. The site will have additional unused land area to handle future expansion of the site to handle both building additions and parking facilities.
5. A preferential location is one which would offer natural or man-made barriers or a buffer zone; lessening the effect of intrusion of the institution onto adjoining uses.

6. Public sewer and water must be available to the site for use by this land use activity.

b. Site Requirements:

1. The minimum lot or parcel for any school type shall be no less than five (5) acres.
2. No more than twenty-five (25) percent of the land area shall be covered by buildings.
3. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
4. Service areas and/or facilities or outdoor recreation facilities shall not be located within one hundred (100) feet of a residential district or use.
5. Parking areas shall not be located within fifty (50) feet of a residential district or use.
6. Student drop-off and vehicular turn-around facilities shall be provided on the site so that such vehicles will not interfere with external or internal traffic flow. Traffic calming techniques for queuing or staking with a thoroughfare or major roadway shall be engineered into the site so as to prevent such traffic situations.
7. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
8. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

c. Buffering Requirements:

1. Parking areas shall be screened to protect surrounding residential areas by a wall or fence, in combination with suitable plant materials as needed to accomplish such screening.
2. All lighting shall be shielded away from public right-of-way's and neighboring residential properties to prevent light trespass.

d. Performance Standards:

1. All activities conducted on the site shall conform to all local, county, state and federal laws.

**(4) Village public facilities.**

Village public facilities include, but are not limited to, parks, administrative offices, fire and police facilities, libraries, museums, recreational centers, and storage areas for public equipment.

a. Location Requirements:

1. No building shall be closer than fifty (50) feet to any property line or road right-of-way or easement.
2. No more than thirty (30) percent of the gross lot area shall be covered by buildings.
3. Lot area and width shall not be less than that specified for the district in which the proposed use is located.
4. No buildings shall be erected to a greater height than that permitted in the district in which the proposed use is located.

b. Buffering Requirements:

1. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence.
2. All buildings housing mechanical equipment shall be landscaped and maintained so as not to cause a nuisance.

c. Performance Standards:

1. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same site development.
2. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions shall result. The placement of any lighting device shall not cause light trespass onto neighboring properties.
3. Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially zoned property. Principal uses shall provide for refuse containment and the containment area shall be screened.
4. Facilities shall provide off-street parking and passenger loading areas at least twenty-five (25) feet from residential lot lines.
5. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
6. Any sports fields shall be a minimum of one hundred (100) feet from any lot line and two hundred (200) feet from any dwelling.

(Ord. No. 2003-13, § 2, 12-10-2003)

**Sec. 30-254. Special land uses.**

Special land uses in the R-1 district are as follows:

**(1) Private parks, recreation areas, campgrounds**

a. Performance Standards:

1. There may be a maximum of two (2) identification signs. Each sign may have a maximum area of thirty (30) square feet. Both signs may be lighted but not internally. Sign lighting shall not trespass onto neighboring properties.
2. All principal or accessory buildings and parking areas shall not be less than two hundred (200) feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
3. Access shall be so designed as to provide all ingress and egress directly onto of from a major improved thoroughfare.
4. The total lot coverage of principal and accessory buildings shall not exceed fifteen (15) percent of the total area of the lot.
5. All artificial lights shall be directed away from adjoining properties.
6. No outdoor loudspeaker or call systems shall be audible on adjoining properties. The intensity level of all sounds shall not exceed seventy (70) decibels (dba) at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
7. Outdoor storage shall be properly screened.
8. Whenever a swimming pool is to be provided, said pool shall conform to all state construction code requirements. No swimming pool shall be located in the front yard or in any easement.

**(2) Raising of livestock, poultry, furbearing animals.**

a. Location Requirements:

1. Minimum lot size shall be not less than ten (10) acres.
2. No building used to house animals shall be located nearer than seventy-five (75) feet from any property line.

**(3) Dog kennels; hobby and commercial and other domestic animals.**

## Hobby Kennels

### a. Location Requirements:

1. Two (2) horses or large domestic animals are permitted on parcels meeting the minimum lot size. For each additional horse or large domestic animal, two (2) additional acres shall be required.
2. There shall be a limit of five (5) horses or large domestic animals allowed at any given time.

### b. Buffer Requirements:

1. Accessory buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent residential lot line.

### c. Performance Standards: (shall apply to commercial kennels as well)

1. All kennels shall be operated in conformance with all applicable county, state and federal regulations.
2. Animals shall be maintained and accommodated in a manner so as not to pose a nuisance to adjoining property or a hazard to water quality and public health, safety, and welfare.
3. All hobby kennels shall only house animals owned by the occupant of the dwelling units.
4. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
5. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
6. The intensity level of sounds shall not exceed seventy-five (75) decibels (dba) at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
7. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. or 7:00 a.m.
8. During the hours between 7:00 a.m. and 10:00 p.m., animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
9. Runs and/or exercise areas, and buildings where animals are maintained shall be located in the rear yard only.

10. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission.
11. The outside perimeter of the run and/or exercise area of the kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top having to prohibit the escape of animals.
12. All animals must be licensed and maintained in a healthful and careful manner.
13. Outdoor runs and breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
14. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of diseases or offensive odor.
15. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.

#### Commercial Kennels

d. Location Requirements:

1. Minimum lot size shall not be less than five (5) acres for the first ten (10) animals and an additional half (1/2) acre for each additional animal thereafter.

e. Buffer Requirements:

1. Animals must be kept within a fenced area.
2. No building used to house animals shall be located nearer than seventy-five (75) feet from any property line.

#### **(4) Excavation Operations**

Exempt activities: A special land use permit is not required for the following excavation activities:

a. Site Development:

1. Grading and filling in conjunction with commercial, industrial, or residential construction, provided valid building and soil erosion and sedimentation control permits have been issued.
2. Foundations and building pads for any building or structure, provided that valid building and soil erosion and sedimentation control permits have been issued.
3. Minor landscaping projects, provided they do not encroach upon flood-prone areas, protected wetlands, natural drainage-ways or the county drainage system.

4. Excavations relating to the accessory use of land and designed to be filled upon completion of excavation, such as septic tank, graves, etc.
5. Excavations or leveling for private drives/roads to provide ingress and egress which have been approved by the Village of Capac or the St. Clair County Road Commission.
6. Accessory ponds established in conjunction with an agricultural or residential use which are three-fourth (3/4) of an acre or less in size.
7. In the case of excavation of soil located on public lands, materials taken from the site must be used for public purposes.

a. Site Requirements:

1. Minimum site of five (5) acres or more.

b. Buffering Requirements:

Notwithstanding any other minimum yard sizes required by the Zoning Ordinance, excavation activities shall be set back the following minimum distances:

1. One hundred fifty (150) feet from the right-of-way of any public street, private road or easement, or highway.
2. One hundred fifty (150) feet from abutting residentially zoned property.
3. One hundred (100) feet from commercial or industrial abutting property.
4. Two hundred (200) feet from any natural or existing man-made surface water body, watercourse, or wetland.
5. Perimeter landscape buffer zone (which may consist of naturally occurring vegetation) shall be provided at a minimum of fifty (50) feet in width.

c. Performance Standards:

1. All operations shall be conducted in a safe manner, especially with respect to hazards to person, damage to adjacent lands or collapse of supporting soil adjacent to an excavation.
2. No operation shall be conducted in a manner so as to lower the water table on surrounding properties.
3. No slope on site shall exceed an angle of horizontal of forty-five (45) degrees.
4. Temporary stockpiles of topsoil or overburden, erosion, and similar operational shall not

constitute a hazard to road traffic, pedestrians or adjoining property.

5. Topsoil stockpiles shall be seeded to prevent wind and water erosion and clipping and maintenance shall be on a regular seasonal basis in order to prevent a nuisance.
6. All excavations shall use the most current best management practices (BMP) so as to control erosion and limit the amount of sediment reaching surface waters.
7. The excavation shall be graded in a fashion which will not cause water to accumulate in stagnant pools.
8. Trees and other vegetation or ground cover shall not be prematurely stripped off the surface of the ground so as to unnecessarily expose areas of ground that would be prone to wind or water erosion. Soil should be controlled to prevent dust from being carried by the wind or water onto adjoining or surrounding properties, or onto public or private roads, or to create a nuisance.
9. The intensity level of sounds shall not exceed seventy (70) decibels (dba) at the lot line of industrial uses; sixty-five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
10. Air pollution, noise, and vibrations shall be minimized from any effect upon adjacent properties by adequate soundproofed equipment and buildings designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens.
11. Access to excavation areas shall be arranged to minimize danger to traffic and to prevent nuisance to surrounding properties.
12. Truck or heavy vehicle traffic related to excavation operations shall use major thoroughfares for access.
13. Public streets within one thousand five hundred (1,500) feet of the exit of the extractive use site shall be kept reasonably clear of mud, dirt and debris from vehicles exiting the site.
14. All vehicles used for the transporting of materials from any extractive use site shall travel to and from the site on a street route which minimizes adverse impacts on residential neighborhoods.
15. The hours of operation shall be set by the Planning Commission after consideration of the surrounding land uses and the particular traffic patterns on public haul routes in the area.
16. All reclamation activities shall be initiated at the earliest possible date. Reclamation of the site concurrent with excavation activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas.

**(5) State licensed residential facilities (small group homes) for seven (7) to twelve (12) residents.**

a. Location Requirements:

1. Adult foster care large group homes are permitted with conditions in rural residential districts.
2. The lot shall be at least 1,500 feet from any other state licensed residential facility.
3. Minimum lot size shall meet the requirements of the district, but in no case shall be less than one acre in size.

b. Site Requirements:

1. Designated passenger loading/unloading areas shall be provided near a barrier-free entrance to the facility.
2. A designated loading/unloading area for delivery vehicles shall be provided.
3. The applicant shall demonstrate to the satisfaction of the planning commission that adequate off-street parking will be provided.

c. Buffer Requirements:

1. Property lines which abut a less intense residential district or use shall be screened.
2. Parking areas and delivery vehicle loading/unloading areas shall be screened.

**(6) Golf Courses.**

**(7) Governmental buildings, structures, facilities, and uses other than those supported, owned or operated by the Village of Capac.**

(Ord. No. 100, § 5.02, 1-17-1994; Ord. No. 2003-13, § 2, 12-10-2003)

**Sec. 30-255. Accessory land uses.**

Accessory land uses in the R-1 district are as follows:

**(1) Agricultural buildings and agricultural operations.**

a. Site Development:

1. No more than two hundred (200) animal units at a density not to exceed 1.4 animal units per acre.

2. Accessory uses or structures, clearly incidental to the operation of an existing farm, including:
  - (i) Agricultural buildings, pole barns, sheds, and similar structures customarily incidental to the permitted principal use.
  - (ii) Outdoor storage of equipment and materials limited to farm machinery, implements, and related material provided that such storage does not constitute junk nor create a nuisance for abutting property owners. Storage activities shall be subject to the minimum setback requirements of the district.

## **(2) Produce stands.**

### a. Location Requirements:

1. Produce sold must be grown on the property on which the stand is located.

### b. Building Requirements:

1. Each farm may have a maximum of one (1) temporary road side produce stand.
2. The road side stand shall not have more than one story.
3. The floor plan of the structure shall not be larger than twenty by twenty (20'x20') feet.

### c. Location Requirements:

1. The stand shall not be located closer than thirty (30) feet from the nearest pavement or other traveled surface.
2. The stand shall be portable construction, permitting it to be removed from its road side location during the season when it is not in use.
3. Signs used in connection with the road side stand shall be temporary, and shall be removed when not in use. No sign shall be placed within the right-of-way.

## **(3) Home occupations.**

The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter; but such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions:

### a. Site Development:

1. The non-residential use shall be incidental to the primary use of the property as a residence.

2. No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside the property boundaries by normal senses.
3. The home occupation shall not employ more than two (2) persons, one of whom must reside on the premises.
4. No visible outdoor storage shall be permitted.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
6. Limited retail sales may be permitted on the premises, as an incidental, rather than principal part of the home occupation. No advertising of the retail sale of goods or services produced or sold on the premises is permitted in newspaper, radio or television media.
7. The home occupation may be conducted within the dwelling unit or an accessory building. However, the home occupation shall not occupy more than twenty-five (25) percent of the gross floor area of one said dwelling unit.
8. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous material, or produce hazardous waste. Outside storage is not permitted.
9. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
10. No small or large engine repair, metal grinding or firearms sales/repairs are permitted.
11. Home occupations shall be required to provide the zoning administrator with an annual update. The annual update will include any changes made from the original permit. The zoning administrator shall make an annual inspection to ensure compliance.

**(4) Family day care homes.**

1. The primary regulator of day care facilities is the Department of Social Services. Their responsibilities are set forth in the Child Care Act, PA 116 of 1973 as amended. All day care facilities must provide at least thirty-five (35) sq. ft. of indoor play place per child and may only keep children for periods of less than twenty-four (24) hours per day.
2. Family day care homes shall mean a private home in which one (1) to six (6) children are received for care and supervision, including those children less than seven (7) years old in the resident family. This number shall not include more than two (2) children less than twelve

(12) months old.

3. The ratio of care-giving staff to children: The ratio shall include children related to the caregiver staff for any children under the age of seven (7) years old.
  - (i) At any one time there shall not be less than one (1) care-giving staff member to six (6) children.
  - (ii) Within any group of five (5) or six (6) children in the care of a caregiver, not more than 4 children shall be under the age of thirty (30) months and not more than two (2) of the four (4) shall be under the age of eighteen (18) months.

a. Site Development:

1. There must be at least four hundred (400) sq. ft. of outdoor space (on the premises or within walking distance).
2. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet or more than six (6) feet in height capable of containing the children in the play area.
3. No family day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely alter the peace and tranquility of the surrounding area.
4. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
5. Playground equipment shall not be located in the front or side yards.
6. One sign is permitted providing:
  - (i) It is for identification purposes only.
  - (ii) It is not illuminated in any way.
  - (iii) It does not exceed four (4) sq. ft.
  - (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

**(5) Group day care homes.**

1. Group day care homes shall mean a private home where from seven (7) to twelve (12) children are received for care and supervision. This number shall not include more than two (2) children younger than two (2) years old
2. The ratio of care-giving staff to children: the ratio shall include children related to a caregiver staff for any children under the age of seven (7) years old.
3. A group home may have three (3) caregivers, each of whom would have responsibility for not more than four (4) children under the age of eighteen (18) months.

a. Site development:

1. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet nor more than six (6) feet in height capable of containing the children in the play area.
2. No group day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely alter the peace and tranquility of the surrounding area.
3. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
4. Playground equipment shall not be located in the front or side yards.
5. One sign is permitted providing:
  - (i) It is for identification purposes only.
  - (ii) It is not illuminated in any way.
  - (iii) It does not exceed four (4) sq. ft.
  - (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.

2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

(Ord. No. 2003-13, § 2, 12-10-2003)

**Secs. 30-256--30-275. Reserved.**

### **DIVISION 3.**

#### **R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

**Sec. 30-276. Purpose.**

The purpose of this district is to provide a stable and sound environment for single-family detached dwellings with suitable open space at a medium density. The requirements of this district are designed to protect the medium density residential character of development by restricting uses and activities which are not beneficial or appropriate in such an area, and by permitting construction and occupancy of single-family dwellings on fringes of higher density development. There is no intent to promote by these regulations a district of lower quality and desirability than the R-1 Single-Family Rural Residential District, although a higher density of population is permitted herein.

(Ord. No. 2003-14, § 2, 12-10-2003)

**Sec. 30-277. Permitted principal land uses in the R-2 district are as follows:**

**(1) Single-family dwellings.** (Subject to Section 30-9)

**(2) State licensed residential facilities for six (6) or fewer residents.**

a. As provided for per state statute, state licensed residential facilities mean a structure constructed for residential purposes that is licensed by the state pursuant to the adult foster care licensing act, Act 116 of 1979, as amended, that provides resident services or care of six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.

**(3) Buildings, structures and uses which are accessory to single-family dwellings.**

(Ord. No. 2003-14, § 2, 12-10-2003)

**Sec. 30-278. Permitted uses with conditions in the R-2 district are as follows:**

**(1) Churches or Religious Institutions**

a. Location Requirements:

1. The site shall have at least one (1) lot line on a paved road.
2. All ingress and egress for the site shall be form a major thoroughfare.

b. Site Requirements:

1. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
2. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
3. No building shall be closer than fifty (50) feet from any lot line or right-of-way.
4. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot from the initial fifty (50) feet for each one (1) foot of additional height above the district height limitation. The spire is excluded.

c. Buffering Requirements:

1. Parking areas shall be screened from adjacent residential areas.
2. All exterior lighting shall be placed and/or located in such a way as to reduce all light trespass onto abutting properties.
3. Refuse containment shall be placed/located and screened.

d. Performance Standards:

1. No day care center, private school, or other accessory use shall be permitted unless all relevant permits are obtained. Separate accessory uses must receive appropriate approval.
2. Signs shall be limited to one (1) identification sign and one (1) changeable message board as long as the total of both signs, if separate, do not exceed a maximum area of thirty-six (36) sq. ft. Neither sign shall have internal lighting capability.

e. Accessory uses:

1. Columbarium's are rooms or buildings with niches for funeral urns to be stored and are to be considered accessory uses to a church or other religious institution.
2. All detached accessory use buildings or structures shall be no closer than ten (10) ft. to the principal building, no closer than ten (10) ft. to the side property line and no closer than ten

(10) ft. to the rear property line.

3. No detached accessory use buildings shall exceed a height of sixteen ft. six inches (16'6").

## **(2) Cemeteries, Crematories and/or Mausoleums**

### a. Location Requirements:

1. All ingress and egress to the site shall be to and from a major thoroughfare.
2. The site shall not interfere with the future development of a system of collector and larger streets in the vicinity.

### b. Site Requirements:

1. The minimum lot or parcel size for cemeteries, crematories, and/or mausoleums shall be twenty (20) acres.
2. No more than five (5) percent of the land area may be occupied by buildings.
3. All burial plots and all structures including but not limited to mausoleum shall be set back no less than fifty (50) feet from any lot line or right-of-way.
4. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.
5. Traffic entering or exiting the site shall be engineered to prevent off-site traffic problems. The site shall be designed to prevent queuing or staking to occur on any roadway used for access to the site.
6. Any and all lighting shall be kept to a minimum and shall never be placed/located to cause light trespass.

### c. Buffering Requirements:

1. A ten (10) foot buffer zone containing screening plant materials approved by the planning commission is to be provided along all interior lot lines and shall be sufficient to achieve a screened affect.

### d. Performance Standards:

1. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the St. Clair County Health Department and all applicable State requirements.

## **(3) Schools: Public, Private or Parochial**

a. Location Requirements:

1. Ingress and egress to the site shall be to and from a major thoroughfare.
2. The major thoroughfare should have a least provision for alteration to accommodate large volumes of traffic which will be generated by the land use.
3. Driveways and internal circulation patterns shall be engineered to receive and handle large volumes of traffic.
4. The site will have additional unused land area to handle future expansion of the site to handle both building additions and parking facilities.
5. A preferential location is one which would offer natural or man-made barriers or a buffer zone; lessening the effect of intrusion of the institution onto adjoining uses.
6. Public sewer and water must be available to the site for use by this land use activity.

b. Site Requirements:

1. The minimum lot or parcel for any school type shall be no less than five (5) acres.
2. No more than twenty-five (25) percent of the land area shall be covered by buildings.
3. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
4. Service areas and/or facilities or outdoor recreation facilities shall not be located within one hundred (100) feet of a residential district or use.
5. Parking areas shall not be located within fifty (50) feet of a residential district or use.
6. Student drop-off and vehicular turn-around facilities shall be provided on the site so that such vehicles will not interfere with external or internal traffic flow. Traffic calming techniques for queuing or staking with a thoroughfare or major roadway shall be engineered into the site so as to prevent such traffic situations.
7. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
8. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

c. Buffering Requirements:

1. Parking areas shall be screened to protect surrounding residential areas by a wall or fence, in

combination with suitable plant materials as needed to accomplish such screening.

2. All lighting shall be shielded away from public right-of-way's and neighboring residential properties to prevent light trespass.

d. Performance Standards:

1. All activities conducted on the site shall conform to all local, county, state and federal laws.

**(4) Village public facilities.**

Village public facilities include, but are not limited to, parks, administrative offices, fire and police facilities, libraries, museums, recreational centers, and storage areas for public equipment.

a. Location Requirements:

1. No building shall be closer than fifty (50) feet to any property line or road right-of-way or easement.
2. No more than thirty (30) percent of the gross lot area shall be covered by buildings.
3. Lot area and width shall not be less than that specified for the district in which the proposed use is located.
4. No buildings shall be erected to a greater height than that permitted in the district in which the proposed use is located.

b. Buffering Requirements:

1. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence.
2. All buildings housing mechanical equipment shall be landscaped and maintained so as not to cause a nuisance.

c. Performance Standards:

1. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same site development.
2. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions shall result. The placement of any lighting device shall not cause light trespass onto neighboring properties.
3. Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially

zoned property. Principal uses shall provide for refuse containment and the containment area shall be screened.

