

## Chapter 36

### ZONING\*

#### Article I. In General

- Sec. 36-1. Definitions.
- Sec. 36-2. Vested interest.
- Secs. 36-3—36-22. Reserved.

#### Article II. Administration and Enforcement

##### Division 1. Generally

- Sec. 36-23. Designation of officials; violations; penalties.
- Sec. 36-24. Interpretation of conflicting provisions.
- Secs. 36-25—36-51. Reserved.

##### Division 2. Board of Appeals

- Sec. 36-52. Establishment.
- Sec. 36-53. Authority.
- Sec. 36-54. Limitations.
- Sec. 36-55. Application for variance, appeal or special exception.
- Secs. 36-56—36-83. Reserved.

##### Division 3. Special Exceptions

- Sec. 36-84. Purpose; limitations.
- Sec. 36-85. Petitions.
- Sec. 36-86. Conditions for special exception.
- Sec. 36-87. Special provisions.
- Secs. 36-88—36-117. Reserved.

##### Division 4. Amendment Procedures

- Sec. 36-118. Authority to amend; request for amendment; fee.
- Sec. 36-119. Written proposal.
- Sec. 36-120. Map amendment requirements.
- Secs. 36-121—36-138. Reserved.

#### Article III. District Regulations

- Sec. 36-139. Districts established; zoning map.
- Sec. 36-140. A Agricultural district.
- Sec. 36-141. R-1 Residential district, single-family.
- Sec. 36-142. R-2 Residential district, single-family.
- Sec. 36-143. R-3 Residential district, single-family and two-family.

---

\***State law references**—Michigan zoning enabling act, MCL 125.3101 et seq.; municipal planning, MCL 125.31 et seq.

## CLIMAX CODE

- Sec. 36-144. R-4 Residential district, multiple-family.
- Sec. 36-145. R-5 Mobile home park district.
- Sec. 36-146. C-1 Commercial district, general.
- Sec. 36-147. C-2 Commercial district, shopping center.
- Sec. 36-148. I-1 Industrial district, manufacturing.
- Sec. 36-149. I-2 Industrial district, service.
- Secs. 36-150—36-166. Reserved.

### **Article IV. Supplemental Regulations**

- Sec. 36-167. Parking of motor vehicles.
- Sec. 36-168. Signs and outdoor advertising structures.
- Sec. 36-169. Nonconforming uses.
- Sec. 36-170. Accessory uses or buildings.
- Sec. 36-171. Home occupations.
- Sec. 36-172. Screening.
- Sec. 36-173. Lot, yard and area requirements—General.
- Sec. 36-174. Same—Specific, by zoning district.
- Sec. 36-175. Standards required of special exception uses.

**ARTICLE I. IN GENERAL****Sec. 36-1. 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 use* means a use of a building, lot or portion thereof which is customarily incidental and subordinate to the principal use of the main building or lot.

*Alley* means a passage or way open to public travel affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

*Apartment house* means a building used and/or arranged for rental occupancy or cooperatively owned by its occupants, having three or more family units and with a yard, compound, service, or utilities in common.

*Basement* means a portion of a building located partly underground but having more than one-half its clear floor-to-ceiling height below the average grade of the adjoining ground.

*Building* means a structure having one or more stories and a roof, designed primarily for shelter, support or enclosure of persons, animals or property of any kind.

*Building, accessory*, means a building subordinate to and located on the same lot as a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

*Building height* means the vertical distance from the average grade at the building to the average elevation of the roof of the highest story.

*Building line* means a line beyond which the foundation wall or any enclosed porch, vestibule or other portion of a building shall not project.

*Care home* means homes established to render nursing care for chronic or convalescent patients, and shall include rest and nursing homes, convalescent homes and boarding homes for the aged. The term "care home" excludes facilities for care of active or violent patients such as feeble-minded or mental patients, epileptics, alcoholics, senile psychotics or drug addicts.

*Cellar* means the portion of a building below the first floor joists at least half of whose clear ceiling height is below the level of the adjacent ground. Such a portion of a building shall not be used for habitation.

*District* means an area within which certain uses of land and buildings are permitted and all others prohibited, yards and other open spaces are required, lot areas, building height limits, and other requirements are established, and wherein all such permissions, prohibitions, and requirements are identical.

*Dwelling, multiple-family,* means a building containing three or more dwelling units. The term "multiple-family dwelling" includes an apartment house.