4. Facilities shall provide off-street parking and passenger loading areas at least twenty-five (25) feet from residential lot lines.
5. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
6. Any sports fields shall be a minimum of one hundred (100) feet from any lot line and two hundred (200) feet from any dwelling.

(Ord. No. 100, § 6.01, 1-17-1994; Ord. No. 2003-14, § 2, 12-10-2003)

**Sec. 30-279. Special land uses in the R-2 district are as follows:**

- (1) Golf courses.
- (2) Government buildings, structures, facilities and parks, other than those supported, owned and operated by the Village of Capac.

(Ord. No. 2003-14, § 2, 12-10-2003)

**Sec. 30-280. Accessory land uses in the R-2 district are as follows:**

**(1) Family day care homes.**

1. The primary regulator of day care facilities is the Department of Social Services. Their responsibilities are set forth in the Child Care Act, PA 116 of 1973 as amended. All day care facilities must provide at least thirty-five (35) sq. ft. of indoor play place per child and may only keep children for periods of less than twenty-four (24) hours per day.
2. Family day care homes shall mean a private home in which one (1) to six (6) children are received for care and supervision, including those children less than seven (7) years old in the resident family. This number shall not include more than two (2) children less than twelve (12) months old.
3. The ratio of care-giving staff to children: The ratio shall include children related to the caregiver staff for any children under the age of seven (7) years old.
  - (i) At any one time there shall not be less than one (1) care-giving staff member to six (6) children.
  - (ii) Within any group of five (5) or six (6) children in the care of a caregiver, not more than 4 children shall be under the age of thirty (30) months and not more than two (2) of the four (4) shall be under the age of eighteen (18) months.

a. Site Development:

1. There must be at least four hundred (400) sq. ft. of outdoor space (on the premises or within walking distance).
2. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet or more than six (6) feet in height capable of containing the children in the play area.
3. No family day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely alter the peace and tranquility of the surrounding area.
4. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
5. Playground equipment shall not be located in the front or side yards.
6. One sign is permitted providing:
  - (i) It is for identification purposes only.
  - (ii) It is not illuminated in any way.
  - (iii) It does not exceed four (4) sq. ft.
  - (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

**(2) Group day care homes.**

1. Group day care homes shall mean a private home where from seven (7) to twelve (12) children are received for care and supervision. This number shall not include more than two (2) children younger than two (2) years old

2. The ratio of care-giving staff to children: the ratio shall include children related to a caregiver staff for any children under the age of seven (7) years old.
3. A group home may have three (3) caregivers, each of whom would have responsibility for not more than four (4) children under the age of eighteen (18) months.

a. Site development:

1. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet nor more than six (6) feet in height capable of containing the children in the play area.
2. No group day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely alter the peace and tranquility of the surrounding area.
3. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
4. Playground equipment shall not be located in the front or side yards.
5. One sign is permitted providing:
  - (i) It is for identification purposes only.
  - (ii) It is not illuminated in any way.
  - (iii) It does not exceed four (4) sq. ft.
  - (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

**(3) Bed and breakfast establishments.**

a. Building Requirements.

1. Applicant shall submit site and floor plans of the residential dwelling unit illustrating that the proposed operation meets all zoning ordinance requirements.
2. Bed and breakfast establishments shall be confined to an existing single-family dwelling unit which is the principal dwelling unit on the property.
3. The dwelling unit in which the bed and breakfast establishment takes place shall be the principal residence of the operator, and the operator shall live on the premises when the bed and breakfast establishment is active. The operator shall not let out the proprietor's principal residence.
4. Each dwelling unit utilized as a bed and breakfast establishment shall comply with the provisions of the Village Design Engineering Standards, provisions of the State Construction Code, the property Maintenance Agreement and the Fire Prevention Codes applicable to dwellings and lodging houses.
5. No building or structure either on the premises of the bed and breakfast establishment or on the property adjacent thereto shall be removed in order to provide for parking for the bed and breakfast establishment.
6. No bed and breakfast establishment shall have on its premises any restaurant which is open to the general public or any store, public meeting rooms or any separate gift shop.
7. No portion of the bed and breakfast establishment shall be operated in an accessory structure.
8. All such bed and breakfast establishments shall be designed, constructed, operated and/or maintained so as to be compatible with the surrounding neighborhood.
9. Annual inspection by the zoning administrator, fire chief and building inspector shall be required.
10. Bed and breakfast establishments shall be limited to five (5) guest sleeping rooms.
11. A structure or premise utilized for a bed and breakfast establishment must have at least two (2) exits to the outdoors from such structure or premise.
12. The main structure of the bed and breakfast establishment shall have a minimum floor area space of two thousand (2,000) sq. ft., excluding garage and basement, with a maximum of forty (40%) percent of that space designated as a sleeping room unit. Sleeping rooms shall be a minimum size of one hundred (100) sq. ft. for two (2) occupants with an additional thirty (30) sq. ft. for each additional occupant, to a maximum of four (4) occupants per room if that sleeping room unit has a private bathroom.
13. Each sleeping room in the bed and breakfast establishment shall have a separate smoke detector alarm.

14. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast establishment.
  15. In no case shall there be fewer than two (2) shared bathrooms for every four (4) sleeping rooms.
- b. Site development.
1. Minimal outward modification of the structure may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which the bed and breakfast establishment is located.
  2. Refuse container areas shall be a minimum of fifteen (15) sq. ft. and have an overall height of not more than five (5) feet. Curbside refuse disposal is permitted and all such storage containers must be contained in a screened in area.
  3. Cyclone fencing is prohibited for any use.
- c. Parking requirements.
1. Security lighting shall be limited to parking areas; residential lighting design is to be used to minimize the impact on adjacent properties. A maximum height for all lighting fixtures shall be restricted to a height of fifteen (15) feet.
  2. One off-street parking space shall be provided for the owner/occupant.
  3. Required parking shall be located only in the side and rear yard areas.
  4. One parking space shall be required for each sleeping room.
- d. Signs.
1. A bed and breakfast establishment shall be permitted only one non-animated non-illuminated exterior sign which is to be attached to the principal structure. The maximum sign area is six (6) sq. ft.
- e. Additional conditions.
1. Guest Register: Each operator shall keep a list of names and dates of stay of all persons staying at the bed and breakfast establishment. Such list shall be available for inspection by the Village officials at any time.
  2. Length of Stay: The maximum length of stay for all customers of a bed and breakfast establishment shall be fourteen (14) continuous days.
- f. License for Bed and Breakfast Establishments

1. Required Inspections: No person shall operate, lease, rent, or occupy a bed and breakfast establishment, as that term is defined under section 30-3 of the zoning ordinance, unless there is a current, valid license issued by the Village Clerk in the name of the owner for the specific bed and breakfast establishment.
2. A license issued pursuant to this section shall be issued for a bed and breakfast establishment and shall, at all times, be displayed by the owner in a conspicuous place within the establishment.
3. The license shall only be issued upon compliance with the requirements of 30-328 of the zoning ordinance and the Village Code, after inspection by the village and shall be valid for a period of one year from the date of issuance.
4. The inspections required by (1) above shall be conducted by the Village annually prior to the issuance or re-issuance of a license and shall determine the following:
  - (i) Compliance with the State Construction Codes applicable to dwellings and lodging houses.
  - (ii) Compliance with the requirements of section 30-238 of the zoning ordinance and the Village Code.
  - (iii) Compliance with the definition of bed and breakfast establishment as set forth in section 30-3 of the zoning ordinance.
  - (iv) Compliance with such health and sanitation standards as may from time to time be enacted by the Village, St. Clair County, and/or the state.
  - (v) Compliance with all other requirements of the Code.

#### **(4) Home Occupations.**

1. The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter; but such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions:
  - a. Site Development:
    1. The non-residential use shall be incidental to the primary use of the property as a residence.
    2. No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside the property boundaries by normal senses.
    3. The home occupation shall not employ more than two (2) persons, one of whom must reside on the premises.

4. No visible outdoor storage shall be permitted.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
6. Limited retail sales may be permitted on the premises, as an incidental, rather than principal part of the home occupation. No advertising of the retail sale of goods or services produced or sold on the premises is permitted in newspaper, radio or television media.
7. The home occupation may be conducted within the dwelling unit or an accessory building. However, the home occupation shall not occupy more than twenty-five (25) percent of the gross floor area of one said dwelling unit.
8. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous material, or produce hazardous waste. Outside storage is not permitted.
9. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
10. No small or large engine repair, metal grinding or firearms sales/repairs are permitted.
11. Home occupations shall be required to provide the zoning administrator with an annual update. The annual update will include any changes made from the original permit. The zoning administrator shall make an annual inspection to ensure compliance.

(Ord. No. 100, § 6.02, 1-17-1994; Ord. No. 2003-14, § 2, 12-10-2003)

**Secs. 30-281--30-300. Reserved.**

#### **DIVISION 4.**

#### **R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT**

##### **Sec. 30-301. Purpose.**

The purpose of this district is to provide a stable and sound environment with suitable open space at a higher density. The requirements of this district are designed to protect the single-family residential character of development by restricting those uses and activities, which are not beneficial or appropriate in such an area, and by permitting construction and occupancy of single-family dwellings on relatively small-sized lots, and to continue the development pattern of established lot sizes found in the original plats of the Village. There is no intent to promote by these regulations a district of lower quality and desirability than other single-family residential districts, although a higher density of population is permitted herein.

(Ord. No. 2003-15, § 2, 12-10-2003)

**Sec. 30-302. Permitted principal uses.**

Permitted principal uses in the R-3 district are as follows:

- (1) Single-family dwellings.
- (2) State licensed residential facilities for six (6) or fewer residents.
  - a. As provided for per state statute, state licensed residential facilities means a structure constructed for residential purposes that is licensed by the state pursuant to the adult foster care facility licensing act, Act 116 of 1979, as amended, that provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.
- (3) Buildings, structures and uses which are accessory to single-family dwellings.

(Ord. No. 95-4, § 2, 12-4-1995; Ord. No. 2003-15, § 2, 12-10-2003)

**Sec. 30-303. Permitted uses with conditions in the R-3 district are as follows:**

**(1) Churches or Religious Institutions.**

- a. Location Requirements:
  1. The site shall have at least one (1) lot line on a paved road.
  2. All ingress and egress for the site shall be form a major thoroughfare.
- b. Site Requirements:
  1. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
  2. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
  3. No building shall be closer than fifty (50) feet from any lot line or right-of-way.
  4. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot from the initial fifty (50) feet for each one (1) foot of additional height above the district height limitation. The spire is excluded.
- c. Buffering Requirements:

1. Parking areas shall be screened from adjacent residential areas.
2. All exterior lighting shall be placed and/or located in such a way as to reduce all light trespass onto abutting properties.
3. Refuse containment shall be placed/located and screened.

d. Performance Standards:

1. No day care center, private school, or other accessory use shall be permitted unless all relevant permits are obtained. Separate accessory uses must receive appropriate approval.
2. Signs shall be limited to one (1) identification sign and one (1) changeable message board as long as the total of both signs, if separate, do not exceed a maximum area of thirty-six (36) sq. ft. Neither sign shall have internal lighting capability.

e. Accessory uses:

1. Columbariums are rooms or buildings with niches for funeral urns to be stored and are to be considered accessory uses to a church or other religious institution.
2. All detached accessory use buildings or structures shall be no closer than ten (10) ft. to the principal building, no closer than ten (10) ft. to the side property line and no closer than ten (10) ft. to the rear property line.
3. No detached accessory use buildings shall exceed a height of sixteen ft. six inches (16'6").

**(2) Cemeteries, Crematories and/or Mausoleums.**

a. Location Requirements:

1. All ingress and egress to the site shall be to and from a major thoroughfare.
2. The site shall not interfere with the future development of a system of collector and larger streets in the vicinity.

b. Site Requirements:

1. The minimum lot or parcel size for cemeteries, crematories, and/or mausoleums shall be twenty (20) acres.
2. No more than five (5) percent of the land area may be occupied by buildings.
3. All burial plots and all structures including but not limited to mausoleum shall be set back no less than fifty (50) feet from any lot line or right-of-way.

4. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.
5. Traffic entering or exiting the site shall be engineered to prevent off-site traffic problems. The site shall be designed to prevent queuing or staking to occur on any roadway used for access to the site.
6. Any and all lighting shall be kept to a minimum and shall never to placed/located to cause light trespass.

c. Buffering Requirements:

1. A ten (10) foot buffer zone containing screening plant materials approved by the planning commission is to be provided along all interior lot lines and shall be sufficient to achieve a screened affect.

d. Performance Standards:

1. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the St. Clair County Health Department and all applicable State requirements.

**(3) Schools: Public, Private or Parochial.**

a. Location Requirements:

1. Ingress and egress to the site shall be to and from a major thoroughfare.
2. The major thoroughfare should have a least provisions for alteration to accommodate large volumes of traffic which will be generated by the land use.
3. Driveways and internal circulation patterns shall be engineered to receive and handle large volumes of traffic.
4. The site will have additional unused land area to handle future expansion of the site to handle both building additions and parking facilities.
5. A preferential location is one which would offer natural or man-made barriers or a buffer zone; lessening the effect of intrusion of the institution onto adjoining uses.
6. Public sewer and water must be available to the site for use by this land use activity.

b. Site Requirements:

1. The minimum lot or parcel for any school type shall be no less than five (5) acres.

2. No more than twenty-five (25) percent of the land area shall be covered by buildings.
3. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
4. Service areas and/or facilities or outdoor recreation facilities shall not be located within one hundred (100) feet of a residential district or use.
5. Parking areas shall not be located within fifty (50) feet of a residential district or use.
6. Student drop-off and vehicular turn-around facilities shall be provided on the site so that such vehicles will not interfere with external or internal traffic flow. Traffic calming techniques for queuing or staking with a thoroughfare or major roadway shall be engineered into the site so as to prevent such traffic situations.
7. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
8. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

c. Buffering Requirements:

1. Parking areas shall be screened to protect surrounding residential areas by a wall or fence, in combination with suitable plant materials as needed to accomplish such screening.
2. All lighting shall be shielded away from public right-of-ways and neighboring residential properties to prevent light trespass.

d. Performance Standards:

1. All activities conducted on the site shall conform to all local, county, state and federal laws.

**(4) Village public facilities.**

Village public facilities include, but are not limited to, parks, administrative offices, fire and police facilities, libraries, museums, recreational centers, and storage areas for public equipment.

a. Location Requirements:

1. No building shall be closer than twenty-five (25) feet to any property line, road right-of-way or easement. Building placement along alley ways that exceed twenty-five (25) ft. in width may have zero lot line placement.
2. No more than thirty (30) percent of the gross lot area shall be covered by buildings.

3. Lot area and width shall not be less than that specified for the district in which the proposed use is located.
4. No building shall be erected to a greater height than that permitted in the district in which the proposed use is located.

b. Buffering Requirements:

1. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence.
2. All buildings housing mechanical equipment shall be landscaped and maintained so as not to cause a nuisance.

c. Performance Standards:

1. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same site development.
2. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions shall result. The placement of any lighting device shall not cause light trespass onto neighboring properties.
3. Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially zoned property. Principal uses shall provide for refuse containment and the containment area shall be screened.
4. Facilities shall provide off-street parking and passenger loading areas at least twenty-five (25) feet from residential lot lines.
5. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
6. Any sports fields shall be a minimum of one hundred (100) feet from any lot line and two hundred (200) feet from any dwelling.

(Ord. No. 95-4, § 2, 12-4-1995; Ord. No 2003-15, § 2, 12-10-2003.)

**Sec. 30-304. Special land uses in the R-3 district are as follows:**

- (1) Golf Courses.
- (2) Government buildings, structures, facilities and parks, other than those supported, owned and operated by the Village of Capac.

(Ord. No 2003-15, § 2, 12-10-2003.)

**Sec. 30-305. Accessory land uses in the R-3 district are as follows:**

**(1) Family day care homes.**

1. The primary regulator of day care facilities is the Department of Social Services. Their responsibilities are set forth in the Child Care Act, PA 116 of 1973 as amended. All day care facilities must provide at least thirty-five (35) sq. ft. of indoor play place per child and may only keep children for periods of less than twenty-four (24) hours per day.
  2. Family day care homes shall mean a private home in which one (1) to six (6) children are received for care and supervision, including those children less than seven (7) years old in the resident family. This number shall not include more than two (2) children less than twelve (12) months old.
  3. The ratio of care-giving staff to children: The ratio shall include children related to the caregiver staff for any children under the age of seven (7) years old.
    - (i) At any one time there shall not be less than one (1) care-giving staff member to six (6) children.
    - (ii) Within any group of five (5) or six (6) children in the care of a caregiver, not more than 4 children shall be under the age of thirty (30) months and not more than two (2) of the four (4) shall be under the age of eighteen (18) months.
- a. Site Development:
1. There must be at least four hundred (400) sq. ft. of outdoor space (on the premises or within walking distance).
  2. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet or more than six (6) feet in height capable of containing the children in the play area.
  3. No family day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely alter the peace and tranquility of the surrounding area.
  4. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
  5. Playground equipment shall not be located in the front or side yards.

6. One sign is permitted providing:

- (i) It is for identification purposes only.
- (ii) It is not illuminated in any way.
- (iii) It does not exceed four (4) sq. ft.
- (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

- 1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
- 2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

- 1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

**(2) Group day care homes.**

- 1. Group day care homes shall mean a private home where from seven (7) to twelve (12) children are received for care and supervision. This number shall not include more than two (2) children younger than two (2) years old
- 2. The ratio of care-giving staff to children: the ratio shall include children related to a caregiver staff for any children under the age of seven (7) years old.
- 3. A group home may have three (3) caregivers, each of whom would have responsibility for not more than four (4) children under the age of eighteen (18) months.

a. Site development:

- 1. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet nor more than six (6) feet in height capable of containing the children in the play area.
- 2. No group day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely alter the peace and tranquility of the surrounding area.
- 3. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.

4. Playground equipment shall not be located in the front or side yards.

5. One sign is permitted providing:

- (i) It is for identification purposes only.
- (ii) It is not illuminated in any way.
- (iii) It does not exceed four (4) sq. ft.
- (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

- 1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
- 2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

- 1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

### **(3) Bed and breakfast establishments.**

a. Building Requirements.

- 1. Applicant shall submit site and floor plans of the residential dwelling unit illustrating that the proposed operation meets all zoning ordinance requirements.
- 2. Bed and breakfast establishments shall be confined to an existing single-family dwelling unit which is the principal dwelling unit on the property.
- 3. The dwelling unit in which the bed and breakfast establishment takes place shall be the principal residence of the operator, and the operator shall live on the premises when the bed and breakfast establishment is active. The operator shall not let out the proprietor's principal residence.
- 4. Each dwelling unit utilized as a bed and breakfast establishment shall comply with the provisions of the Village Design Engineering Standards, provisions of the State Construction Code, the property Maintenance Agreement and the Fire Prevention Codes applicable to dwellings and lodging houses.
- 5. No building or structure either on the premises of the bed and breakfast establishment or on the property adjacent thereto shall be removed in order to provide for parking for the bed and breakfast establishment.
- 6. No bed and breakfast establishment shall have on its premises any restaurant which is open

- to the general public or any store, public meeting rooms or any separate gift shop.
7. No portion of the bed and breakfast establishment shall be operated in an accessory structure.
  8. All such bed and breakfast establishment shall be designed, constructed, operated and/or maintained so as to be compatible with the surrounding neighborhood.
  9. Annual inspection by the zoning administrator, fire chief and building inspector shall be required.
  10. Bed and breakfast establishments shall be limited to five (5) guest sleeping rooms.
  11. A structure or premise utilized for a bed and breakfast establishment must have at least two (2) exits to the outdoors from such structure or premise.
  12. The main structure of the bed and breakfast establishment shall have a minimum floor area space of two thousand (2,000) sq. ft., excluding garage and basement, with a maximum of forty (40%) percent of that space designated as a sleeping room unit. Sleeping rooms shall be a minimum size of one hundred (100) sq. ft. for two (2) occupants with an additional thirty (30) sq. ft. for each additional occupant, to a maximum of four (4) occupants per room if that sleeping room unit has a private bathroom.
  13. Each sleeping room in the bed and breakfast establishment shall have a separate smoke detector alarm.
  14. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast establishment.
  15. In no case shall there be fewer than two (2) shared bathrooms for every four (4) sleeping rooms.

b. Site development.

1. Minimal outward modification of the structure may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which the bed and breakfast establishment is located.
2. Refuse container areas shall be a minimum of fifteen (15) sq. ft. and have an overall height of not more than five (5) feet. Curbside refuse disposal is permitted and all such storage containers must be contained in a screened in area.
3. Cyclone fencing is prohibited for any use.

c. Parking requirements.

1. Security lighting shall be limited to parking areas; residential lighting design is to be used to

minimize the impact on adjacent properties. A maximum height for all lighting fixtures shall be restricted to a height of fifteen (15) feet.

2. One off-street parking space shall be provided for the owner/occupant.
3. Required parking shall be located only in the side and rear yard areas.
4. One parking space shall be required for each sleeping room.

d. Signs.

1. A bed and breakfast establishment shall be permitted only one non-animated non-illuminated exterior sign which is to be attached to the principal structure. The maximum sign area is six (6) sq. ft.

e. Additional conditions.

1. Guest Register: Each operator shall keep a list of names and dates of stay of all persons staying at the bed and breakfast establishment. Such list shall be available for inspection by the Village officials at any time.
2. Length of Stay: The maximum length of stay for all customers of a bed and breakfast establishment shall be fourteen (14) continuous days.

f. License for Bed and Breakfast Establishments

1. Required Inspections: No person shall operate, lease, rent, or occupy a bed and breakfast establishment, as that term is defined under section 30-3 of the zoning ordinance, unless there is a current, valid license issued by the Village Clerk in the name of the owner for the specific bed and breakfast establishment.
2. A license issued pursuant to this section shall be issued for a bed and breakfast establishment and shall, at all times, be displayed by the owner in a conspicuous place within the establishment.
3. The license shall only be issued upon compliance with the requirements of 30-328 of the zoning ordinance and the Village Code, after inspection by the village and shall be valid for a period of one year from the date of issuance.
4. The inspections required by (1) above shall be conducted by the Village annually prior to the issuance or re-issuance of a license and shall determine the following:
  - (i) Compliance with the State Construction Codes applicable to dwellings and lodging houses.
  - (ii) Compliance with the requirements of section 30-238 of the zoning ordinance and the Village Code.

- (iii) Compliance with the definition of bed and breakfast establishment as set forth in section 30-3 of the zoning ordinance.
- (iv) Compliance with such health and sanitation standards as may from time to time be enacted by the Village, St. Clair County, and/or the state.
- (v) Compliance with all other requirements of the Code.

#### **(4) Home Occupations.**

1. The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter; but such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions:

a. Site Development:

1. The non-residential use shall be incidental to the primary use of the property as a residence.
2. No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside the property boundaries by normal senses.
3. The home occupation shall not employ more than two (2) persons, one of whom must reside on the premises.
4. No visible outdoor storage shall be permitted.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
6. Limited retail sales may be permitted on the premises, as an incidental, rather than principal part of the home occupation. No advertising of the retail sale of goods or services produced or sold on the premises is permitted in newspaper, radio or television media.
7. The home occupation may be conducted within the dwelling unit or an accessory building. However, the home occupation shall not occupy more than twenty-five (25) percent of the gross floor area of one said dwelling unit.
8. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous material, or produce hazardous waste. Outside storage is not permitted.
9. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.

10. No small or large engine repair, metal grinding or firearms sales/repairs are permitted.
11. Home occupations shall be required to provide the zoning administrator with an annual update. The annual update will include any changes made from the original permit. The zoning administrator shall make an annual inspection to ensure compliance.

(Ord. No 2003-15, § 2, 12-10-2003.)

**Secs. 30-306--30-325. Reserved.**

## **DIVISION 5.**

### **RM RESIDENTIAL MULTIPLE-FAMILY DISTRICT**

#### **Sec. 30-326. Purpose.**

The RM Residential Multiple-Family District is intended to be the highest density residential district allowing multiple-family dwelling units, along with other residentially related facilities. The district is intended to permit dwelling units to be arranged either side by side or one above the other in a low density, multiple-family fashion. Such developments are intended to provide sufficient open space area to make them compatible with surrounding land uses and to provide for their residents an environment that is more than merely physically safe and healthy.

(Ord. No. 100, § 7.01, 1-17-1994; Ord. No. 2003-12, §2, 10-29-2003)

#### **Sec. 30-327. Permitted Principal uses.**

Permitted principal uses in the RM district are as follows:

- (1) Duplex dwellings.
- (2) Apartment buildings.
- (3) Conventional site condominium units.
- (4) Single-family dwellings (subject to section 30-9).
- (5) State licensed residential facilities for six (6) or fewer residents.
  - a. As provided for per state statute, state licensed residential facilities means a structure constructed for residential purposes that is licensed by the state pursuant to the adult foster care facility licensing act, Act 116 of 1979, as amended, that provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care.

(6) Site condominium developments

(7) Buildings, structures and uses which are accessory to any of the permitted uses in this section.

(Ord. No. 100, § 7.02, 1-17-1994; Ord. No. 2003-12, §2, 10-29-2003)

**Secs. 30-328 Permitted land uses with conditions.**

Permitted land uses with conditions are as follows:

**(1) Bed and breakfast establishments.**

a. Building Requirements.

1. Applicant shall submit site and floor plans of the residential dwelling unit illustrating that the proposed operation meets all zoning ordinance requirements.
2. Bed and breakfast establishments shall be confined to an existing single-family dwelling unit which is the principal dwelling unit on the property.
3. The dwelling unit in which the bed and breakfast establishment takes place shall be the principal residence of the operator, and the operator shall live on the premises when the bed and breakfast establishment is active. The operator shall not let out the proprietor's principal residence.
4. Each dwelling unit utilized as a bed and breakfast establishment shall comply with the provisions of the Village Design Engineering Standards, provisions of the State Construction Code, the property Maintenance Agreement and the Fire Prevention Codes applicable to dwellings and lodging houses.
5. No building or structure either on the premises of the bed and breakfast establishment or on the property adjacent thereto shall be removed in order to provide for parking for the bed and breakfast establishment.
6. No bed and breakfast establishment shall have on its premises any restaurant which is open to the general public or any store, public meeting rooms or any separate gift shop.
7. No portion of the bed and breakfast establishment shall be operated in an accessory structure.
8. All such bed and breakfast establishments shall be designed, constructed, operated and/or maintained so as to be compatible with the surrounding neighborhood.
9. Annual inspection by the zoning administrator, fire chief and building inspector shall be required.

10. Bed and breakfast establishments shall be limited to five (5) guest sleeping rooms.
11. A structure or premise utilized for a bed and breakfast establishment must have at least two (2) exits to the outdoors from such structure or premise.
12. The main structure of the bed and breakfast establishment shall have a minimum floor area space of two thousand (2,000) sq. ft., excluding garage and basement, with a maximum of forty (40%) percent of that space designated as a sleeping room unit. Sleeping rooms shall be a minimum size of one hundred (100) sq. ft. for two (2) occupants with an additional thirty (30) sq. ft. for each additional occupant, to a maximum of four (4) occupants per room if that sleeping room unit has a private bathroom.
13. Each sleeping room in the bed and breakfast establishment shall have a separate smoke detector alarm.
14. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast establishment.
15. In no case shall there be fewer than two (2) shared bathrooms for every four (4) sleeping rooms.

b. Site development.

1. Minimal outward modification of the structure may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which the bed and breakfast establishment is located.
2. Refuse container areas shall be a minimum of fifteen (15) sq. ft. and have an overall height of not more than five (5) feet. Curbside refuse disposal is permitted and all such storage containers must be contained in a screened in area.
3. Cyclone fencing is prohibited for any use.
4. Outside storage is not permitted.

c. Parking requirements.

1. Security lighting shall be limited to parking areas; residential lighting design is to be used to minimize the impact on adjacent properties. A maximum height for all lighting fixtures shall be restricted to a height of fifteen (15) feet.
2. One off-street parking space shall be provided for the owner/occupant.
3. Required parking shall be located only in the side and rear yard areas.
4. One parking space shall be required for each sleeping room.

d. Signs.

1. A bed and breakfast establishment shall be permitted only one non-animated non-illuminated exterior sign which is to be attached to the principal structure. The maximum sign area is six (6) sq. ft.

e. Additional conditions.

1. Guest Register: Each operator shall keep a list of names and dates of stay of all persons staying at the bed and breakfast establishment. Such list shall be available for inspection by the Village officials at any time.
2. Length of Stay: The maximum length of stay for all customers of a bed and breakfast establishment shall be fourteen (14) continuous days.

f. License for Bed and Breakfast Establishments

1. Required Inspections: No person shall operate, lease, rent, or occupy a bed and breakfast establishment, as that term is defined under section 30-3 of the zoning ordinance, unless there is a current, valid license issued by the Village Clerk in the name of the owner for the specific bed and breakfast establishment.
2. A license issued pursuant to this section shall be issued for a bed and breakfast establishment and shall, at all times, be displayed by the owner in a conspicuous place within the establishment.
3. The license shall only be issued upon compliance with the requirements of 30-328 of the zoning ordinance and the Village Code, after inspection by the village and shall be valid for a period of one year from the date of issuance.
4. The inspections required by (1) above shall be conducted by the Village annually prior to the issuance or re-issuance of a license and shall determine the following:
  - (i) Compliance with the State Construction Codes applicable to dwellings and lodging houses.
  - (ii) Compliance with the requirements of section 30-238 of the zoning ordinance and the Village Code.
  - (iii) Compliance with the definition of bed and breakfast establishment as set forth in section 30-3 of the zoning ordinance.
  - (iv) Compliance with such health and sanitation standards as may from time to time be enacted by the Village, St. Clair County, and/or the state.
  - (v) Compliance with all other requirements of the Code.

**(2) Home Occupations.**

1. The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter; but such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions:

- a. Site Development:

1. The non-residential use shall be incidental to the primary use of the property as a residence.
2. No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside the property boundaries by normal senses.
3. The home occupation shall not employ more than two (2) persons, one of whom must reside on the premises.
4. No visible outdoor storage shall be permitted.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
6. Limited retail sales may be permitted on the premises, as an incidental, rather than principal part of the home occupation. No advertising of the retail sale of goods or services produced or sold on the premises is permitted in newspaper, radio or television media.
7. The home occupation may be conducted within the dwelling unit or an accessory building. However, the home occupation shall not occupy more than twenty-five (25) percent of the gross floor area of one floor of said dwelling unit.
8. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous material, or produce hazardous waste. Outside storage is not permitted.
9. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
10. No small or large engine repair, metal grinding or firearms sales/repairs are permitted.
11. Home occupations shall be required to provide the zoning administrator with an annual update. The annual update will include any changes made from the original permit. The zoning administrator shall make an annual inspection to ensure compliance.

**(3) Family day care homes.**

1. The primary regulator of day care facilities is the Department of Social Services. Their responsibilities are set forth in the Child Care Act, PA 116 of 1973 as amended. All day care facilities must provide at least thirty-five (35) sq. ft. of indoor play place per child and may only keep children for periods of less than twenty-four (24) hours per day.
2. Family day care homes shall mean a private home in which one (1) to six (6) children are received for care and supervision, including those children less than seven (7) years old in the resident family. This number shall not include more than two (2) children less than twelve (12) months old.
3. The ratio of care-giving staff to children: The ratio shall include children related to the caregiver staff for any children under the age of seven (7) years old.
  - (i) At any one time there shall not be less than one (1) care-giving staff member to six (6) children.
  - (ii) Within any group of five (5) or six (6) children in the care of a caregiver, not more than four (4) children shall be under the age of thirty (30) months and not more than two (2) of the four (4) shall be under the age of eighteen (18) months.

a. Site Development:

1. There must be at least four hundred (400) sq. ft. of outdoor space (on the premises or within walking distance).
2. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet or more than six (6) feet in height capable of containing the children in the play area.
3. No family day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof of the specific findings by the Board that the resulting concentration of uses will not adversely affect the peace and tranquility of the surrounding area.
4. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
5. Playground equipment shall not be located in the front or side yards.
6. Outside storage is not permitted.
7. One sign is permitted providing:

- (i) It is for identification purposes only.
- (ii) It is not illuminated in any way.
- (iii) It does not exceed four (4) sq. ft.
- (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

**(4) Group day care homes.**

1. Group day care homes shall mean a private home where from seven (7) to twelve (12) children are received for care and supervision. This number shall not include more than two (2) children younger than two (2) years old
2. The ratio of care-giving staff to children: The ratio shall include children related to a caregiver staff for any children under the age of seven (7) years old.
3. A group home may have three (3) caregivers, each of whom would have responsibility for not more than four (4) children under the age of eighteen (18) months.

a. Site development:

1. All outdoor play areas shall be enclosed with a fence of no less than four (4) feet nor more than six (6) feet in height capable of containing the children in the play area.
2. No group day care home may operate within a distance of seven hundred (700) feet from any existing registered family day care home or group day care home, measured from the nearest property line of the proposed use to the nearest property line of the existing use, except upon review and approval of the Zoning Board of Appeals as provided for in section 30-147 and upon proof and specific findings by the Board that the resulting concentration of uses will not adversely affect the peace and tranquility of the surrounding area.
3. An off-street drop-off area is to be provided with the capability to accommodate at least three (3) automobiles in addition to the parking normally required for the residence. A driveway may be used for this provision.
4. Playground equipment shall not be located in the front or side yards.

5. Outside storage is not permitted.
6. One sign is permitted providing:
  - (i) It is for identification purposes only.
  - (ii) It is not illuminated in any way.
  - (iii) It does not exceed four (4) sq. ft.
  - (iv) It shall be mounted flush to the principal structure.

b. Performance Standards:

1. The day care facility shall not operate between the hours of 7 p.m. and 6 a.m.
2. Operation and maintenance shall conform to existing applicable county and state regulations.

c. Annual Inspection:

1. All home occupation permits issued shall receive an annual inspection on the date of the original approval.

## **(5) Churches or Religious Institutions**

a. Location Requirements:

1. The site shall have at least one (1) lot line on a paved road.
2. All ingress and egress for the site shall be from a major thoroughfare.

b. Site Requirements:

1. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
2. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty (60) percent of the site shall be covered by impervious surface.
3. No building shall be closer than fifty (50) feet from any lot line or right-of-way.
4. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back an additional one (1) foot from the initial fifty (50) feet for each one (1) foot of additional height above the district height limitation. The spire is excluded.

c. Buffering Requirements:

1. Parking areas shall be screened from adjacent residential areas.

2. All exterior lighting shall be placed and/or located in such a way as to reduce all light trespass onto abutting properties.

3. Refuse containment shall be placed/located and screened.

4. Outside storage is not permitted.

d. Performance Standards:

1. No day care center, private school, or other accessory use shall be permitted unless all relevant permits are obtained. Separate accessory uses must receive appropriate approval.

2. Signs shall be limited to one (1) identification sign and one (1) changeable message board as long as the total of both signs, if separate, do not exceed a maximum area of thirty-six (36) sq. ft. Neither sign shall have internal lighting capability.

e. Accessory uses:

1. Columbariums are rooms or buildings with niches for funeral urns to be stored and are to be considered accessory uses to a church or other religious institution.

2. All detached accessory use buildings or structures shall be no closer than ten (10) ft. to the principal building, no closer than ten (10) ft. to the side property line and no closer than ten (10) ft. to the rear property line.

3. No detached accessory use buildings shall exceed a height of sixteen feet six inches (16'6").

4. Lighting for all accessory use buildings or structures shall not cause any light trespass onto adjacent properties.

**(6) Cemeteries, Crematories and/or Mausoleums.**

a. Location Requirements:

1. All ingress and egress to the site shall be to and from a major thoroughfare.

2. The site shall not interfere with the future development of a system of collector and larger streets in the vicinity.

b. Site Requirements:

1. The minimum lot or parcel size for cemeteries, crematories, and/or mausoleums shall be twenty (20) acres.

2. No more than five (5) percent of the land area may be occupied by buildings.

3. All burial plots and all structures including but not limited to mausoleums shall be set back no less than fifty (50) feet from any lot line or right-of-way.
4. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.
5. Traffic entering or exiting the site shall be engineered to prevent off-site traffic problems. The site shall be designed to prevent queuing or staking to occur on any roadway used for access to the site.
6. Any and all lighting shall be kept to a minimum and shall never be placed/located to cause light trespass.
7. Outside storage is not permitted.

c. Buffering Requirements:

1. A ten (10) foot buffer zone containing screening plant materials approved by the planning commission is to be provided along all interior lot lines and shall be sufficient to achieve a screened affect.

d. Performance Standards:

1. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the St. Clair County Health Department and all applicable State requirements.

**(7) Schools: Public, Private or Parochial.**

a. Location Requirements:

1. Ingress and egress to the site shall be to and from a major thoroughfare.
2. The major thoroughfare should have a least provisions for alteration to accommodate large volumes of traffic which will be generated by the land use.
3. Driveways and internal circulation patterns shall be engineered to receive and handle large volumes of traffic.
4. The site will have additional unused land area to handle future expansion of the site to handle both building additions and parking facilities.
5. A preferential location is one which would offer natural or man-made barriers or a buffer zone; lessening the effect of intrusion of the institution onto adjoining uses.

6. Public sewer and water must be available to the site for use by this land use activity.

b. Site Requirements:

1. The minimum lot or parcel for any school type shall be no less than five (5) acres.
2. No more than twenty-five (25) percent of the land area shall be covered by buildings.
3. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
4. Service areas and/or facilities or outdoor recreation facilities shall not be located within one hundred (100) feet of a residential district or use.
5. Parking areas shall not be located within fifty (50) feet of a residential district or use.
6. Student drop-off and vehicular turn-around facilities shall be provided on the site so that such vehicles will not interfere with external or internal traffic flow. Traffic calming techniques for queuing or staking with a thoroughfare or major roadway shall be engineered into the site so as to prevent such traffic situations.
7. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
8. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

c. Buffering Requirements:

1. Parking areas shall be screened to protect surrounding residential areas by a wall or fence, in combination with suitable plant materials as needed to accomplish such screening.
2. All lighting shall be shielded away from public right-of-ways and neighboring residential properties to prevent light trespass.

d. Performance Standards:

1. All activities conducted on the site shall conform to all local, county, state and federal laws.
2. All outside storage is not permitted.

(Ord. No. 2003-12, §2, 10-29-2003)

**Sec. 30-329. Special land uses.**

Special land uses in the RM district are as follows:

- (1) Golf courses.
- (2) Hospitals and convalescent homes and/or assisted living care facilities.
- (3) Child care center: a facility other than a private home where one (1) or more children are received for care and supervision. There must be at least 1,200 sq. ft. of safe, outdoor play area and a minimum of two (2) staff persons. Pre-school and day nurseries also fit into this category.
- (4) State licensed residential facilities (small group homes) for seven (7) to twelve (12) residents.
  - a. Location Requirements:
    1. Adult foster care large group homes are permitted with conditions in urban residential districts.
    2. The lot shall be at least 1,500 feet from any other state licensed residential facility.
    3. Minimum lot size shall meet the requirements of the district, but in no case shall be less than one acre in size.
  - b. Site Requirements:
    1. Designated passenger loading/unloading areas shall be provided near a barrier-free entrance to the facility.
    2. A designated loading/unloading area for delivery vehicles shall be provided.
    3. The applicant shall demonstrate to the satisfaction of the planning commission that adequate off-street parking will be provided.
    4. All outside storage is not permitted.
  - c. Buffer Requirements:
    1. Property lines which abut a less intense residential district or use shall be screened.
    2. Parking areas and delivery vehicle loading/unloading areas shall be screened.

(Ord. No. 2003-12, §2, 10-29-2003)

### **Sec. 30-330. Site development requirements.**

All principal uses, permitted uses with conditions and special land uses are subject to the following site development requirements:

- a. General provisions in accordance with Article I. In General.

- b. Dimensional requirements in accordance with Article IV. Area, Setback and Height Requirements.
- c. Site plan review as may be required in accordance with Article VII Site Plan Review Requirements.
- d. Off-street parking as may be required in accordance with Article V. Parking and Loading Requirements.
- e. Engineering design standards for any private and/or public road/street, drive/driveway, service drive, or sidewalk in accordance with the engineer and design standards and the private road ordinance.
- f. Landscaping, greenbelts, screening, and plant materials in accordance with Article IX Landscaping standards.
- g. Signs as permitted in accordance with the requirements of Article VIII.
- h. Lighting shall be placed so as not to produce a trespass onto adjacent properties.
- i. The common open space shall be used for social, recreational, and/or natural preservation. Common open space within a multiple-family district shall be of a distinct geometric shape, generally rectilinear or square. The common open space shall include landscaping, sidewalks, pedestrian benches and pedestrian scale lampposts.
- j. Site design shall demonstrate a special sensitivity to pedestrian circulation and safety.
- k. Sidewalks at least five (5') feet wide, and at least seven (7') feet wide where abutting parking, shall be provided along public streets and private roads.
- l. All development shall provide pedestrian linkages between public sidewalks and the building entrances.
- m. Traffic volumes generated by the use shall not have a negative impact on surrounding residential character.
- n. Location and use of yards shall contribute to the continuation of open space areas within the immediate area.
- o. Location and design of landscaping and pedestrian areas shall be compatible with and enhance the area of pedestrian and open space.
- p. Locations, scale and design of signs shall be consistent with the character of other signs, street elements and uses located along the same street.
- q. Location, size and types of architectural projections such as porches or awnings shall be

compatible with other structures along the same block.