*Dwelling, semidetached,* means one of two buildings arranged or designed as dwellings located on abutting lots, separated from each other by a party wall without openings and extending from the cellar floor to the highest point of the roof, along the dividing lot line, and separated from any other building or structure by space on all other sides.

*Dwelling, single-family,* means a building containing not more than one dwelling unit designed for residential use and complying with the following standards:

- (1) The dwelling complies with the minimum square footage requirements of this chapter for the zone in which it is located.
- (2) The dwelling has a minimum width across any front, side or rear elevation of 20 feet and complies in all respects with this Code, including minimum heights for habitable rooms. Where a dwelling is required to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by this Code, then, and in such event, such federal or state standards or regulations shall apply.
- (3) The dwelling is firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the state construction code for single-family dwellings. If the dwelling is a mobile home, as defined in this section, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission or shall have a perimeter wall as required in this subsection.
- (4) The dwelling, if a mobile home, as defined in this section, is installed with the wheels removed. Furthermore, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (5) The dwelling is connected to a public sewer and water supply or to such approved private facilities, if permissible under the provisions of this Code.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction; such storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not fewer than 12 inches on all sides or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not fewer than two exterior doors, with the second one being in either the

rear or side of the dwelling; and contains steps connected to such exterior door areas or to porches connected to such door areas where a difference in elevation requires such steps.

- (8) The compatibility of design and appearance shall be determined in the first instance by the city building inspector upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals within a period of 15 days from the receipt of notice of such building inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition, as well as the character, design and appearance of one or more residential dwellings, located outside of mobile home parks, within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within such area or, where such area is not so developed, by the character, design and appearance of one or more residential dwellings, located outside of mobile home parks, throughout the city. This subsection shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard site-built home.
- (9) The dwelling contains no additions, rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required in this definition.
- (10) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and plumbing, electrical apparatuses and insulation within and connected to the mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, 24 CFR 3280, and as such standards may be amended from time to time. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

The standards set forth in this definition shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by state or federal law, or otherwise specifically required in provisions of this Code pertaining to such parks. All construction required in this definition shall be commenced only after a building permit has been obtained in accordance with the state construction code provisions and requirements.

*Dwelling, two-family*, means a building containing not more than two separate dwelling units.

*Dwelling unit* means a building or portion thereof arranged or designed for permanent occupancy by not more than one family for living purposes and having cooking facilities.

*Excavation, commercial*, means the digging of soil, sand, gravel, rock, minerals, clay, or other earthen material from a land surface when primarily for carrying on a

business or manufacturing operation for the purpose of sale, exchange, processing or manufacture. The term "commercial excavation" does not include grading of fill-in incidental to improvement of the land.

*Facilities and services* means those facilities and services that are normally accepted as necessary for urban living, such as paved streets, public and/or private water supply and sanitary sewer disposal, storm drainage system, schools, parks and playgrounds.

*Family* means one or more persons living as a single, nonprofit housekeeping unit, as distinguished from individuals or groups occupying a hotel, club, or fraternity or sorority house. The term "family" includes necessary servants when such servants share the common housekeeping facilities and services.

*Farming* means agricultural activity or the raising of livestock or small animals as a source of income.

*Floor area* means the total enclosed floor area of a structure used for residential purposes, excluding the floor area of uninhabitable basements, cellars, garages, accessory buildings, attics, breezeways, and porches. For manufacturing, business or commercial activities, floor area includes warehouse facilities, customer facilities, showcase facilities, and sales facilities.

*Frontage* means the length of the front property line of the lot or tract of land abutting a public street, road or highway.

*Gasoline service station* means a building, lot or portions thereof used and limited in function to retail sale of gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories, and services such as lubrication, washing, polishing and other minor servicing to motor vehicles.

*Home occupation* means an occupation customarily engaged in by residents in their own dwelling, subject to the provisions of section 36-171.

*Hospital* means any institution, including a sanatorium, which maintains and operates facilities for overnight care and treatment of two or more nonrelated persons as patients suffering mental or physical ailments, but not including any dispensary or first aid treatment facilities maintained by a commercial or industrial plant, educational institution, convent, or a convalescent home.

*Hotel* means a building occupied as a more or less temporary abiding place of individuals who are lodged with or without meals, in which as a rule the rooms are occupied singly for hire, and in which provision is not made for cooking in any individual apartment except for that of the management.

*Junkyard* means any land or building used for commercial storage and/or sale or paper, rags, scrap metals, other scrap or discarding materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not to be used as a landfill.

*Landfill* means any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purposes, of trash, refuse or waste material of any kind.