- r. Planning Commission may consider alternative dimensional setback requirements in order to provide:
  - 1. Varied Front setbacks: Placement of homes and garages close to or back from the street to create different patterns of visible open space.
  - 2. Interruption of Straight Streets: The placement of street knuckles or cul-de-sacs to limit the length of a straight street.
  - 3. Varied Side Yard Setbacks: Allow varying the distance between adjoining homes, or between homes and fences, in order to produce different types of yards and private patio areas.

(Ord. No. 2003-12, §2, 10-29-2003)

### **Sec. 30-331. Basis of determinations.**

The Village Planning Commission shall review the proposed special use in terms of the standards stated within this Chapter and shall establish that such use and the proposed location is:

- A. Compatibility with the Master Plan: Will be harmonious and in accordance with the general objectives or any specific objectives of the Village Master Plan.
- B. Compatibility with Surrounding Area: Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will not change the essential character of the area, and will not be hazardous or disturbing to existing or future nearby uses. In determining whether a special land use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the special land use may have on adjacent property, as compared with the expected value to the community. The following types of impacts shall be considered:
  - 1. Use activities, process, materials, equipment or conditions of operation;
  - 2. Vehicular circulation and parking areas;
  - 3. Outdoors activity, storage and work areas;
  - 4. Hours of operations;
  - 5. The relationship with neighboring land uses and activities and property value impacts;
  - 6. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;
  - 7. The relative ease by which the impacts above will be mitigated.
- C. Improvement to the Immediate Vicinity: Will there be an improvement to the area of the proposed request and to the Village as a whole.
- D. Preserve the natural lay of the land: Ensure that landscaping shall be preserved in its natural state,

insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

- E. **Maintain Surface Storm Control:** Ensure that special attention shall be given to proper site surface drainage so that the control and/or removal of storm water will not adversely affect neighboring properties.
- F. **Prevent Light Trespass:** Ensure that all exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
- G. **Impact of Traffic on the Right-of-Way System:** The location and design of the proposed special land use shall minimize the negative impact on the right-of-way system in consideration of items such as vehicle trip generation, types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The Village may require submittal of a traffic impact study to ensure compliance with these standards. Such a traffic study shall be in accordance with standard practices and procedures, and prepared by a qualified traffic professional. The Village may require mitigation to maintain traffic operations at a level that is consistent with other types of permitted land uses in the district. Construction nuisance issues related to traffic, such as dust and debris, may be imposed during construction to minimize negative traffic impacts.
- H. **Public Services Impact:** Will there be adequate and essential public services and facilities. The use will not create excessive additional public costs and will not be detrimental to the economic welfare of the Village. Public services shall include, but not limited to, streets, pedestrian paths, police and fire protection, drainage systems, water and sewer facilities, and schools.
- I. **Compliance with the Zoning Ordinance Standards:** Will it be consistent with the intent and purpose of this Chapter and be designed, constructed, operated, and maintained to meet the stated intent of the zoning district.
- J. **Conform to all Applicable Laws:** Ensure compliance with all state and federal requirements for the use.

(Ord. No. 2003-12, §2, 10-29-2003)

**Secs. 30-332--30-350. Reserved.**

## **DIVISION 6.**

### **MHP MOBILE HOME PARK DISTRICT**

**Sec. 30-351. Permitted principal uses.**

Permitted principal uses in the MHP district are as follows:

- (1) One-family detached dwellings, subject to restrictions and regulations found in section 30-9.
- (2) Mobile home parks, subject to the requirements as established and regulated by the mobile home commission, pursuant to Public Act No. 96 of 1987 (MCL 125.2301 et seq., MSA 19.855(101) et seq.), as well as all other applicable village codes and ordinances referenced herein.
- (3) Mobile home condominium projects, subject to the requirements of Public Act No. 59 of 1978 (MCL 559.101 et seq., MSA 26.50(101) et seq.).
- (4) Clubhouse, swimming pool and recreation facilities for use by park residents. Accessory uses and structures such as manager's office, laundry facilities, tool and storage sheds, and other services for the residents of the park shall be permitted.
- (5) Adequate parking for such services shall be provided as required by the state mobile home commission rules.
- (6) The park proprietor or manager may display for sale mobile homes and accessories, provided that the accessories are contained within a mobile home or an approved permanent structure for such purpose. Such sales are allowed to permit the development of the park but are not to be used as a mobile home and accessory retail sale operation.
- (7) One sign, not larger than thirty-two (32) square feet in area, for identification of the premises and use (without additional advertising) may be placed at the main entrance of the mobile home park. One (1) sign, not larger than ten (10) square feet, limited to the same identification contained on the entrance sign, may be erected on any secondary entrance to the mobile home park adjoining a public road. The identification sign shall be a part of a permanent decorative entranceway and shall be compatible with the surrounding area. All signs shall observe the height and setback requirements of this MHP district.

(Ord. No. 100, § 8.01, 1-17-1994)

### **Sec. 30-352. Special land uses.**

The following uses may be permitted in the MHP district by the planning commission upon a finding that the use and plans satisfy the conditions as may be imposed to carry out the purposes of this chapter: Any permitted uses subject to special approval permitted in section 30-277, subject to the regulations of that section. (Ord. No. 100, § 8.02, 1-17-1994)

### **Sec. 30-353. Schedule of regulations.**

(a) *Lot size.* The mobile home park shall be developed with sites averaging five thousand five hundred (5,500) square feet per mobile home unit. This five thousand five hundred (5,500) square feet for any one (1) site may be reduced by twenty (20) percent, provided that the individual site shall be equal to at least four thousand four hundred (4,400) square feet. For each square foot of land gained through a reduction of a site below five thousand five hundred (5,500) square feet, at least an equal amount of land shall be dedicated as open space; but in no case shall the open space and distance requirements be less than that required under R125.1946, rule 946 and R125.1941, rules 941 and 944 of the Michigan Administrative Code.

(b) *Perimeter yard setbacks.* No mobile home in the MHP district shall be located closer than ninety (90) feet from the centerline of any abutting public road. Minimum yard setbacks of twenty-five (25) feet shall be observed from all other perimeter property lines.

(c) *Floor space.* There shall be not less than seven hundred twenty (720) square feet of floor area within each mobile home in the MHP district. The floor area of any porch, sundeck or other structure shall not be used to meet the seven hundred twenty-foot requirement.

(d) *Internal yard setbacks.* The placement of mobile homes within a mobile home park shall observe, in addition to those requirements contained in section 30-461, the following setback requirements:

- (1) Twenty (20) feet from any part or attached structure of another mobile home which is used for living purposes.
- (2) Ten (10) feet from an onsite parking space of an adjacent mobile home site.
- (3) Ten (10) feet from an attached or detached structure or accessory building which is not used for living purposes.
- (4) Fifty (50) feet from a permanent building.
- (5) Ten (10) feet from the edge of an internal road.
- (6) Seven and one-half (7 1/2) feet from a parking bay.
- (7) Seven (7) feet from a common pedestrian walkway.

(e) *Maximum heights.* The maximum height of any clubhouse or accessory building in the MHP district shall not exceed twenty-five (25) feet, or two (2) stories in height. Storage or service buildings shall not exceed fifteen (15) feet, or one (1) story in height.  
(Ord. No. 100, § 8.03, 1-17-1994)

### **Sec. 30-354. Development standards.**

Development standards in the MHP district are as follows:

- (1) *Minimum site size.* Each mobile home park must have a site of not less than fifteen (15) acres of land.
- (2) *Access to public roads.* All mobile home parks or mobile home park condominiums shall have direct access to an existing or planned major thoroughfare, as designated in the master plan for the village, with a paved surface and a right-of-way width greater than sixty-six (66) feet. All access to the park shall be from such major thoroughfares, and shall not be through existing single-family residential streets. There shall be two (2) entrances or one (1) entrance and one (1) exit for motor vehicle traffic. Two (2) access points shall be provided to the major thoroughfare

to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of interior park roads shall be interpreted as satisfying this subsection.

- (3) *Paving.* All internal roads and parking facilities in the MHP district shall be provided with a paved surface in compliance with standards of the AASHTO specifications referenced in rule 922 of the Mobile Home Commission Rules. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to prevent the drainage of water onto adjacent property or toward buildings. No portions of any off-street parking area may be allowed to encroach into sidewalk areas.
- (4) *Parking.* A minimum of two (2) off-street parking spaces shall be provided for each mobile home unit. Such parking shall be located convenient to the area served.
- (5) *Sidewalks.* Concrete sidewalks, which meet the standards established in rule 928 of the state mobile home commission rules, shall be installed along at least one (1) side of all internal roads to the public right-of-way and to all service facilities including, but not limited to: central laundry, central parking and central recreation/park areas. Sidewalks shall also be required along that portion of a site fronting along major thoroughfares.
- (6) *Plumbing, electrical and television.* All electrical and telephone wiring shall be underground. Where a master antenna is provided, service shall be constructed and maintained with underground leads servicing each mobile home site. All mobile home units shall be provided with an opportunity for access to the village's franchised cable television service.
- (7) *Skirting.* Skirting shall be installed around all mobile homes. Such skirting shall be compatible aesthetically with the appearance and construction of the mobile homes. All skirting shall be installed prior to the issuance of a certificate of occupancy. If such installation is delayed due to weather or other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed ninety (90) days. All skirting shall meet the specifications established by the state mobile home commission.
- (8) *Storage.* There shall be no storage of any kind permitted under a mobile home; nor shall any outside storage be permitted. The developer shall provide a central storage facility or shall permit or provide individual utility cabinets for each mobile home site. Any utility cabinets placed on individual mobile home sites shall be maintained in good condition and kept painted. Utility cabinets shall be placed in side or rear yard areas.
- (9) *Fuel tanks.* Individual fuel oil, liquid petroleum or other fuel tanks shall not be permitted to be stored in or under any mobile home unit in a mobile home park.
- (10) *Storage/parking.* If boats, boat trailers, recreational vehicles and utility trailers are permitted to be parked within a mobile home park, adequate spaces for parking such vehicles shall be provided in a central or collective parking area. This area shall be in addition to the automobile parking requirements found in section 30-497 and shall be adequately fenced, locked or secured and visually buffered.

- (11) *Lighting.* Service roadway and parking lights shall be installed so as to permit the safe movement of vehicles and pedestrians at night. All lighting shall be so located and shielded as to direct light away from adjacent properties. All site lighting shall meet the requirements of the state mobile home commission rules.
- (12) *Site plans.* In accordance with sections 11, 12 and 13 of the Mobile Home Commission Act, Public Act No. 96 of 1987 (MCL 125.2301 et seq., MSA 19.855(101) et seq.), a person desiring to develop a mobile home park shall submit a preliminary plan to the village planning commission for review and approval. The preliminary plan shall include the location, layout, general design and a general description of the project. The preliminary plan does not need to include detailed construction plans.
- (13) *Screening.* Whenever a mobile home park site adjoins a site either zoned or developed for single-family purposes, there shall be installed on the park site, screening consisting of a decorative masonry or greenbelt and plant materials as specified in section 30-12.
- (14) *Permits.* A building and an occupancy permit shall be required for each mobile home located or relocated in a mobile home park, subdivision or condominium project. A building permit and approved site plan shall be required for any other structure.

(Ord. No. 100, § 8.04, 1-17-1994)

**Secs. 30-355--30-375. Reserved.**

## DIVISION 7.

### CBD CENTRAL BUSINESS DISTRICT\*

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\* **Cross References:** Businesses, ch. 8.

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**Sec. 30-376. Permitted principal uses.**

In a central business district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this section:

- (1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions or hardware.
- (2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shop (watches, radio, television, shoe, and

etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

- (3) Restaurants and taverns where the patrons are served while being seated within the building occupied by such establishment, and wherein said establishment does not extend as an integral part of, or accessory thereto, any service of a drive-in or open front store.
- (4) Theaters when completely enclosed.
- (5) Offices and office buildings of an executive, administrative or professional nature.
- (6) Banks, credit unions, savings and loan associations, with drive-in facilities permitted when said drive-in facilities are incidental to the principal function.
- (7) Municipal buildings and post office.
- (8) Offices and showrooms of plumbers, electricians, decorator or similar trades, in connection with which not more than twenty-five (25) percent of the floor area of the building or part of the building occupied by such establishment is used for making, assembling, remodeling, repairing, altering, finishing, or refurbishing its products or merchandise, and provided that: the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of materials of any kind shall be within the confines of the building or part thereof occupied by said establishment.
- (9) Business schools, or private schools, operated for profit, examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools, and art studios.
- (10) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment.
- (11) 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 nonperishable 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 a completely enclosed building.
  - (c) Outdoor storage of commodities shall be expressly prohibited unless they are completely stored on privately owned property and in no case shall any commodities be stored on public property. Outdoor storage of commodities shall also be allowed in the rear of the buildings on privately owned property and in no case shall commodities be stored on public property or public rights of way. There shall be no "sidewalk sales" except in

conjunction with Capac Days Festival.

(12) Accessory structures customarily incidental to the above permitted uses.  
(Ord. No. 100, § 9.01, 1-17-1994; Ord. No. 2000-04, § 1, 6-05-00)

**Sec. 30-377. Special land uses.**

- (a) Theaters, assembly halls, concert halls or similar places of assembly.
- (b) Open air retail sales.
- (c) Automotive service stations or body shops.
- (d) Video arcades, billiard halls, bowling alleys and similar recreational facilities.
- (e) Funeral homes.
- (f) Parking lots and parking structures.
- (g) Hotels, motels and bed and breakfast dwellings.
- (h) Apartments above business establishments subject to the following:
  - (1) Off-street parking shall be required in accordance with section 30-497.
  - (2) Off-street parking shall be either on the same lot or within five hundred (500) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

(Ord. No. 100, § 9.02, 1-17-1994; Ord. No. 2000-04, § 1, 6-5-00)

**Secs. 30-378--30-400. Reserved.**

**DIVISION 8.**

**C COMMERCIAL DISTRICT\***

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\* **Cross References:** Businesses, ch. 8.

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**Sec. 30-401. Permitted principal uses.**

Permitted principal uses in the C district are as follows:

- (1) Any retail business or service establishment permitted in the CBD districts pursuant to section

30-376.

- (2) Building material sales, provided any outdoor storage is screened from view from any public street and from any land zoned for residential purposes.
  - (3) Funeral homes.
  - (4) Veterinary clinics and hospitals.
  - (5) Laundromats and dry cleaning establishments.
  - (6) Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations, excluding storage yards; water and sewage pumping stations.
  - (7) Establishments of electricians, plumbers, heating contractors, painters, etc., in conjunction with a retail sales operation.
  - (8) Open air retail sales of plant material and sales of lawn furniture, playground equipment and supplies, provided that such sales area is in conjunction with indoor sales of the same general type.
  - (9) Hotels and motels.
  - (10) Rental establishments.
  - (11) Banquet halls, video arcades, bowling alleys, billiard halls and similar facilities.
  - (12) Buildings, structures and uses which are accessory to the permitted uses in this section.
- (Ord. No. 100, § 10.01, 1-17-1994)

**Sec. 30-402. Special land uses.**

Special land uses in the C district are as follows:

- (1) Motor vehicle washing facilities, subject to the following conditions:
  - a. All washing operations shall be completely enclosed within a building.
  - b. A hard-surfaced driveway of one (1) or more lanes shall be constructed on the parcel in such a manner as to provide for a continuous movement of cars into the wash rack.
  - c. Each lane of any driveway so provided shall be not less than ten (10) feet wide.
- (2) Motor vehicle repair and service facilities, subject to the following conditions:

- a. All activities shall be conducted in an enclosed building.
- b. All buildings shall be set back not less than forty (40) feet from all street right-of-way lines.
- c. No signs, storage or display of any kind shall be allowed within the street right-of-way.
- d. There shall be no parking of damaged or junk motor vehicles or parts on a temporary basis not to exceed seventy-two (72) hours.

(3) New or used automobile and truck sales, subject to the following conditions:

- a. Major repair or refinishing shops shall be permitted as accessory when conducted entirely within an enclosed building.
- b. No outside storage of discarded or salvaged materials, junk vehicles or junk parts shall be permitted on the premises.
- c. The outside display of new and used automobiles and trucks shall be permitted provided such storage area shall occupy no more than thirty-five (35) percent of the property on which the housing is located.

(4) Drive-in or open-air restaurants.

(Ord. No. 100, § 10.02, 1-17-1994)

**Secs. 30-403--30-424. Reserved.**

## **DIVISION 9.**

### **I INDUSTRIAL DISTRICT\***

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\* **Cross References:** Businesses, ch. 8; industrial sewer use regulations, § 28-141 et seq.

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#### **Sec. 30-425. Purpose.**

It is the intent of the Industrial District (I) to provide for a variety of industrial uses, including manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials, as well as commercial establishments not engaging primarily in retail sales. Such industrial areas should be free

of incompatible uses, and designed to avoid negatively impacting adjacent conforming land uses.

(Ord. No. 2004-06, § 2, 5-26-2004)

**Sec. 30-426. Permitted principal uses.**

Permitted principal uses in the I district are as follows:

- (1) Facilities devoted to basic research, design and pilot or experimental product development.
- (2) Office uses related to permitted industrial operations.
- (3) Warehousing and wholesale establishments.
- (4) The manufacturing, compounding, processing, packaging or treatment of products such as: cosmetics, pharmaceutical, toys, pottery, toiletries, foods, grains, hardware and household goods.

a. Location Requirements:

1. Minimum lot width shall be two-hundred and twenty-five (225) feet.
2. Minimum front yard setback shall be one-hundred (100) feet.
3. Minimum side yard setback shall be twenty-five (25) feet.
4. Minimum rear yard setback shall be twenty-five (25) feet.
5. Maximum building height shall be fifty (50) feet.
6. Minimum lot area shall be two (2) acres.

b. Buffering Requirements:

1. All outdoor storage shall not be located closer than fifteen (15) feet from any property line.
2. All outdoor storage shall be screened to obscure the land use activity from all adjacent property.
3. All outdoor storage areas and/or containers shall be maintained so as to present an orderly kept storage area.
4. All outdoor storage containment areas shall be delineated on the site plan by the use of dimensional measurements.
5. All outdoor storage shall only be located in the side or rear yards.

6. All outdoor storage areas shall be delineated as an open storage area or an enclosed storage area.
7. Enclosed storage areas shall not use an external land area for storage and must keep all storage materials completely within the containment facility.
8. Open storage shall not meander from the dimensional measurements provided on the approved site plan.
9. Storage of liquid petroleum products, five-hundred (500) gallons or over if stored above ground, shall be no closer than fifty (50) feet to any boundary line of the subject property. All above ground storage tanks shall be protected by protective structures at least the height of the finished tank placement (four feet in height with four feet between protective structures). All such storage tanks shall be labeled with the material contained within the tank; as well as the names and phone numbers of responsible parties and/or persons in charge of the safety of the storage tanks. Approved site plans shall contain all necessary information about the materials being stored and said information shall be posted on the storage tanks and provide the local fire department with all necessary information about the materials being stored.
10. All storage of liquid petroleum products shall have a permanent cement wall surround the tank/holding container having a minimum height of three feet. The interior area of the enclosure shall have petroleum absorbent products on the ground to deal with spills. Absorbent materials shall be removed and replaced as needed to ensure the effective use of the absorbent material.
11. Storage of flammable liquids and combustibles, three hundred (300) gallons or over, if stored above ground, shall be no closer than one hundred (100) feet to any boundary line of the subject property. All above ground storage tanks shall be protected by protective structures at least the height of the finished tank placement. All such storage tanks shall be labeled with the material contained within the tank; as well as the names and phone numbers of responsible parties and/or persons in charge of the safety of the storage tanks. Approved site plans shall contain all necessary information about the materials being stored and said information shall be posted on the storage tanks and provide the local fire department with all necessary information about the materials being stored.
12. All storage of raw materials shall be enclosed by a roof and at least two (2) sides.
13. Buffering, screening and greenbelt requirements are provided for in Section 30-11.
14. All refuse containers shall comply with the regulations in Section 30-19.

c. Performance Standards:

1. Sound: The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following land use activities:

<b>Decibels</b>	<b>Adjacent Land Use</b>	<b>From Where to Measure</b>
55	Residential Dwellings	Principal Structure
65	Commercial	Principal Structure
70	Industrial and Others	Principal Structure

The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittent, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

2. Vibration: All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured at any lot line of its sources.
3. Odor: The emissions of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four (4) or more volumes of clean air so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
4. Gases: The escape of or emission of any gas which is injurious, destructive, or explosive shall be unlawful and may be summarily caused to be abated.
5. Glare and Heat: any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
6. Light: exterior lighting shall be so installed that the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one (1) foot-candles power of light cross a lot line five (5) feet above the ground in a residential district.
7. Electromagnetic Radiation: Applicable rules and regulations of the Federal Communications Commission, in regard to propagation of electromagnetic radiation, shall be used as standards for this Chapter.
8. Smoke, Dust, Dirt and Fly Ash: Any atmospheric discharge requiring a permit approved by the MDNRE or federal government shall have said permit(s) as a condition of approval for use in this zoning district.
9. Drifted or Blown Material: The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.

10. Radioactive Materials: Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
  11. Other Forms of Air Pollution: It shall be unlawful to discharge into the atmosphere any substance not covered in the air standards approved by the MDNRE.
  12. Liquid or Solid Wastes: It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the MDNRE.
  13. Hazardous Wastes: Hazardous wastes as defined by MDNRE shall be disposed of by methods approved by MDNRE.
    - a. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
    - b. Material which is normally and reasonably discarded from industrial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.
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- (5) Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other molded rubber or plastic products.
  - (6) Manufacture or assembly of electronic instruments and devices.
  - (7) The parking or storage of operable motor vehicles.
  - (8) Electric and gas service buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations and gas regulator stations.
  - (9) Storage and sales yards for lumber, coal, brick, stone, contractors' supplies and similar items.
  - (10) Motor vehicles repair facilities.
  - (11) Buildings, structures and uses accessory to any of the principal permitted uses in this section.

(Ord. No. 100, § 11.01, 1-17-1994; Ord. No. 2004-06, § 2, 5-26-2004)

**Sec. 30-427. Special land uses.**

Special land uses in the I district are as follows:

- (1) Airports.
- (2) Foundries and similar heavy manufacturing activities.
- (3) Sewage treatment facilities.
- (4) Tanks for the storage of flammable fluids when in conformity with the rules and regulations of the flammable liquids regulations of the state.
- (5) Motor freight depot or trucking terminals.
- (6) Outdoor storage or operations.
- (7) Sawmills.
- (8) Factory outlet complex.
- (9) Facilities which involve hazardous or flammable materials.
- (10) Wireless communications towers.

(Ord. No. 100, § 11.02, 1-17-1994; Ord. No. 2000-05, 8-7-00)

**Sec. 30-428. Wireless communications towers.**

(a) Wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication and similar communication services and facilities, shall be permitted as a special land use in the industrial zoning district, when found to be desirable to the public convenience or welfare and in conformance with the following requirements.

- (1) The applicant shall submit a written statement and technical verification regarding the nature of any transmissions, electromagnetic fields, or any other radiation emitted from the facility, and any potential hazards to humans, animals and/or any other materials or property in the area.
- (2) A written explanation of the design characteristics and ability/of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards shall be submitted. This information shall also address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided. Monopole (stealth or equivalent type) antenna structures shall be required where such are technologically feasible. Monopoles or other stealth type structures, as opposed to web or lattice type towers, are considered particularly desirable when locations in closer proximity to residential zoning districts are involved. All towers shall be coated with a sky-gray paint to minimize visibility of the tower, unless the FAA requires otherwise.

- (3) In order to maximize the efficiency of providing such services, while minimizing the impact of such facilities on the village, co-location of such facilities on a tower are strongly encouraged. An application shall furnish written documentation as to why a co-location at another site is not feasible and whether they have, in fact, contacted the owners of existing facilities to determine if co-location is possible. If the application represents a new tower/antenna facility, the applicant shall provide a letter of intent to lease any excess space on a tower facility and commit itself to:
- a. Promptly responding to any requests for information from a potential co-user of their tower/antenna;
  - b. Negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and
  - c. Make no more than a reasonable charge for a shared use lease.

If the application involves co-location on an existing tower or structure, the public hearing requirements shall be waived, and approval shall only include a site plan approval and documentation by the co-user as to their compliance with all of the terms and conditions required of the host applicant. Co-location may be permitted by the planning commission, after site plan review, on all existing towers and existing similar structures, regardless of the zoning district in which it is located.

- (4) The development of any such facility, together with accessory uses, shall be in such a location, size and character as to be compatible with the orderly development of the zoning district in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at-large. Furthermore, the location and improvement of facilities, as provided for herein, shall also be subject to the following additional requirements:
- a. Towers may be located in the industrial zoning district after special land use approval and provided the location of such facilities do not represent a hazard to the use and/or development of other uses on the site and in the area. The development of new towers is specifically prohibited in all other zoning districts in the village. The village strongly encourages the development of towers on suitable village property. Consult with the village with regard to village property locations prior to submitting an application.
  - b. The tower may be located on a site with existing or other potential principal uses. The site shall be of such size and shape that the proposed tower facility may be developed in compliance with all requirements of the village, and any such tower/antenna shall not exceed one hundred seventy-five (175) feet in height above the average grade around the structure it is mounted upon.
  - c. Setback requirements will be determined in relation to the tower/antenna design and collapse date previously required in this Section. Minimum setback requirements, unless otherwise provided for, are as follows:

1. When adjacent to non-residential zoning districts, the setback shall not be less than the overall height of the tower/antennas. This setback requirement shall also apply to any accessory buildings. In no instance shall any tower facility be located within a front yard. Accessory buildings shall be screened from view by an obscuring greenbelt.
2. When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of the tower/antennas, plus fifty (50) feet. In no instance shall any tower be located within a front yard. Accessory buildings and uses shall be screened from the view of any public right-of-way and residential zoning district by an obscuring greenbelt.
3. Modifications to the side and rear yard setbacks may be considered when it is documented that the adjacent property is unbuildable due to wetlands, floodplains or other significant limitations. It shall also be found that no adverse effects on reasonable development patterns in the area would be created by developing the tower.
4. All structures, buildings, and required improvements shall comply with all applicable codes and ordinances and shall be continuously maintained in a safe, healthful and complying condition. A tower permit shall require a structural and safety inspection and report every five (5) years.
5. The applicant shall submit a letter agreeing that should any tower/antenna facility, approved under this section, cease to be used for its approved use, it shall be removed from the site within one hundred eighty (180) days of such cessation. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three (3) feet of the calsson upon which the tower is located. This area shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The letter of agreement shall include a financial guarantee deemed appropriate by the village, to insure the removal of any or all of the facilities approved under the special use permit. Any such agreement, including any financial guarantee, shall be in a form acceptable to the village board. The financial guarantee may also include a provision for periodic adjustments to the guarantee in reflection to changes in the consumers price index or other similarly established and accepted price indexes. The amount of such guarantee shall equal one hundred ten (110) percent of the estimated cost of removing the structures and restoring the site. This estimated cost shall be prepared by the developer and approved by the village engineer.

(Ord. No. 2000-05, 8-07-00)

**Secs. 30-429--30-440. Reserved.**

## **DIVISION 10.**

## HWY HIGHWAY COMMERCIAL DISTRICT

### Sec. 30-441. Permitted principal uses.

Permitted principal uses in the HWY district are as follows:

- (1) Eating and drinking establishment: drive-in eating and drinking places, summer gardens and road houses; provided that the principal building is at least fifty (50) feet from any residence or residential district.
- (2) Automotive services and farm implements: automobiles, trucks, trailers and farm implements for sale, display, hire, service, or repair, including sales lots, used car lots, trailer lots, repair garages, body and fender shops, paint shops, provided that any portion of a building used for repairs located within one hundred (100) feet of any residence or residential district shall have no openings facing such residential district other than stationary windows or required fire exits within one hundred (100) feet of the residence or residential district.
- (3) Animal hospitals, veterinary clinics, etc.: animal hospitals, boarding or treatment of pets and other domestic animals; provided that any structure or area used for such purposes, including pens and exercise yards, be located at least fifty (50) feet from any residence or residential district.
- (4) Commercial recreation: any type of commercial recreation, including baseball fields, bowling alleys, trampoline centers, swimming pools, skating rinks, golf driving ranges, and similar open air facilities; provided that any structure or area used for such purposes be located not less than one hundred (100) feet from any residence or residential district.
- (5) Hotels and motor hotels.
- (6) Contractors' yards and similar establishments: building material yards, excluding concrete mixing plant, contractors' equipment storage yard or plant or storage yard for rental of equipment commonly used by contractors; retail lumberyards, including only incidental millwork; storage and sales of grain, livestock feed or fuel; carting, express or hauling establishments; and public utility service yards; stone and monument works not including power driven tools.

(Ord. No. 99-3, § 2(B), 6-30-1999)

**Secs. 30-442--30-450. Reserved.**

## DIVISION 11.

### OS OFFICE SERVICE DISTRICT

### Sec. 30-451. Permitted principal uses.

Permitted principal uses in the OS district are as follows:

- (1) Office buildings for any of the following occupations: executive, administrative, or professional.
- (2) Medical and dental offices, including clinics, except veterinarian with horse or other large animal loading/unloading area.
- (3) Banks.
- (4) Funeral homes and churches.
- (5) Studios for dancing, art, music, and the like.
- (6) Municipal buildings, and public utility offices, but not including storage yards or transformer stations.
- (7) Other uses and services determined by the zoning board of appeals to be similar or related to the uses in this section.
- (8) Accessory buildings and uses customarily incident to any of the permitted uses in this section.  
(Ord. No. 99-4, § 2(C), 6-30-1999)

**Sec. 30-452. Requirements.**

The following requirements shall apply to the OS office service district:

- (1) No interior display shall be visible from the exterior of the building, and the total area devoted to display, including the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed twenty-five (25) percent of the useable floor space area of either the first story, second story or the basement.
- (2) The outdoor storage of goods or materials shall be prohibited irrespective of whether or not they are for sale.
- (3) Warehousing or indoor storage of goods or materials, beyond that normally incident to the permitted uses in section 30-451 shall be prohibited.  
(Ord. No. 99-4, § 2(C), 6-30-1999)

**Secs. 30-453--30-454. Reserved.**

**DIVISION 12.**

**P L PUBLIC LANDS ZONING DISTRICT**

**Sec. 30-455. Uses Permitted.**

In addition to the general regulations to which all buildings and uses are subject as provided in Article III of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in

the PL, Public Land District, except for the following uses:

A. Permitted Principal Uses and Buildings.

1. Municipality owned park(s).
2. Municipality owned and/or occupied buildings.
3. Municipality owned cemetery.
4. Municipality owned parking lot(s).
5. Municipality owned vacant property.

B. Special Land Uses.

The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State Law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article III of this Chapter.

1. Schools.
2. Public Golf Course.
3. Public Hospital.
4. Library.
5. Privately owned nature preserve developed for pedestrian or vehicular access.

(Ord. No. 2006-02, 9-27-2006)

**Sec. 30-456. Building Height, Area, and Yard Requirements.**

1. Minimum front yard setback shall be thirty (30') feet from the edge of the street Right-of-Way.
2. Minimum rear yard setback shall be thirty (30') feet.
3. Minimum side yard setback shall be twenty (20') feet. Minimum side yard setback on a corner lot shall be twenty (20') feet measured from the side street line.
4. Maximum building height shall not exceed two (2) stories and shall not exceed thirty (30') feet.

(Ord. No. 2006-02, 9-27-2006)

**Sec. 30-457. Signs.**

Subject to the general restrictions on signs contained in Article VIII of this Chapter, the following signs (and the following signs only) are permitted within this district.

1. One (1) free standing or other sign erected in connection with uses permitted in the Public Land District which does not exceed thirty-two (32') square feet in area per side, not to exceed sixty-four (64') square feet total of both sides of the sign; such sign shall not be located within ten (10') of the front lot line or within ten (10') feet of a side lot line.

(Ord. No. 2006-02, 9-27-2006)

Secs. 30-458—30-460. Reserved.

**ARTICLE IV.**

**AREA, SETBACK AND HEIGHT REQUIREMENTS**

**Sec. 30-461. Table.**

The following table contains the area, setback and height requirements for all districts of the village:

Zoning District	Minimum Land Area Coverage (aa)	Minimum Lot Width In Feet (a) (e)	Minimum Front Yard Setback In Feet (b)(c)(hh)(ii)(mm)	Minimum Side Yard Setback In Feet (b)(c)(hh)(ii)(mm)	Minimum Rear Yard Setback In Feet (c)(hh)(ii)(mm)	Minimum Floor Area Per Dwelling In Sq. Feet	Maximum Building Height In Feet (y)(x)	Minimum Dwelling	Maximum Lot
R-1 (z)	43,560 sq. ft. (1 acre) (d)	165 (e) (bb)	100 (s)(y)	25 (t)(y)	25 (t)(y)	1,500	35(Uu)	-	-
R-2 (z)	25,000 sq. ft. (d)	125 (e) (bb)	70 (s)(y)	15 (t)(y)	20 (t)(y)	1,500	35 (u)	-	-
R-3 (r)(z)	15,000 sq. ft. (d)	75 (e) (bb)	55 (s)(y)	10 (y)	15 (y)	1,080	35 (u)	-	-
RM (m)(z)(ii)(kk)(ll)(pp)(qq)	2 acres (d)(f)	100 (ee)(bb)	100 (s)(y)	15 (t) (y)	20 (t) (y)	(ee)	35 (u)(x)	(f)	(d)
MHP	4,400 sq.ft. (h)	(g)	90 (s)	25 (t)(y)	25(t)(y)	720 (i)	25 (j) (u)	-	-
CBD	10,000 sq. ft.(h)	50	(w)	(k)	(l)	(q)	25	-	-
C	11,050 sq. ft.	85	70	-	(l)	--	35	-	-
OS	11,050 sq.ft.	85	30	-	(l)	-	35	-	-
HWY	20,000 sq. ft.	100	100	-	(l))	-	35	-	-
PL	11,050 sq. ft.	85	30	20	30	-	30 (up to 2 stories)	-	-
J	1 acre	225	100(m)(o)(p)	25(m)(n)(p)	25(l)(m)(p)	-	50	-	-

- (a) Lot width shall be measured along the public rights-of-way, private road easements and interior driveways
- (b) Setbacks shall be measured from the center of the public rights-of-way, private road easements and/or interior driveways.
- (c) No building shall be constructed within one hundred (100') feet of the centerline of any public road.
- (d) The maximum lot coverage is the total footprint of buildings, parking, paved and gravel storage

yards, driveways, streets, roads, and sidewalks divided by the size of the site. The total of all construction on a parcel of land shall not exceed thirty-five (35%) percent of the total land area.

- (e) In no case shall the length of any parcel exceed four (4) times the width of the parcel.
- (f) In no case shall there be less than four thousand (4,000) square feet of land area per multi-family dwelling unit structure.
- (g) The minimum size of the mobile home park shall be fifteen (15) acres and the minimum width of the site shall be six hundred sixty (660') feet.
- (h) Four thousand four hundred (4,400) square feet is the minimum land area per lot. The overall average lot size in the mobile home park shall be five thousand five hundred (5,500) square feet. For each square foot of land gained through a reduction of a site below five thousand five hundred (5,500) square feet, at least an equal amount of land shall be dedicated as open space; but in no case shall the open space and distance requirements be less than that required under R125.1946, rule 946 and R125.1941, rules 941 and 944 of the Michigan Administrative Code.
- (i) The floor area of any porch, sundeck or other structure shall not be used to meet the seven hundred twenty (720') foot requirements.
- (j) Storage or service building in mobile home parks shall not exceed fifteen (15) foot height.
- (k) No side yards are required along the interior side lot lines of the CBD district, except as otherwise specified in the building code, provided that if walls of structures facing such interior side lot line contain windows, or other openings, side yards of not less than ten (10') feet shall be provided.
- (l) Loading space shall be provided in the rear yard or in an interior side yard of the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley. Loading space for Industrial districts shall be provided in accordance with section 30-498.
- (m) A four (4') foot, six (6") inch high obscuring wall or fence or a twenty (20') foot wide greenbelt or a four (4') foot, six (6") inch high berm with a three-to-one (3:1) slope and landscaped in accordance with section 30-12 shall be provided on those sides of property abutting land zoned for residential use. The transition plan shall be reviewed and approved by the planning commission in accordance with the requirements of this chapter. In no instance shall an obscuring wall be located in the front yard of an industrial site.
- (n) Off-street parking shall be permitted in a required side yard setback.
- (o) Off-street parking for visitors, over and above the number of spaces required under section 30-497, may be permitted within the required front yard provided that such off-street parking is not located within twenty (20') feet of the front lot lines.

- (p) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six (6') feet high or with a chain link type fence and a greenbelt planting so as to obscure all view from any adjacent residential, office, or business district or from a public street.
- (q) In no case shall an apartment above a building be less than seven hundred (700) square feet.
- (r) In R-3 zoning districts no detached accessory building shall be closer than ten (10) feet to the dwelling, no closer than three (3) feet to the side property line, or closer than five (5) feet to the rear property line.
- (s) In the R-1, R-2, R-3, RM and MHP zoning districts, no residential accessory building shall be constructed within in the required front yard setback.
- (t) In the R-1, R-2, RM and MHP zoning districts no accessory building shall be closer than ten (10) feet to the dwelling or any side or rear property line.
- (u) No accessory building within the R-1, R-2, RM and MHP zoning districts shall exceed sixteen (16) feet six (6) inches in height.
- (v) The building height restrictions of all zoning districts shall be subject to the following exception: parapet walls not exceeding four (4') feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances.
- (w) In no case shall the proposed front building facade extend any further toward the center of the street right-of-way than that of the established edge of the Village sidewalk and/or property line.
- (x) Schools, churches and other similar institutional buildings may be erected to a height not exceeding forty-eight (48') feet provided the front, side and rear yards shall equal the height of such wall abutting such yard.
- (y) Setbacks for institutional uses (schools, churches, nursing homes, etc.) in residential districts shall be as follows:
 

Front:	35 feet
Sides:	30 feet
Rear:	30 feet
Parking:	20 feet
- (z) Any residential subdivision, condominium or multiple-family development comprising twenty (20) or more dwelling units, either as a single development or as a group of adjacent developments offered by a single proprietor, shall provide an active recreational area which shall contain an area equal in size to fifteen hundred (1,500) square feet for each lot or dwelling unit in

the subdivision or condominium project or multiple family development. Said recreational area shall be achieved through deed restrictions or dedication to the subdivision homeowner's association.

- (aa) Minimum lot areas are exclusive of public street rights-of-way or private road easements.
- (bb) Minimum lot widths are required along the street upon which the lot principally fronts. Where a curvilinear street pattern results in irregular shaped lots with non-parallel side lot lines, the following minimum widths shall apply:

<u>Zoning District</u>	<u>Min. Lot Width at Street</u>	<u>Min. Lot Width at Building Line</u>
R-1	110'	165'
R-2	80'	125'
R-3	50'	75'
RM	75'	100'

- (cc) Minimum front yard setbacks are required as shown except where established building on adjacent lots vary from this minimum. In such case, a new building shall be constructed with a front yard of no less depth than the average front yards of buildings located on each side of the proposed building.
- (dd) On corner lots, both street yards shall provide the minimum front yard setback. The size of the corner lots shall be large enough to accommodate both front yard setbacks and a building of similar size to those non-corner lots.
- (ee) The total number of rooms in all units shall have (not including kitchen or bathroom) at least one (1) living room and one (1) bedroom, except that not more than ten (10%) of the units may be of an efficiency apartment type. The following room assignments shall control:

Efficiency	=	1 room	=	450 square feet
One bedroom	=	2 rooms	=	700 square feet
Two bedroom	=	3 rooms	=	800 square feet
Three bedroom	=	4 rooms	=	900 square feet
Townhouse: Ground			=	min. 450 sq. ft. on ground level

- (ff) When floor plans show 1, 2, or 3 bedroom units and including a "den", "home office", or "library" or other extra rooms they shall be counted as extra bedrooms.
- (gg) No building shall exceed on hundred sixty-five (165') feet in length.
- (hh) Parking shall not cover more than thirty (30%) percent of the area of any required yard.
- (ii) Building and parking lot setbacks along exterior property lines shall be a minimum of thirty (30') feet; fifty (50') feet where the development abuts a single-family residential district.
- (jj) The minimum distance between any two (2) buildings shall not exceed thirty (30') in addition to

the required setback from lot lines.

- (kk) Buildings shall be setback at least twenty (20) feet from the nearest edge of any parking lot or aisle. This dimension may include a sidewalk.
- (ll) Setbacks from property lines that are coterminous with residential zoning districts shall be a minimum of fifty (50') feet, measurement excludes public rights-of-way, private roads/easements.
- (mm) All required yard areas unobstructed by ingress or egress systems shall be lawns, ground cover or living landscape plant materials.
- (nn) A twenty-five (25') foot wide greenbelt shall be provided along major thoroughfares or arterial roadways in all residential districts for residential development. Building setbacks shall be measured from the interior line of the green belt. Sec. 30-12. Greenbelts.
- (oo) All developments for multiple-family dwellings shall have direct access to major thoroughfares.
- (pp) All developments for multiple-family dwellings shall be served by public sewer facilities.

(Ord. Adopted )

**Sec. 30-462. Compliance.**

All structures constructed within the village shall comply with the area, setback and height requirements of section 30-461, unless different requirements are specified as a condition for a use permitted after special approval.