*Lot* means land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter for a lot in the district in which such lot is situated, and having the required frontage on a street.

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

*Lot, depth of,* means the average horizontal distance between the front lot line and the rear lot line.

*Lot, front of,* means the side of an interior or through lot which abuts a street; in a corner lot, the side abutting either street may be considered as the front lot line provided that the side selected as the front has the required minimum lot frontage.

*Lot frontage* means that portion of a lot extending along a street line. In odd-shaped or triangular-shaped lots, the length of the frontage may be reduced to not less than one-half of any minimum frontage herein required and the actual length of the street line shall not be less than 50 feet.

*Lot, interior,* means a lot other than a corner lot.

*Lot width* means the average horizontal width measured at right angles to the lot depth.

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

*Motel* means a group of attached or detached dwellings not more than two stories in height containing guest rooms which are provided for transient occupancy only, including auto courts, motor lodges and tourist homes.

*Nonconforming use* means the use of a building or of land lawfully existing at the time of the adoption of the ordinance from which this chapter is derived but which does not conform with the present use regulations of the district in which it is located.

*Nursing home.* See *Care home.*

*Parking space, automobile,* means that area required for the parking or storage of one automobile, including necessary aisle or driveway space providing access thereto.

*Professional office* means rooms or buildings used for office purposes by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, etc., but not including medical or dental clinics.

*Shelter, fallout,* means a structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout,

air raids, storms, or other emergencies. Fallout shelters constructed completely below the ground level, except for a vent not exceeding 30 inches in height above ground level, may be contained within any yard area.

*Shopping center* means a group of five or more commercial establishments planned, developed and managed as a unit, with off-street parking provided on the same property and related in location, size and type of shops in the center.

*Sign* means any structure, part thereof, device attached thereto or painted or represented thereon, or any material or thing which displays numerals, letters, words, trademark or other representation used for direction, or designation of any person, place, product, service, business, or industry, which is located upon any land, on any building, in or upon a window, or indoors in such a manner as to attract attention from outside of the building.

*Sign area* means the surface of a sign used to convey the message, exclusive of the necessary supports or any appurtenances required by chapter 8. The area of open sign structures, consisting of letters or symbols without a solid surface in between, shall be calculated on the basis of the total area within the perimeter of the group of letters and/or symbols. The area of a double-faced sign which is constructed back to back shall be calculated on the basis of a single face.

*Sign, outdoor advertising*, means a sign which calls attention to a business, commodity, service, entertainment, or other activity conducted, sold, or offered elsewhere than on the premises upon which the sign is located.

*Special exception* means the granting to a petitioner, by the board of appeals, certain uses of land and/or buildings, because of their particular nature and due to certain circumstances, to become established as provided in this chapter (see article II, division 3).

*Special exception uses* means uses of land and/or buildings which, because of their particular nature and due to certain circumstances, are designated as exceptions, and may be permitted to become established within those districts as specified in this chapter (see article II, division 3).

*Story* means that portion of a building included between the surface of any floor and the surface of the floor next above it, or of the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

*Street* means a public dedicated right-of-way, other than an alley, which provides primary access to abutting properties and over which the public has an easement for vehicular access.

*Structure* means any thing constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground, and shall include fences which are more than 50 percent solid, tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars, camp cars



or similar structures on wheels or other supports used for business or living purposes. The term "structure" shall not apply to wires and their supporting poles or frames of electrical or telephone utilities or to service utilities entirely below the ground.

*Use* means the principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied or maintained.

*Variance* means the granting of permission to a petitioner, by the board of appeals, to vary from the strict application of this chapter as provided in section 36-53(2).

*Yard* means open space on the same lot with a building or group of buildings, lying between the building and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs, or fences.

*Yard, front*, means open space extending across the full width of lot between the front lot line or the proposed front street line and the nearest line of the building or portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any portion thereof.

*Yard, rear*, means open space extending across the full width of a lot between the rear line of the lot and the nearest line of the building porch or projection thereof. The depth of such yard is the average horizontal distance between the rear lot line and the nearest point of the building.

*Yard, side*, means open space between the side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the nearest line of the building, porch, or projection thereof, extending from the front yard to the rear yard or, in the absence of either such yards, to the front lot line or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the building, porch or projection thereof.

*Zone.* See *District*.  
(Code 1988, § 5.102)

**Sec. 36-2. Vested interest.**

It is hereby expressly declared that nothing in this chapter shall be held or construed to give or grant to any person any vested interest, right, license, privilege or permit.