(Ord. No. 100, § 12.02, 1-17-1994)

**Secs. 30-463--30-495. Reserved.**

**ARTICLE V.**

## PARKING AND LOADING REQUIREMENTS\*

\* **Cross References:** Stopping, standing and parking generally, § 26-101 et seq.

### Sec. 30-496. General parking requirements.

In all zoning districts, except CBD, off-street parking facilities for the storage and parking of motor vehicles shall be provided as required in this section. The parking spaces shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of parking spaces are provided elsewhere.

- (1) *Area for parking space.* For the purpose of this section, three hundred (300) square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisles.
- (2) *Location of parking space.* The parking facilities shall be located on the same lot or within five hundred (500) feet of the permitted uses requiring the parking.
- (3) *Seating.* As used in this article for parking requirements, a seat shall mean either an individual chair or each twenty-four (24) inches of seating facilities.
- (4) *Similar uses and requirements.* In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is similar shall apply.
- (5) *Existing off-street parking.* Off-street parking existing at the effective date of the ordinance from which this chapter derives which serves an existing building or use shall not be reduced in size to less than that required under the terms of this chapter.
- (6) *Parking area drainage.* All parking areas shall be drained so as to dispose of surface water which might accumulate within or upon such area.
- (7) *Illumination to be deflected.* All illumination for such parking areas shall be deflected away from adjacent residential areas.
- (8) *Solid base surface required.* All parking areas for uses other than single-family uses shall be paved or hard-surfaced in a manner sufficient to provide a solid base at all times of the year.

(Ord. No. 100, § 13.01, 1-17-1994)

### Sec. 30-497. Table of parking requirements.

The amount of required off-street parking space for new uses of land, buildings or additions shall be determined in accordance with the following table. The space required shall be stated in the application for a zoning permit and shall be irrevocably reserved for such use.

Use	Required Number of Parking Spaces	Per Each Unit of Measure as Follows:
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(1)	Auditoriums, assembly halls, theaters, churches, private clubs, lodge halls, schools	1	Two (2) seats based upon maximum seating capacity in the main place of assembly therein, plus one (1) space for every two (2) employees.
(2)	Banks, business or professional offices, libraries, museums	1	Two hundred (200) square feet of usable floor area.
(3)	Barbershops, beauty parlors	3	Each barber or beauty operator.
(4)	Bowling alleys, golf courses	5	Each bowling lane or each hole on a golf course.
(5)	Furniture, appliances and household equipment repair shops, showroom of a plumber, decorator, electrician or similar trade, clothing and shoe repair, laundry, motor vehicle salesroom, hardware stores, wholesale stores and machinery sales	1	Six hundred (600) square feet of usable floor area, plus one (1) space for each two (2) employees.
(6)	Hotels, tourist homes, motels, hospitals, convalescent homes, and bed and breakfast establishments	1	Each guest bedroom and each two (2) employees.
(7)	Industrial establishments and warehouses	1	Each employee computed on the basis of the greatest number of persons employed at any one (1) period during the day.
(8)	Residential	2	Each dwelling unit.
(9)	Restaurant or establishments in which is conducted the sale and consumption on the premises of beverages, food or refreshments	1	Each two (2) seats, plus one (1) space for each two (2) employees. Minimum of forty (40) spaces for drive-in restaurants and ten (10) spaces for carryout restaurants.
(10)	Service garages, auto salesrooms, auto repair, collision or bumping shops, car wash establishments	1	Two hundred (200) square feet of usable floor area, plus one (1) space for each auto service space.
(11)	Retail establishments and businesses, except as otherwise specified above	1	Two hundred (200) square feet of gross floor area.

(Ord. No. 100, § 13.02, 1-17-1994)

**Sec. 30-498. Off-street loading requirements.**

(a) On the same property with every building or structure used for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hospital, mortuary, laundry, dry cleaning or other uses involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for loading and unloading in order to avoid undue interference with public

use of the streets, alleys or off-street parking areas.

(b) Such loading and unloading space, unless adequately provided for within a building, shall be an area at least ten (10) feet by thirty (30) feet, with a minimum fourteen-foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area (Square Feet)	Loading Spaces Required
0--2,000	None
2,000--20,000	One (1) space
20,000--100,000	One (1) space for each twenty thousand (20,000) square feet.
Over 100,000	Five (5) spaces plus one (1) space for each forty thousand (40,000) square feet in excess of one hundred thousand (100,000) square feet.

(Ord. No. 100, § 13.03, 1-17-1994)

**Secs. 30-499--30-520. Reserved.**

## ARTICLE VI.

### NONCONFORMING LOTS, USES AND STRUCTURES\*

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\* **State Law References:** Nonconforming uses and structures, MCL 125.583a, MSA 5.2933(1).

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#### **Sec. 30-521. Continued nonconforming status permitted.**

Within the districts established by this chapter there exist lots, structures and uses of land and structures, which were lawful prior to January 17, 1994. These nonconformities may continue until they are removed. The nonconformities shall not be enlarged upon, expanded or extended in any manner which increases their nonconformity except by authorization of the board of zoning appeals.

(Ord. No. 100, § 15.01, 1-17-1994)

#### **Sec. 30-522. Nonconforming lots of record.**

(a) Residential lots of record:

(1) Where the owner of a non-conforming lot of record does not own and cannot reasonably

acquire sufficient land to enable him to conform to the requirements of this chapter's zoning district relating to lot area, lot width, or both, such lot of record may be used by such owner as a building site, provided that such a use shall be limited to the permitted principal use that directly corresponds to the area, height and setback regulations of the lot of record. however, the building site of said lot of record must meet the requirement for at least one of the required yard setbacks of the zoning district.

- (2) Except, that if a lot of record cannot conform to any minimum area, height, and setback regulations of the zoning district, then the lot of record may be developed only as a single-family residential use.
- (3) Where three (3) or more abutting lots of record are held under one (1) ownership, and where one (1) of these lots are nonconforming, the provisions of this chapter relating to lot area and lot width shall not be avoided by the sale or conveyance of a portion of such lots of record.

(b) Approval to build on smaller, nonconforming lots where the reduced setback cannot be met may be granted by the board of zoning appeals as a variance in appropriate circumstances. In no case shall any variance be granted permitting a side yard or rear yard of less than five (5) feet.  
(Ord. No. 100, § 15.02, 1-17-1994; Ord. No. 95-1, § 2, 3-3-1995; Ord. No. 2003-08, § 2, 10-29-2003)

### **Sec. 30-523. Nonconforming structures.**

Where a lawful structure exists at the effective date of the ordinance from which this chapter derives that could not be built under the terms of this chapter, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity.
- (2) Should such nonconforming structure be destroyed by any means to an extent of more than seventy-five (75) percent of its current market value, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. No. 100, § 15.03, 1-17-1994)

### **Sec. 30-524. Nonconforming uses.**

Where as of January 17, 1994, lawful use of land or structures exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land or additional structures than that occupied on the effective date of the ordinance from

which this chapter derives.

- (2) If any such nonconforming use ceases for any reason for a period of more than twelve (12) months, any subsequent use shall conform to the regulations of this chapter.
- (3) No structure devoted to a use not permitted by this chapter shall be enlarged, reconstructed or moved except in changing the use of the structure to a use permitted in the district in which it is located.

(Ord. No. 100, § 15.04, 1-17-1994)

**Secs. 30-525--30-550. Reserved.**

## **ARTICLE VII.**

### **SITE PLAN REVIEW REQUIREMENTS\***

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\* **State Law References:** Site plan review requirements, MCL 125.584d, MSA 5.2934(4).

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#### **DIVISION 1 GENERALLY**

##### **Sec. 30-551. Scope of Article.**

A site plan shall be prepared and submitted for every construction project and every proposed change in land use, except that no site plan shall be required for single-family residences, or farm buildings if the farming land use is a conforming land use activity. A site plan must be approved prior to the issuance of a zoning permit within all zoning districts, as provided for in section 30-67. The following development projects shall submit site plans and must receive planning commission recommendation and Village Council approval.

- (1) Subdivision Development Projects
- (2) Condominium Subdivision Projects

- (3) Planned Unit Developments
- (4) Mobile Home Parks
- (5) Private Roads

It is further the intent of the Article require the gradual upgrade of existing sites that do not conform with current standards of the Article and ensure that the arrangement, location, design and materials within a site are consistent with the character of the Village and the goals and design guidelines of the Village of Capac Master Plan.

### **Sec. 30-552. Site Plan Review Required.**

A site plan shall be submitted for review according to the standards and procedures of this Chapter for all proposed special land requests and every construction project except the following:

- (1) Single-family dwelling units on individual lots or parcels.
- (2) Residential and agricultural accessory buildings not requiring special-land use approval.
- (3) Farm buildings.
- (4) Construction on or remodeling of any existing permitted use or building that does not require a site change or an exterior structural modification.

## **DIVISION 2 FEES**

### **Sec. 30-553. Fee Schedules**

The Village Council shall establish by resolution, a schedule of fees, charges and expenses, for site plan review including, but not limited to: planning review, engineering review, attorney review and opinion, as required, inspection and other matters pertaining to this title; the schedule shall be available in the Village Office and may be amended only by the Village Council.

Any special meeting of the Village Planning Commission requested by the developer shall be paid for by the developer prior to said meeting at the rate of a regularly scheduled meeting.

Pre-application conferences are scheduled by a prospective applicant with the Planning Department and any representative as appropriate including one member of the Planning Commission. During this conceptual review phase, a generalized site plan is presented by the prospective applicant for consideration of the overall area of the development. Basic questions of use, density, integration through development in the area and impacts on the availability of public infrastructure are discussed.

Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application.

## **DIVISION 3 PROCEDURES AND REQUIREMENTS**

**Sec. 30-554. Filing and review procedures.**

The proprietor shall file fourteen (14) copies of the site plan with the application for a zoning permit with the Zoning Administrator at least twenty-one (21) days prior to the next regularly scheduled Planning Commission meeting. The Zoning Administrator shall review the site plans for compliance with the requirements of this Chapter and the Master Plan. The Zoning Administrator shall review the submittal for completeness as to form and if complete, the Zoning Administrator shall forward the materials to the Village Planner, Engineer, Directors DPW and Public Safety, for their review.

If the submitted information is incomplete, the Zoning Administrator shall notify the developer in writing of the deficiencies. Any site plan deemed, by the Zoning Administrator, to be incomplete shall not be forwarded for review until all required information is furnished.

The Zoning Administrator, Planning Commission or Village Council may request additional relevant information regarding environmental concerns with any site plan application, pursuant to any or all state, federal or local environmental regulations.

If the site plan is recommended for approval by the Planning Commission, the Planning Commission shall forward all copies of the site plan along with certification of approval to the Zoning Administrator.

If the site plan is not recommended for approval by the Planning Commission, the proprietor shall be notified by the Zoning Administrator of the reasons for disapproval.

The Zoning Administrator shall forward all copies and the certification of approval to the Village Clerk for submittal to the Village Council for their consideration when Council approval is required. The Village Council, upon consideration of the site plan shall either approve or deny the site plan. If the site plan is denied by the Village Council, the Village Council shall state the reasons for the denial and notify the developer of their action.

**DIVISION 4  
REQUIRED INFORMATION**

**Sec. 30-555. General Information.**

(1) Name(s) and address(s) of the proprietor, developer, and registered engineer, registered architect, registered surveyor, registered landscape architect, or registered community planner who participates in the preparation of the submitted site plan.

(2) Proof of ownership

(3) A signed statement that the applicant is the owner of the property or officially acting on the owners behalf.

(4) The address and/or parcel number of the property.

(5) Date of the plan preparation, north arrow, and scale of plan, which shall not be greater than one (1") inch equals twenty (20') feet (1 = 20') nor less than one (V) inch equals two hundred (200') feet (V = 200').

(6) Full legal description of the subject parcel and dimensions of all lot and/or property lines showing the relationship to abutting properties, and in which land use districts the subject property and abutting properties are located.

(7) Project description, including the total number of structures, units, bedrooms, offices, square feet, total usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.

(8) Area map showing the relationship of the parcel to the surrounding area within one-half (1/2) mile. "Vicinity Map".

(9) The location and descriptions of all existing structures on the property, or within one hundred (100') feet of the subject property and their setbacks.

(10) A written narrative outlining:

(a) Project name.

(b) Project completion schedule/development phases.

(c) The nature and details of the proposed development.

(d) Detailed provisions for maintenance responsibility for all improvements, including, but not limited to, streets, parking areas, bikeways, pedestrian ways, storm drainage facilities; water and sewer systems, open space areas, and the like.

(e) Written statements relative to project impacts on existing infrastructure (including traffic impact of streets; schools; and existing Utilities) and on the natural environment of the site and adjoining lands.

(f) Any other information deemed necessary by the applicant to further clarify the proposed development.

### **Sec. 30-556. Physical Information.**

(1) Proposed plans for site grading, surface drainage, water supply and sewage disposal and landscaping/screening.

(2) The location of existing and proposed landscaping buffer areas, fences, or walls on the subject property.

(3) Existing and proposed structure information, including, not limited to, the following:

(a) Footprint location, dimensions and setbacks.

(b) Finished floor and grade line elevations.

- (c) Building coverage calculations.
- (d) Elevation drawings that illustrate building design, size, height, windows and doors, and describe proposed construction materials. Elevations shall be provided for all sides visible from an existing or proposed public street or a residential zoning district.
- (e) The Planning Commission may request a color rendering of the building elevation required in subparagraph (d).
- (f) Proposed material and colors shall be specified on the site plan, color chips or samples shall also be submitted at or prior to the Planning Commission meeting to review the site plan. The elevations, colors, and materials shall be considered part of the approved site plan.
- (g) The location and dimensions of all existing and proposed streets, driveways, curb cuts, sidewalks, service lanes, details of entryways, acceleration, deceleration, passing lanes and other vehicular and pedestrian circulation features within and adjacent to the subject property, whether public or private.
- (h) The location of any access points on both sides of the street within one hundred (100') feet of the proposed site.
- (i) Barrier-free access. Showing the site has been designed to provide barrier-free parking and pedestrian circulation.
- (j) Emergency vehicle access. Showing all buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the public safety.
- (k) The location, dimensions, and numbers of off-street parking and loading spaces, as prescribed in Article V. Parking and Loading Requirements.
- (l) Location of proposed lighting or additional lighting when site plan involves an existing land use activity. Details of the site lighting to include:
  - i. Details of exterior lighting meeting the requirements of Sec. 30-22. Exterior Lighting, including fixture locations, height and method of shielding; and
  - ii. A photometric grid overlaid on the proposed site plan indicating the overall intensity through the site and described in footcandles.
- (m) Location, design and placement of proposed refuse storage.
- (n) Locations of all signs including:
  - i. Location, type, height and methods of lighting for identification signs; and
  - ii. Location and type of any directional or regulatory/traffic control signs, with details for any sign not conforming with the Michigan Manual of Uniform Traffic Control Devices.
- (o) Location of existing and proposed service facilities above and below ground, including but not limited to the following:
  - i. Well sites
  - ii. Septic systems and other wastewater treatment systems. The location of the septic tank and drain field (soil absorption system) should be clearly distinguished.
  - iii. Chemical and fuel storage tanks and containers.
  - iv. Storage, loading, and disposal areas for chemicals, hazardous substances, salt and fuels.
  - v. Water mains, hydrants, pump houses, standpipes, and building services and sizes.
  - vi. Sanitary sewers and pumping stations, cleanout locations, connection points and treatment systems.

- vii. Storm-water control facilities and structures including storm-sewers, swales, retention and detention basins, drainage-ways, and other facilities, including calculations for size and volume.
- viii. Location of all easements, existing and proposed and legal descriptions.
- ix. Written Verification of access easements or agreements with legal descriptions, if applicable.
- x. All utilities lines on the site including but not limited to natural gas, electric, cable, telephone and fiber optic cable.

(4) Notation on each site plan sheet stating “Not to be used as construction drawings.”

**Sec. 30-557. Natural Features.**

(1) Map of existing topography at two (2') foot contour intervals with existing surface drainage indicated.

(2) Soil characteristics of the subject property to at least the detail provided by the U.S. Soil Conservation Service as provided for in the Soil Survey of St. Clair County, Michigan. And any certifications of borings.

(3) On parcels of more than one (1) acre, existing topography with a maximum contour interval of two (2') feet indicated. Topography on the site and beyond the site for a distance of one hundred (100') feet in all directions should be indicated. Grading plan, showing finished contours at a maximum intervals of two (2') feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.

(4) Location of existing drainage courses, including lakes, ponds, rivers and streams, made-made surface drainage ways, floodplains and wetlands, and all related elevations and direction of drainage flow.

(5) Location of natural resource features, including woodlands and areas with slopes greater than ten (10%) percent (one (1') foot of vertical elevation for every ten (10') feet of horizontal distance). And location and type of significant existing vegetation.

(6) A Landscaping plan as required by Article IX Landscaping Design Standards.

(7) Location of significant natural, historical, and architectural features, including landmark trees, that will be designated "to remain" and protected by a fence or a barrier installed prior to site preparation, and/or as 'areas not to be disturbed' and secured through installation of a snow fence, other fencing, or police line during, development of the site, and including acreage of designated areas.

(8) Storm water management systems and facilities that will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent feasible, with the development not substantially reducing the natural retention of storage capacity of any wetland, water body, or water course, or cause alterations which could increase flooding or water pollution on or off site.

(9) Wastewater treatment systems, including on-site septic systems will be located to minimize any potential degradation of surface-water or groundwater quality,

(10) Sites which include storage of hazardous materials or waste, fuels, salt; or chemicals will be designed to prevent spills and discharges or polluting materials to the surface of the ground, groundwater, or nearby water bodies. Environmental Assessment Phase I documentation if required for financing. (Commercial and Industrial uses only).

(11) Location-of existing wetlands, delineated under the requirements of the Wetland Assessment Program (WAP), as authorized by Part 303, Wetlands Protection, of the Natural resources and Environmental protection Act, 1994 PA 451, as amended. The location of existing wetlands shall begin with at least a Level 1 of a DEQ Wetland Assessment.

(12) A wetland determination for any person desiring a zoning permit for any activity requiring a Village zoning permit or land use review such as: constructing a building, filing a tentative preliminary plat, submitting a site plan, a planned unit development condominium subdivision project or site condominium project, a special use permit or requesting a lot/parcel split shall apply to the Zoning Administrator for a preliminary determination, provided for in section 30-575.

(13) Any of the following activities that are being proposed to occur in a wetland shall obtain a permit from the Department of Natural Resources (DEQ), as required according to Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and Federal Executive Order No. 11990. The following activities require a permit.

- (a) Deposit or permit the placing of fill material; example bulldozing, grading, dumping, but may not be limited to these activities.
- (b) Dredge, remove, or permit the removal of soil or minerals; examples removing tree stumps, bulldozing, digging a pond: but may not be limited to these activities.
- (c) Construct, operate, or maintain any use of development; example construction of buildings or structures, Boardwalks, Peat mining, Water treatment; but may not be limited to these activities.
- (d) Drain surface water, example diverting water to another area via ditch, pump or drain; but may not be limited to these activities.

## **DIVISION 5 STANDARD FOR SITE PLAN REVIEW**

### **Sec. 30-558. Review of all Site Plans.**

In the review of all site plans, the Zoning Administrator and the Planning Commission shall endeavor to assure the following:

- (1) The proposed development conforms to all provisions of this Chapter.
- (2) All required information has been provided.

(3) The movement of vehicular and pedestrian traffic within the proposed development are designed to promote a safe and convenient relationship with off-site streets and sidewalks.

(4) The proposed development will be harmonious with existing and future uses in the immediate surrounding area and the community as a whole.

(5) The proposed development provides the necessary infrastructure improvements; such as roads, drainage, pedestrian fealties and utilities, to serve the site, and be adequately coordinated with the current and future use of adjacent properties.

(6) The applicable requirements of the Village, County and State agencies are met regarding grading and surface drainage and for the design and construction of storm sewers, storm water holding facilities, water mains, and sanitary sewers.

(7) Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes; ponds, streams, wetlands, steep slopes, and woodlands.

(8) The proposed development shall respect the natural topography to the maximum extent possible by minimizing the amount of cutting, filling, and grading required.

(9) The proposed development will not cause soil erosion or sedimentation.

(10) Landscaping, including trees, shrubs and other vegetative material is provided to maintain, improve and/or restore the aesthetic quality of the site.

(11) Conformance with the Village of Capac Engineering Design Standards.