(Code 1988, § 5.126)

**Secs. 36-3—36-22. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

**DIVISION 1. GENERALLY**

**Sec. 36-23. Designation of officials; violations; penalties.**

(a) *Administration.* The provisions of this chapter shall be administered by such persons who shall be designated by the village officials in accordance with applicable state statutes.

(b) *Enforcement.* The provisions of this chapter shall be enforced by such official as may be from time to time designated by resolution of the village officials.

(c) *Violations.*

- (1) Buildings erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this chapter, are declared to be a nuisance per se. All buildings or land use activities considered possible violations of the provisions of this chapter observed by or communicated to police and fire department employees or to any municipal official shall be reported to the zoning enforcement officer.
- (2) The zoning enforcement officer shall inspect each alleged violation and shall order correction, in writing or by posting of notice upon the premises, of all conditions found to be in violation of this chapter.
- (3) An appeal may be taken to the board of appeals by any person alleging error in any administrative order concerning the enforcement of this chapter.
- (4) All violations shall be promptly corrected after receipt of notification thereof by writing or by posting upon the premises by the zoning enforcement officer. A violation not so corrected shall be reported to the municipal attorney, who shall initiate prosecution procedures.

(d) *Penalties.* Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter, a permit, license or exception granted under this chapter, or any lawful order of the zoning enforcement officer, board of appeals, or the village council issued pursuant to this chapter shall be responsible for a municipal civil infraction.

(Code 1988, § 5.103)

**Sec. 36-24. Interpretation of conflicting provisions.**

In interpreting and applying the provisions of this chapter, the requirements contained herein are declared to be the minimum requirements for the protection of health, morals, safety or welfare. This chapter shall not be deemed to interfere with, abrogate, annul, or otherwise affect, in any manner whatsoever, any ordinances, rules, regulations, permits, easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or larger open spaces than is imposed or required by other ordinances, rules, regulations, or permits, or by easements, covenants, or agreements between parties, the provisions of this chapter shall prevail. Except as hereinafter provided, the following general regulations shall apply:

(1) *Limitations on all land and structures.*

- a. No building shall be erected and no existing building shall be moved, altered, added to or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner other than that included among the uses hereinafter listed as permitted in the zone in which such building or land is located.

- b. Every building hereinafter erected shall be located on a lot, as herein defined; and except as herein provided, there shall be not more than one single-family dwelling on one lot.
  - c. Every dwelling structure shall be built upon a lot with frontage upon a public street, provided that any one lot of record created before the effective date of the ordinance from which this chapter is derived without any frontage on a public street but provided with an easement or right-of-way of no less than 20 feet wide may be granted a building permit, provided all other requirements of this chapter can be met.
  - d. The illumination of any building or use of land shall be designated and operated so that the source of light shall not be directed upon adjacent properties or the public streets. In no event shall the illumination of a building or use of land be permitted to flood upon adjacent residential structures.
- (2) *Limitations on height.* No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designed for the zone in which such building is located; provided, however, that the height limitations of this chapter shall not apply to church spires, belfries, cupolas, antennas, domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, silos, bulkheads, and necessary mechanical appurtenances usually carried above the roof level, except where, in the opinion of the building inspector, such may be deemed to interfere with aerial navigation or constitute a fire hazard. Such features, however, shall not exceed in total coverage 20 percent of the total roof area and shall not exceed a reasonable height to be determined upon reference of all such cases to the zoning board of appeals by the building inspector.
- (3) *Limitations on area.*
- a. No building shall be erected, nor shall any existing building be altered, enlarged, moved, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations herein designated for the zone in which such buildings or open spaces are located, except as otherwise specifically provided.
  - b. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as a yard or open space for any other building.
  - c. Any lot which was legally recorded at the time of adoption of the ordinance from which this chapter is derived and which was a buildable lot even though it may have less than the minimum area requirements is permitted.
- (4) *Building permits*
- a. *Building permit to erect or alter structures.* No structure shall be erected or altered, and no excavation shall be started until a building permit for such erection or alteration shall have been issued.