(12) All proposed commercial, office; industrial, institutional and multiple family development shall utilize quality architecture to ensure that buildings are compatible with surrounding uses, protect the investment of adjacent landowners, blend harmoniously into the streetscape and meet the objectives of the Village Master Plan. New buildings, additions and renovations shall be designed to preserve or complement the design character of existing development, provide visual harmony between old and new buildings, and create a positive image for the Village's various commercial shopping nodes. Commercial, office, industrial, institutional and multiple family architecture shall be reviewed by the Planning Commission under the following criteria:

- (a) Buildings shall front towards and related to the public street, as provided for in section 30-5. Buildings shall be located to create a defined streetscape through uniform setbacks and proper relationship to adjacent structures. Building orientation and relationship to the setbacks can provide a staggering effect to create variety and identity. Proper relationship to existing structures in the area shall be maintained through building mass, proportion, scale, roof line shapes and rhythm.
- (b) Building materials and colors shall relate well and be harmonious with the surrounding area. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape. For any side of a principal building facing a public or private street, at least fifty (50%) percent of the facade shall be constructed of,

or covered with the following materials:

Brick;  
Fluted or scored concrete block  
Cut stone;  
Vinyl siding;  
Wood siding;  
Glass; or,  
Other materials similar to the above list of material as  
determined by the Planning Commission

- (c) Buildings shall possess architectural variety, but enhance the overall cohesive community character. Buildings shall provide architectural features, details and ornaments such as archways, colonnades, towers, cornices or peaked roof lines.
- (d) Building walls over one hundred (100') feet in length shall be broken up with a combination of the following:
  - (i) varying building lines;
  - (ii) windows,
  - (iii) architectural accents, and
  - (iv) trees
- (e) Building entrances shall utilize windows, canopies and awnings; provide unity of scale, texture, and color; and provide a sense of place.
- (f) Where the rear facade of a building will be visible from a residential zoning district, or the rear of the site will be used for public access or parking such rear facade shall be constructed to a finished quality comparable to the front facade.
- (g) Signs, landscaping, lighting and other site elements shall be coordinated and compatible with the building design, as well as harmonious with other nearby developments. Developments shall provide site features such as decorative entry signs, ornamental lighting, pedestrian plazas and/or pedestrian furniture.

### **Sec. 30-559. Site Plans With Multiple Phases.**

Whenever a development project is proposed to be developed in phases, each phase shall be clearly denoted on the preliminary and final site plan. Final approval shall be required for the entire project. Subsequent phases may be reviewed by the Zoning Administrator. Each phase of a project shall stand on its own; no phase shall rely on the completion of any subsequent phase of the project for parking, loading, utilities, access drives, landscaping, lighting, or any other element required by this Chapter.

When amendments are requested, the Zoning Administrator shall determine whether the changes are minor in nature, as prescribed in Sec. 30-569. The administrative approval process shall comply with Sec: 30-570. More significant changes to a phased development shall require Planning Commission review as

prescribed in Sec. 30-571: The Zoning Administrator may also determine that the proposed amendments shall require complete site plan approval for the individual requested phase and-submitted proposed amendment changes through Sec. 30-554.

## **DIVISION 6 EFFECT OF FINAL APPROVAL**

### **Sec. 30-560. Final Site Plan Approval.**

Upon final approval of the proposed site plan, construction or expansion of any permitted or special land use shall conform to the site plan. The approval by the Planning Commission of a site plan shall expire within one (1) year after the date of such approval, unless a zoning permit has been issued and construction has commenced. The Zoning Administrator shall not issue a zoning permit-for any type of construction on the basis of the approved site plan after such approval has expired. Approval shall also confer upon the Zoning Administrator to approve minor modifications to an approved site plan, as described in Section 30-569.

### **Sec. 30-561. Conditions placed on Site Plan Approval.**

(1) As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary to ensure that the public services and facilities can accommodate the proposed site plan and its activities, to protect significant natural features and the environment, and to ensure compatibility with adjacent land uses. Such conditions shall be considered necessary by the Planning Commission to ensure compliance with the review standards in Sec. 30-588 and necessary to meet the intent and purpose of this Chapter.

(2) Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.

(3) A record of conditions shall be recorded on the site plan and maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved.

(4) A record of the decision of the Planning Commission, the reason for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

(5) The Building Official and Zoning Administrator may require that the applicant revise and resubmit a site plan in compliance with the conditions imposed by the Planning Commission. Should re-submittal be required, the Building Official and Zoning Administrator may make periodic investigations of the development for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission to terminate such approval following a public hearing.

### **Sec. 30-561-1. Amendment of an Approved Site Plan.**

A previously approved site plan may be amended by the Planning Commission upon application by the applicant in accordance with procedures provided for in Sec. 30-554. Minor changes during construction or for

expansion or certain changes *in* use may be approved by the Zoning Administrator, *as* described in Sec. 30-570.

**Sec. 30-562. Performance Guarantee.**

As a condition of approval of the site plan, the Village Council or Planning Commission shall require a deposit by the applicant with the Village Clerk in the form of a certificate of deposit, bank letter of credit, escrow account, or a surety bond.

The Village Engineer shall estimate to be a sufficiently adequate sum to cover the cost to construct or to complete construction of the required proposed improvements. In determining the adequacy of the performance guarantee, the following shall be considered:

- (1) The amount of the performance guarantee for improvement installation shall be equitable so that the proprietor is not required to provide an excessive amount, yet the public is sufficiently protected to ensure the improvement installations are properly constructed, installed and operational.
- (2) All estimates shall reflect an accurate value for the proposed improvements.
- (3) The estimated cost of the improvements shall include an added cost factor to provide for a margin of error and to cover inflation and other costs if the Village is forced to complete the installation of the improvements some years in the future.
- (4) As improvements are completed and approved by the Village, a rebate in reasonable proportion to the amount of work completed on required improvements may be returned to the developer.
- (5) Village shall set time periods to specify both the installation of improvements and beyond the completion of the improvement to ensure that the improvements are operating properly.

The Village shall return to the developer, as work progresses, amounts of the deposit equal to the ratio of work satisfactorily completed to the entire project. Such return shall be based upon the report and recommendation of the Zoning Administrator.

**Sec. 30-563. Request for Appeals.**

The decision of the Planning Commission with respect to a site plan is appealable to the Village Zoning Board of Appeals upon written request of the applicant and payment of the appropriate fee. In the absence of such request being filed within sixty (60) days after the decision is rendered by the Planning Commission, such decision remains final.

**DIVISION 7  
REVIEW OF MINOR MODIFICATIONS**

**Sec. 30-564 Intent.**

The intent of this division is to permit submittal of a plot plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this chapter.

**Sec. 30-565 Plot Plans and Special Land Uses.**

A plot plan shall not be permitted for any expansion to a Special Land Use or for a project requiring a variance.

**Sec. 30-566. Plot Plan for Certain Uses.**

A plot plan may be permitted for the following uses, when permitted in the zoning district

- (1) Group day care homes
- (2) Essential service buildings
- (3) Home occupations
- (4) Two-family dwellings
- (5) Accessory open air buildings
- (6) Accessory buildings and structures
- (7) Outdoor recreational facilities
- (8) Temporary Uses and seasonal sales establishments
- (9) A change in permitted use within an approved shopping 'center (only-a floor plan is required if improvements to parking; signs, or landscaping are not required.)

**Sec. 30-567: Requirements of a Plot Plan:**

The Zoning Administrator may accept a plot plan upon determining a complete site plan is not required for review of the project for compliance with this chapter. Such plot plan submittal must include at least the following:

- (1) Application form and fee
- (2) Name, address and telephone number of the applicant
- (3) North Arrow
- (4) Legal Description of the subject property
- (5) The plot plan shall be drawn at an engineer's scale. Any building expansion over five hundred (500) square feet within a five (5) year period shall require a-professional seal of an architect, landscape architect or engineer.
- (6) Property lines and dimensions
- (7) Existing and proposed buildings with dimensions and setbacks.
- (8) Existing and proposed parking including number of spaces provided and the number required according to Article V Parking and Loading Requirements. If changes are made to an existing parking area, a detail of pavement, storm water runoff calculations and description of detention methods shall be provided.
- (9) Details on any new driveways or changes to existing driveways.
- (10) Location of existing signs and details an any proposed changes or new signs.

- (11) General illustration of existing landscaping; locations, size and species of any new landscaping.
- (12) Layout of any proposed changes to utilities.
- (13) Description of any proposed changes to drainage.
- (14) Floor plan of any new building area or building elevations, if applicable.
- (15) Any other items requested by Village staff reviewing the plot plan or the Village Planning Commission.
- (16) It shall be at the discretion of the Zoning Administrator as to whether the proposed land use activity requires a full siteplan review, as required in Sec. 30-554. Sec. 30-668. Minor Modifications.

A plot plan, rather than a complete site plan, may be submitted for minor modifications to a legally existing conforming use and building. A minor modification shall include alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian-circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards.

#### **Sec. 30-569. Situations and Criteria.**

The granting approval of a final site plan extends to the Zoning Administrator the authority to approve minor modifications administratively during construction, or subsequent changes to approved site plans, as described in Sec. 30-570. Administrative approval may be permitted when the following are proposed:

- (1) An increase in the floor area of the structure by up to one thousand-(1,000) square feet or five (5%) percent of the existing floor area, whichever is less, with no required increase in parking area. Administrative approval is not permitted if the cumulative total of the— proposed expansion and any expansion within the last five (5) years, as determined by the Zoning Administrator, exceeds this amount
- (2) A change in internal floor plan which does not increase the intensity of use or parking requirements.
- (3) Movement of a building, drive, road or parking by up to ten (10') feet during construction due to an unanticipated and documented constraint, to improve safety or to preserve natural features. The site plan shall meet all required setbacks and other standards of this Chapter.
- (4) An increase or decrease in road width by up to three (3') feet to improve safety or preserve natural features. The design shall remain consistent with the standards of the Village.
- (5) An existing building and site are to be re-occupied by a

use permitted in the subject zoning district and the new use will not require any significant changes in the existing site facilities only when the site conforms to the current regulations.

- (6) Expansion, replanting or alterations of landscaping areas consistent with the other requirements of this Chapter.
- (7) Alterations to the off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces shall remain constant and meets, or if necessary, has been modified to meet the Article requirements for the building and/or use, and the construction plans and lot construction are approved by the Village Engineer.
- (8) Relocation of a refuse container to a more inconspicuous location or installation of screening around the dumpster.
- (9) Relocation or replacement of a sign meeting the dimensional and location standards of this Chapter.
- (10) Fences improved or installed consistent with the other requirements of this Chapter.
- (11) Sidewalks, bike paths or pathways are being constructed or relocated with the intent of improving public convenience and safety.
- (12) Modifications to upgrade a building to state barrier free design, the Americans with Disabilities Act or other federal, state or county regulations.

**Sec. 30-570. Process for Administrative Approval.**

(1) Applicant submits a plot plan and required application form and fee.

(2) The Zoning Administrator shall obtain a review and written approval from the Planning Commission Chairperson and Village Engineer on an as needed basis, prior to granting an administrative approval.

(3) The Zoning Administrator shall deliver a report of such administrative approvals to the Planning Commission.

(4) The Zoning Administrator may determine that the proposed modifications require a complete site plan review; if any of the following are at issue:

- (a) Sites that do not comply with previously approved site plans,
- (b) Sites with existing or potential drainage problems,
- (c) Sites abutting residential uses,
- (d) Sites with parking deficiencies ; and
- (e) Uses where there are general health and safety issues.

(5) If a full site plan is required, the Zoning Administrator shall inform the applicant in writing of the reason for the decision.

(6) The applicant must then submit a set of site plans in accordance with Division 4 Required Information.

**Sec. 30-571. Planning Commission Approval of Minor Modifications Through Plot Plan Review.**

The following will represent activities where the Planning Commission shall review a plot plan involving minor modifications:

- (1) An increase in the floor area of a structure by up to two thousand (2000) square feet or ten (10%) percent of the existing floor area, or whichever is less, when there is no increase to required parking area a full site plan review shall be required if the cumulative total of the proposed expansion and any other expansions within the last five (5) years, as determined by the Zoning Administrator, exceeds this amount.
- (2) An existing building and site are to be re-occupied by a Special Land Use in the subject zoning district and the new use will not require any significant changes in the existing site facilities.
- (3) A change to lighting consistent with this Chapter's standards.
- (4) Proposed changes to building height, facade or architectural features that are being changed (an elevation plan describing changes and construction materials is required.)
- (5) A permitted accessory building is proposed for construction or relocation on the site.
- (6) Situations similar to the above, as determined by the Planning Commission.

(Note: See the nonconforming uses/lots-parcels/structures Article VI)

**Sec. 30-572. As-Built Drawings.**

- (1) The applicant shall provide as-built drawings of all sanitary sewer, water, and storm sewer lines and all appurtenances which were installed on a site for which a site plan was approved. The drawings shall be submitted to the Village Clerk.
- (2) The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of manholes and catch basins; location and site of valves, fire hydrants, tees and crosses; depth and slopes of retention and/or detention basins; and location and type of other utility installations, as required. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.
- (3) The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a representative thereof. The drawings shall be identified as 'As-Built

Drawings-in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of a professional engineer.

**Sec. 30-573. Property Maintenance After Approval.**

It shall be the responsibility of the owner of the property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. This maintenance requirement includes healthy landscaping, damage-free walls, fences, pavement, pavement markings, signs, building exterior, drainage facilities and all other elements of a site. Any property owner who fails to provide such maintenance, as was originally approved shall be deemed in violation of Sec.30-20 Penalties of this Chapter, as provided for in Code of Ordinances Sec. 1-12. With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, regarding maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of Sec. 30-20 Penalties of this Chapter, as provided for in Code of Ordinances Sec. 1-12.

**Sec. 30-574. Revocation.**

Approval of a site plan may be revoked by the Planning Commission if construction is not in conformance with the approved site plan. In such case, the site plan shall be placed on the agenda of the Planning Commission for consideration and written notice shall be sent to the applicant at least ten (10) days prior to the meeting. The Building Official and Zoning Administrator, applicant and any other interested persons shall be given the opportunity to present information to the Planning Commission and answer questions. If the Planning Commission finds that a violation exists and has not been remedied prior to the hearing,-then it shall-revoke-approval from the site plan.

**DIVISION 8  
VILLAGE WETLAND DETERMINATION**

**Sec. 30-575. Filing Procedure Wetland Determination.**

Any person desiring a zoning permit for any activity requiring a Village zoning permit or zoning review shall apply to the Zoning Administrator. The filing procedure for a wetland determination may be completed by and through this process or the MDEQ Wetlands Assessment process described above. Those activities requiring a wetland determination are as follows, but not limited to:

- (1) Constructing a building
- (2) Filing a tentative preliminary plat
- (3) Submitting a site plan
- (4) Planned Unit Development project
- (5) Condominium Subdivision or Site Condominium project
- (6) Special Land Use Application'
- (7) Requested a lot/parcel split

### **Sec. 30-576: Preliminary Wetland Determination:**

If the Zoning Administrator or the Planning Commission determines, after reviewing available wetland maps, the USDA Soil Survey Maps, and other related reference material; that the proposed activity may encroach into a MDEQ regulated Wetland; as defined according to Part 303, Wetlands protection; Of the Natural Resources Environmental Protection Act.1994 PA 451', as amended, then a final wetland determination shall be conducted by the applicant prior to further processing of the zoning permit application. If the Zoning Administrator or the Planning Commission determines that a site is buildable, and if there is no potential for activity to impact a MDEQ regulated wetland, and also finds-all other applicable Village requirements to be in compliance, the Zoning Administrator can issue a zoning permit without submittal of a final wetland determination.

### **Sec. 30-577: Final Wetland Determination:**

If the Zoning Administrator or the Planning Commission determines the proposed activity may encroach into a MDEQ regulated wetland area, the applicant shall arrange to have a final wetland determination completed by an experienced wetland consultant before the zoning permit can be processed. The study shall be prepared by an experienced consultant in the delineation and composition of wetland assessment This does not preempt any responsibility of the applicant to also apply to MDEQ for the required wetland permits.

### **Sec. 30-578. Final Wetland Determination Required Information.**

- (1) The name, address and telephone number of the applicant
- (2) The wetland boundary shall tie flagged on-site at intervals of not more than twenty-five (25') feet to permit on-site inspection and verification by Village officials.
- (3) The name, address, telephone number, a curriculum vitae and list of professional experience in the field of wetland assessment of the applicant's agent, firm or individual preparing the wetland determination.
- (4) The owner of the property, if different from the applicant, and the applicant's interest in the subject property.
- (5) A legal description of the property, including the total area, exclusive of public road rights-of-way, accurate to the nearest hundredths of an acre.
- (6) Written and graphic descriptions of the proposed activity.
- (7) An accurate graphic description of the wetlands, ' complete with all the following:
  - (a) A written summary of how and when the wetland was delineated;
  - (b) Boundary of the wetland and the upland area
  - (c) Whether surface water of present due to natural occurrence or attributed to a seasonal

- accumulation
- (d) Major plant species and animal breeding habitat that are present and an estimation of how the wetland functions or relates to its general environment;
  - (e) Known soils
  - (f) The presence of any hills or springs;
  - (g) If there has been recent disturbances (e.g. lack of vegetation, disturbed soils, drainage diversion, etc.)
  - (h) An accurate measurement of the wetland area in acres and square feet, to the nearest hundredth of an acre; and
  - (i) Any proposed remedial or mitigating actions to be completed-as part of the activity proposed in the land use request.

**Sec. 30-579. Submittal Review Process.**

Upon receipt of the final wetland determination, the Zoning Administrator or the Planning Commission shall review the proposed activity to determine if it encroaches-into a regulated wetland.

If the proposed activity is determined to encroach into a MDEQ regulated wetland, the applicant shall be required to produce written evidence of compliance with an approved permit from the Department of Natural Resources (DEQ), as required according to Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

**DIVISION 9.  
VILLAGE FLOODPLAIN REGULATIONS**

**Sec. 30-580. Purpose.**

It is the purpose of this Division to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, and subsequent enactment, rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register Federal Executive Order No. 11988 and Part 31, Floodplain Regulatory Authority, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

**Sec. 30-581. Intent**

The provisions of this division are intended to:

- (1) Help protect human life, prevent or minimize material losses, and reduce the cost to the public of rescue and relief efforts;

- (2) Restrict or prohibit uses which are dangerous to health, safety or property in times of flooding or cause excessive increases in flood heights or velocities;
- (3) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;
- (4) Protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding;
- (5) Permit reasonable economic use of property located within a designated floodplain area.

**Sec. 30-582. Delineation of Floodplain Areas.**

- (1) Designated floodplain areas shall overlay existing zoning districts delineated on the Village of Capac Zoning District Map. The boundary of the floodplain areas that are identified in the report entitled Flood Insurance Rate Maps (FIRM) prepared by FEMA.
- (2) The standard applies to establishing the floodplain area is the base floodplain delineated by the base flood. In areas associated with riverside flooding, a floodway is designated within the floodplain area.
- (3) Where there are disputes as to the location of the floodplain area boundary, the Village Zoning Board of Appeals shall resolve the dispute in accordance with sections 30-146 through 30-150.

**30-583. Application of Regulations.**

In addition to other requirements of this Chapter applicable development in the underlying zoning district, compliance with the requirements of this division shall be necessary, for all development occurring within designated floodplain areas. Conflicts between the requirements of this division and other requirements of this Chapter or any other ordinance shall be resolved in favor of this division, except where the conflicting requirement is more stringent and would further the objectives of this division. In such cases the more stringent requirement shall be applied.

Upon application-for a zoning permit in accordance with section 30-67, the Zoning Administrator shall determine whether said use is located within a designated floodplain area utilizing the documents cited in section 30-566. The issuance of a zoning permit within the floodplain area shall comply with the following standards:

- (1) The requirements of this division shall be met.
- (2) The requirements of the underlying zoning districts and

all other applicable provisions of this Chapter shall be met.

- (3) All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a floodplain permit, approval, or letter of no authority from Michigan Department of Environmental Quality, as provided for in Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Where a development permit cannot be issued prior to the issuance of a zoning permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

#### **Sec. 30-584. Floodplain Management Administrative Duties.**

With regard to the National Flood Insurance Program, and the regulation or development within the flood hazard area zone as prescribed in section 30-566, the duties of the Zoning Administrator shall include, but are not limited to:

- (1) Notification to adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any water course, and the submission of such notifications to the Federal Insurance Administration (FIA).
- (2) Verification and recordation of the actual elevation in relation to the mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood-proofed structures, the elevation to which the structure was flood-proofed; and
- (3) Recordation of all certificates of flood-proofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk\_ A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- (4) All records and maps pertaining to the National Flood Insurance program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
- (5) It shall be the responsibility of the Zoning Administrator

to obtain and utilize the best available flood hazard data for purposes of administering this division in the absence of data from FEMA.

**Sec. 30-685: Floodplain Standards and Requirements.**

The following general standards and requirements shall be applied to all uses proposed to be located within the floodplain area:

- (1) All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall:
  - (a) Be designed and anchored to prevent flotation, collapse, or lateral movement of structure;
  - (b) Be constructed with materials and utility equipment resistant to flood damage;
  - (c) Be constructed by methods and practices that minimize flood damage.
- (2) All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- (3) All new and replacement sanitary sewer systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- (4) All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
- (5) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (6) The Village Engineer or his representation shall review development proposals to determine compliance with the standards in this division, and shall transmit the determination to the Zoning Administrator.
- (7) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of the Article.
- (8) The flood carrying capacity of any altered or relocated water-course not subject to state or federal regulations

designed to insure flood carrying capacity shall be maintained.

- (9) Available flood hazard data from state, federal or other sources shall be reasonably utilized in meeting the standards of this division. Data furnished by FEMA shall take precedence over data from other sources.

### **Sec. 30-585. Standards Applied Floodplain Areas.**

The following specific standards shall be applied to all uses proposed to be located within the floodplain area but not within the floodway portion of the floodplain area.

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated at least one (1') foot above the base flood level.
- (2) All new construction and substantial improvements of nonresidential structures shall have either:
  - (a) The lowest floor, including basement, elevated at least one (1') foot above the base flood level.
  - (b) Be constructed such that below base flood level;-together with attendant utility and-sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and .effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied; and that the flood-proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure.

## **DIVISION 10 MOBILE HOME STANDARDS**

### **Sec. 30-587. Mobile Home General Standards.**

The general standards and requirements that apply to mobile homes located within floodplain areas are located in the Code that specifically addresses mobile home development standards.

Exception for Manufactured Housing Development The Planning Commission shall take action on a site plan (preliminary) for a manufactured housing development within sixty (60) days or the preliminary plan is automatically approved. The Michigan Department of Consumer and Industry has the authority to approve a final site plan and issue construction permits; a Village building permit is not required. Mobile home park

district regulations and standards shall be oiled as prescribed in Sec. 30-351.

**Sec. 30-588. Site Plan Expiration.**

Approved site plans shall expire one (1) year from the date of the final site plan approval. A one-time six (6) month extension may be granted by the Planning Commission. Any additional six (6) month extension must be brought before the zoning Board of Appeals for review. The entire project must be completed within three (3) years, the applicant must resubmit the site plan, with all applicable fees, to the Planning Commission for approval.

(Ord. No. 2011-01)

(Secs. 30-589-30-599 reserved).

**ARTICLE VIII.**

**SIGNS**

**Sec. 30-600. Introduction Preamble.**

These sign standards are being ordained pursuant to General Law Village Act of 1895, as amended, and the Highway Advertising Act of 1972, as amended, which applies to villages to preserve the public health, safety, and general welfare of the Village of Capac.

(Ord. No. 99-7, § 29-1, 10-4-1999; Ord. No. 2004-07, § 2, 9-29-2004)

**Sec. 30-601. Title.**

This Ordinance shall be known as the Village of Capac Sign Standards.

(Ord. No. 2004-07, § 2, 9-29-2004)

**Sec. 30-602. Statement of Purpose.**

These Standards are adopted to:

1. Maintain and enhance the aesthetics of the Village of Capac.
2. Enhance pedestrian and traffic safety.
3. Limit the intrusion of visual messages.
4. Minimize the adverse effects of signs on nearby public and private property.
5. Minimize driver distraction.
6. Encourage native plants and landscaping material.
7. Avoid excessive signage.
8. Protect and enhance the scenic views and natural landscapes.
9. Protect and enhance economic viability by assuring aesthetic appeal for tourists, visitors and residents.

10. Promote the use of aesthetically pleasing sign material and colors.
11. Avoid obstacles, distractions, or traffic hazards which impair a traveler's ability to see pedestrians, traffic signs, or vehicles.
12. Preserve the right to enjoy scenic amenities.
13. Preserve public health, safety, and general welfare.
14. Enhance the effectiveness of necessary directional and warning signs.
15. Enhance air movement and natural light.
16. Preserve property values.
17. Provide for the effectiveness of Permitted Signs.
18. Reduce the blighting influence of signs.
19. Avoid adverse lighting or reflection.
20. Require structurally safe signs.

The Standards in this Ordinance are determined to be the minimum necessary to achieve the stated purpose.

(Ord. No. 2004-07, § 2, 9-29-2004)

### **Sec. 30-603. Definitions.**

*Abandoned:* A sign shall be deemed abandoned if:

- (i) It does not display a well-maintained message for a consecutive 120-day period.
- (ii) The owner of the sign cannot be located at the owner's last known address, as reflected on the records of the zoning administrator.
- (iii) A structure designed to support a sign no longer supports the sign for a period of 120 consecutive days.

*Department:* The Zoning Department of the Village of Capac.

*Directional sign:* A sign on private property without commercial message to give directions such as entrance, exit, or street numbers.

*Governmental Sign:* A sign authorized by the Village of Capac, a governmental agency, State of Michigan, or the federal government, for street direction, destination, hazardous condition, or traffic control purposes.

*Ground Sign:* A sign supported by one or more uprights, braces, pylons, or foundation elements located in or upon the ground and not attached to a building.

*Lot:* A basic development unit with an area with fixed boundaries, used or intended to be used by one building and established within a recorded plat.

*Owner:* A person owning a sign.

*Parcel:* Contiguous real estate taxed as a single parcel on one side of a public road.

*Permit:* The authorization for a sign issued by the Department.

*Person:* Any individual or entity, including a firm, partnership, association, corporation, limited liability company, trustee, and their legal successors.

*Projecting Sign:* A sign affixed to any part of a building or structure which extends beyond the building or structure by more than twelve inches.

*Residential Neighborhood Identification Sign:* A sign at the entrance of a residential neighborhood identifying the neighborhood.

*Roof Sign:* A sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.

*Sign:* an object, including a structure, movable object, wall, or image displaying any message visible to the public.

*Special Event Sign:* A sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, and other limited term events.

*Wall Sign:* A sign attached to, painted upon, placed against, or supported by the exterior surface of any building or structure.

(Ord. No. 99-7, § 29-2, 10-4-1999; Ord. No. 2004-07, § 2, 9-29-2004)

**Cross References:** Definitions generally, § 1-2.

### **Sec. 30-604. Signs Authorized Without a Sign Permit.**

Subject to other applicable requirements and permits, the following signs are authorized without a sign permit:

1. **Small Sign.** One sign per parcel or lot, not illuminated, and not exceeding three (3) square feet in area. The sign may not exceed a height of forty-two (42") inches above ground level. Only one sign is permitted for each parcel or lot. This sign may carry any lawful message.
2. **Governmental Signs.** Governmental signs are permitted.
3. **Directional Signs.** Directional signs are permitted, however:
  - (i) Only one entrance/exit directional sign per legal driveway.
  - (ii) A directional sign may not exceed 1.5 square feet.
4. **Flags.** Two governmental flags are permitted per parcel or lot. A flag pole may not exceed thirty (30) feet above ground level. Non-governmental flags are signs subject to this ordinance.
5. **Warning signs.** Signs exclusively devoted to warning the public of dangerous conditions and unusual hazards such as drop offs, high voltage, fire danger, and explosives are permitted.

Warning signs may not exceed three (3) square feet.

6. Historical Site Signs. A sign may be erected by a government agency which exclusively denotes a government-recognized historical site is permitted. This sign shall not exceed three (3) square feet unless otherwise provided by state or federal law.
7. School “spirit banners”, flags, and signs:
  - i. School “spirit” banners, flags, and signs are associated with any school athletic activity or school function related to Capac Community Schools.
  - ii. Banners, flags, and signs can be in any form of any fabric, vinyl, wood, or paper material.
  - iii. Banners, flags, and signs must be removed within twenty-four (24) hours after the conclusion of the activity or function.
8. Non-profit organizations support acknowledgement banners and/or signs (i.e. Little League baseball, soccer, football, etc).
  - i. Non profit organizations must show non-profit legal status supporting documentation when requested.
  - ii. Banners, flags, and signs can be in the form of any fabric, vinyl, wood, or paper materials.
  - iii. Banners, flags, and signs must be removed within five (5) days after the conclusion of the sponsored activity season, i.e. Little League baseball, soccer, football, etc.

(Ord. No. 2004-07, 2006-01)

### **Sec. 30-605. Signs Authorized With a Permit.**

The Department may issue a permit for a sign in accordance with the following provisions:

1. Commercial/Retail Wall and Ground Signs. One wall sign and one ground sign are permitted for each commercial/retail parcel or lot. Such signs shall not exceed ten (10%) percent of the area of the front face of the building on the parcel or lot, or one hundred (100) square feet, whichever is less. A ground sign may not exceed a height of ten (10) feet above the uniform finished grade. Signs may be placed inside the window areas of buildings in commercial or retail zones. The sign area may not exceed ten (10%) of the area of the window. The window sign shall be deducted from the sign area permitted on the parcel or lot.
2. Office Wall or Ground Signs. One wall sign or one ground sign is permitted for each office parcel or lot. Such sign shall not exceed ten (10%) of the area of the front face of the building on the parcel or lot, or fifty-six (56) square feet, whichever is less. A ground sign may not exceed a height of five (5) feet above the uniform finished grade.
3. Industrial/Manufacturing Wall or Ground Signs. Two (2) wall signs and one (1) ground sign are

permitted for each industrial/manufacturing parcel or lot. Such signs shall not exceed ten (10%) percent of the area of the front face of the building on the parcel or lot, or two hundred (200) square feet of total sign area, whichever is less. A ground sign may not exceed a height of five (5) feet above grade. The maximum square footage allowance excludes all directional, safety, and State mandated signage.

4. Residential Neighborhood Identification Signs.

- (i) A residential neighborhood (Single-family Subdivision, Multiple-family, Attached Housing Development, etc.) is permitted to have one residential neighborhood identification sign for each entrance street. Such signs shall not extend into any public right-of-way. The face of the sign shall not exceed twelve (12) square feet. The area of the structural supporting elements shall not exceed fifty (50%) of the area of the message portion of the sign. The height of the sign may not exceed five (5) feet above the uniform finished grade.
- (ii) Non-Dwelling Use Signs. A non-dwelling use in a residential area, such as a school, a religious facility, an institutional use, a club house, etc., is permitted to have one ground sign and one wall sign, neither of which shall exceed twelve (12) square feet in area. The area of the structural elements supporting a ground sign shall not exceed fifty (50%) of the area of the message portion of the sign. The height of a ground sign may not exceed five (5) feet above the uniform finished grade.

(Ord. No. 99-7, § 29-3, 10-4-1999; Ord. No. 2004-07, § 2, 9-29-2004)

**Sec. 30-606. Sign Permit Requirements.**

1. Enforcement. The Department shall administer and enforce the Village of Capac Sign Standards.
2. Permit. A permit is not required for “signs authorized without a permit”. A permit must first be obtained from the Department for all other signs.
3. Application. Applications for sign permits shall be made upon a form provided by the Department for this purpose. The application shall contain the following information:
  - a. Name, address, phone, and if available, fax and email, of the person applying for the permit.
  - b. Name, address, phone, and if available, fax and email, of the person owning the parcel or lot upon which the sign is proposed to be placed.
  - c. Location of the building, structure, and parcel or lot on which the sign is to be attached or erected.

- d. Position of the sign in relation to nearby buildings, structures, property lines, and existing or proposed rights-of-way.
  - e. Two copies of the plans and specifications. The method of construction and/or attachment to a building, or in the ground, shall be explained in the plans and specifications.
  - f. Copy of the stress sheets and calculations, if deemed necessary by the Department, showing the structure as designed for dead load and wind pressure.
  - g. Name, address, phone, and if available, fax and email, of the person erecting the sign.
  - h. Insurance policy as required by this Ordinance.
  - i. Such other information as the Department may require to show compliance with this sign ordinance, and any other applicable laws.
  - j. The seal or certification of a registered structural or civil engineer, when required by the Department.
  - k. The zoning district in which the sign is to be placed.
  - l. A notice stating: "Any change in the information in this application, such as a change of address, shall be submitted to the Department within seven (7) days after the change.
4. Insurance Certification. The applicant for a sign permit shall provide a certificate of insurance to the Department. The insurance shall provide public liability in the amount of at least \$100,000 for injuries to one person and \$300,000 for injuries to more than one person, and property damage insurance in the amount of at least \$100,000. The sign permit shall automatically be revoked if the insurance is permitted to lapse. The insurance policy shall require written notice to the Department at least sixty (60) days before the insurance is cancelled or materially altered.
  5. Permit Fees. Permits fees for signs shall be established by the Village Council. The permit fees must relate to the cost of issuing the permit and may vary based on the size, type, and height of the sign.
  6. False Information. A person providing false information under this Ordinance shall be deemed guilty of a misdemeanor.

(Ord. No. 99-7, § 29-4, 10-4-1999; Ord. No. 2004-07, § 2, 9-29-2004)

**Sec. 30-607. Prohibited signs.**

The following limitation, obligation, and prohibitions apply to all signs:

1. Absence of Permit. Any sign for which a permit has not been issued and which is not a permitted sign is prohibited.
2. Roof signs and Projecting signs. Roof signs and projecting signs are prohibited.
3. Public Property. No portion of a privately owned sign, or its supporting structures, such as poles or cables, shall be placed on, or within the air space above, publicly owned property, a public right of way (such as a street or sidewalk), or a proposed public right of way.
4. Internally Lit Light Background Sign. Internally lit signs with transparent light background color are prohibited. Dark background internally lit signs are permitted when in compliance with other provisions of this Ordinance.
5. Changeable Message Signs. Changeable message signs are prohibited.
6. Revolving Signs. A revolving sign is prohibited.
7. Traffic Interference. A sign (other than a traffic sign installed by a government entity) shall not simulate or imitate the size, lettering or design of any traffic sign in such a manner as to interfere, mislead or confuse the public.
8. Parked Vehicle. Any sign on a motor vehicle or trailer which is parked in a position visible to traffic on a public road or parking area for a period of longer than six (6) days in a sixty (60) day period is prohibited.
9. Portable signs. Portable/movable signs such as wheeled devices and sandwich boards are prohibited.

(Ord. No. 2004-07)

**Sec. 30-608. Special Event Signs Permitted with Permit.**

1. Special Event Signs. Separate special event signs are permitted with a temporary sign permit only in conjunction with a special event. Special event signage may, however, be displayed over or as a part of an otherwise permitted sign.
2. Special Event Banners. Special event banners may be used in conjunction with a special event only when temporary sign permit has been issued.
3. Special Event Portable Signs. Portable/moveable signs such as wheeled devices or sandwich boards may be used in conjunction with a special event only with a temporary sign permit being issued.

(Ord. No. 2004-07, § 2, 9-29-2004)

**Sec. 30-609. Construction Requirements.**

1. **Material.** Where feasible, signs should be made of materials such as cedar, fir, pine, weather-tolerant wood, or natural material.
2. **Codes.** All signs shall conform to the latest edition of the applicable building and electrical codes.
3. **Fastenings.** All signs must remain safe and secure during the period of use. All parts of the sign, including bolts and cables, shall remain painted, and free of corrosion.
4. **Fire Escapes.** A sign may not obstruct a fire escape.
5. **Lighting.** External lighting shall be shielded from view and shall be focused upon the sign to avoid stray lighting. Flashing, rotating, and intermittent lighting are prohibited.
6. **Identification.** All signs for which a permit is required shall identify the name and operating telephone number of the person responsible for the sign.
7. **Proximity to Electrical Conductors.** Signs and all supporting structures shall be no closer to electrical utilities than is permitted by applicable codes. No sign, including cables and supports, shall, in any event, be within six (6) feet of any electrical conductor, electrical light pole, electric street lamp, traffic light, or other public utility pole.
8. **Sanitation.** Property surrounding any ground sign shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable materials.
9. **Landscaping.** The area beneath and around a sign shall be landscaped with native plants and materials so as to complement the site and integrate the sign with the buildings, parking areas, and natural site features.
10. **Responsibility for Compliance.** The owner of the parcel on which the sign is placed and the person maintaining the sign are each fully responsible for the condition and the maintenance of the sign, and the area around the sign.

(Ord. No. 2004-07, § 2, 9-29-2004)

**Sec. 30-610. Non-Conforming Signs.**

1. **Intent.** This Ordinance is intended to encourage the eventual elimination of signs which do not comply with the Ordinance. The elimination of non-conforming signs is as much a subject of health, safety, and general welfare as is the prohibition of new signs in violation of this Ordinance. Therefore, this Ordinance attempts to realize removal of non-conforming signs and to avoid any unreasonable invasion of established property rights.
2. **Amortization.** A sign not complying with this Ordinance, but in place on the effective date of this Ordinance, shall be removed, or brought into compliance with this Ordinance, within twelve (12)

years after the effective date of this Ordinance.

3. Permit. Within ninety (90) days after the effective date of this Ordinance, the person owning a non-conforming sign shall apply for a permit to the Department. The Department shall issue the permit for not more than twelve (12) years.
4. Continuance. A non-conforming sign may be continued during the amortization period if it is maintained in good condition. It shall not be structurally altered so as to prolong the life of the sign. It may not be reestablished after damage or destruction if the Department determines that the estimated cost of reconstruction exceeds fifty (50%) percent of the estimated replacement cost.
5. Nuisance. An unsafe or abandoned sign is declared a public nuisance which shall be abated.

(Ord. No. 2004-07, § 2, 9-29-2004)

### **Sec. 30-611. First Amendment Protection.**

The placement of directional signs, residential neighborhood signs, historical site signs, and flags is specifically authorized in this Ordinance. All other signs allowed under this Ordinance may contain any lawful message.

(Ord. No. 2004-07, § 2, 9-29-2004)

### **Sec. 30-612. Administration.**

1. Administrator. The Department shall appoint personnel to administer and enforce the terms and conditions of this Ordinance and all other provisions relating to signs. Any sign placed within the Village right-of-way, shall be forfeited and subject to the immediate confiscation and removal at the sign owners sole expense. The word “remove” and “removal” and “removed” as used in this section and sub subsections shall mean and include the demolition, destruction, removal and disposal of the sign face, post columns, backing material, and support of all signs. In the case of a painted wall sign, such word shall also including painting over the original sign in its entirety so as to completely cover it.
2. Enforcement. The Department shall issue permits, as required by this Ordinance. The Department shall also ensure signs comply with this Ordinance and any other applicable public law. The Department shall also enforce the requirements that all signs properly comply with this Ordinance by procuring a permit. The Department shall make such inspections as may be necessary and shall initiate appropriate action to enforce compliance with this Ordinance and other applicable sign laws.
3. Department Powers. The Department shall have the power and authority to administer and enforce this Ordinance. Included among such powers are the following specific powers:
  - a. Every sign for which a permit is required shall be subject to the inspection and approval

of the Department. When deemed advisable, a sign may be inspected at the point of manufacture.

- b. Upon presentation of proper identification to the sign owner or owner's agent, the Department may enter the sign area for purposes of inspecting the sign, sign structure, and any fasteners securing the sign to the building or supports. In cases of emergency, where imminent hazards to persons or property are known to exist, and where the sign owner, or owner's agent, is not readily available, the Department may enter the sign area for purposes of inspection and remediation. When on the private property, the Department shall observe rules and regulations concerning safety, internal security, and fire protection. If the Department is denied admission to inspect any sign, inspection shall be made only under such authority of a warrant issued by a court of proper jurisdiction. When applying for such warrant, the Department shall submit an affidavit setting forth a belief that a violation of this Ordinance exists with respect to a particular sign, and the reasons for forming this belief. The affidavit shall designate the place and name of the person believed to own or possess the sign. If the court finds probable cause exists for the search of the sign, and supporting structures, then a warrant authorizing the search shall be issued. The warrant shall describe the property with sufficient certainty to identify the same. This warrant shall constitute authority for the Department to enter the sign area and inspect the property.
- c. Upon issuance of a Stop Order from the Department, work on any sign that is being conducted in any manner contrary to this Ordinance shall be immediately stopped. This notice and order shall be in writing and shall be given to the owner of the parcel or lot, the sign owner, or the person performing the work. The Stop Order shall state the conditions under which work may be resumed. The police department shall have authority to enforce a Stop Order.
- d. The Department has the authority to revoke any permit authorized by this Ordinance if the sign violates this Ordinance or another law, provided that the Department shall offer the sign owner an opportunity to be heard. The person whose permit is under consideration shall be given at least ten (10) days written notice of the time, place, and reason for the hearing. The sign owner and/or person identified in the permit shall be permitted to present relevant facts and legal argument concerning the pending revocation. Following this hearing, the Department shall consider the merits of the case and shall present a written opinion prior to any action. If, however, the Department believes the health, safety, or general welfare of the citizens is endangered by any violation of this Ordinance, the Department may immediately revoke any sign permit.
- e. A sign installed after the effective date of this Ordinance, and not conforming to this Ordinance, shall be removed by the owner. The sign owner shall not be entitled to compensation for the sign removal and shall reimburse the Department for any costs incurred in connection with the removal.
- f. Any person violating any provision of this Ordinance shall be guilty of a civil infraction and shall, upon a determination of responsibility, be punished by a fine of not more than

\$500.00 for each violation. Each day on which a violation occurs shall constitute a separate offence. In addition, the Village attorney is authorized to take all actions, legal, injunctive, and equitable, to assure compliance with this Ordinance.

(Ord. No. 2004-07, § 2, 9-29-2004)