- b. *Prior building permits.* Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, provided that construction is commenced within 90 days after the date of issuance of the permit and that construction is carried on diligently and without interruption for a continuous period so that the entire building shall be completed according to the plans filed with the permit application within two years after the issuance of the building permit.
- (5) *Certificate of occupancy.*
- a. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged, wholly or partly, until it has been certified that the structure or use complies with the provision of this chapter. Such occupancy permits shall be granted or denied within 15 days from the date on which a written application is filed with the building inspector or zoning enforcement officer.
  - b. The issuance of a certificate of occupancy shall not be construed as permitting any violation of this chapter.
- (6) *Conflict with other laws.* Whenever the requirements of this chapter are at variance with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive, or those that impose the higher standards, shall govern.
- (7) *Boundaries of zones.* Where uncertainty exists as to the boundaries of any of the zones as shown on the zoning map, the following rules shall apply:
- a. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions as shown on said zoning map.
  - b. Where zone boundaries are indicated as following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
  - c. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet therefrom, such lot lines shall be such boundaries.
  - d. In subdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
  - e. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or be used for any purpose other than a public purpose,

said land shall be subject to all of the regulations which apply within the zone immediately adjacent thereto or within the most restricted of the immediately adjacent zones, if there are more than one.

(Code 1988, § 5.105)

**Secs. 36-25—36-51. Reserved.**

**DIVISION 2. BOARD OF APPEALS\***

**Sec. 36-52. Establishment.**

There shall be a board of appeals as provided under applicable state statutes, and said board shall have such powers and duties as prescribed by law.

(Code 1988, § 5.104A)

**Sec. 36-53. Authority.**

The board of appeals shall have the authority to:

- (1) Hear and decide, upon request, the interpretation of the provisions of this chapter.
- (2) Grant variances from the strict application of this chapter when, by reason of exceptional narrowness, shallowness, shape or topography of specific parcels of property at the time of the original enactment of the ordinance from which this chapter is derived or amendments thereto, or when the strict application of these regulations or amendments thereto would result in exceptional or undue hardship upon said property; provided that such relief or variances can be granted without substantial impairment of the intent or purpose of this chapter. This provision shall not be construed to permit the board, under the guise of a variance, to change the uses of land.
- (3) Hear and decide appeals where it is alleged by appellants that there is error in any refusal of building, use, or occupancy permit or in any other order, requirement, decision, or determination made by the building inspector, zoning enforcement officer, or other municipal employee when passing upon an application for a building or other permit, or by any other officer or body in the administration of the zoning ordinance.

- (4) Hear and decide petitions for special exceptions.

(Code 1988, § 5.104B)

**Sec. 36-54. Limitations.**

(a) Nothing contained in this chapter shall be deemed to authorize the board of appeals to reverse or modify any refusal of a permit or any other order, requirement, decision, or determination which conforms to the provisions of this chapter and which, therefore, is not erroneous, or to authorize the board to validate, ratify, or legalize any violation of law or any of the regulations of this chapter.

---

\*State law reference—Zoning board of appeals, MCL 125.3601 et seq.

(b) The board shall not amend any portion of this chapter or the zoning map; nor shall such power or authority be vested in the board.

(c) A decision of the board permitting the erection or alteration of a building or other use of the land shall be valid for a period of six months, during which time a building permit for such erection or alteration must be obtained and the erection or alteration started.

(d) No application for a variance or special exception which has been denied wholly or in part by the board shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.

(Code 1988, § 5.104C)

**Sec. 36-55. Application for variance, appeal or special exception.**

(a) Requests for variances, appeals or special exceptions may be made by submitting an application to the village clerk. A fee as currently established or as hereafter adopted by resolution of the village council from time to time shall accompany the application to help defray cost of processing said application.

(b) A site plan, plot plan or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses, shall be submitted with each request for a variance, appeal or special exception.

(Code 1988, § 5.104D)

**Secs. 36-56—36-83. Reserved.**

DIVISION 3. SPECIAL EXCEPTIONS\*

**Sec. 36-84. Purpose; limitations.**

In order to make this chapter flexible to meet the needs of changing trends in development and new technology, the board of appeals is authorized to approve the establishment of special exception uses. In this way, the chapter does not become a rigid document that cannot be altered, but serves as a guideline upon which the zoning board of appeals may make enlightened judgments keeping development within the general philosophy of this chapter. Land and structure uses not specifically mentioned in this chapter or possessing unique characteristics may be designated as special uses and, as such, may be authorized by the issuance of a special exception with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as landfills and junkyards, are inherently so objectionable as to make extra regulations and controls advisable even in the zone to which they are permitted. Others, such as

\*State law reference—Special land uses, MCL 125.3504.

gasoline stations and taverns, must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as special exceptions are permitted in certain zones only if granted by the board of zoning appeals.

(Code 1988, § 5.123A)

#### **Sec. 36-85. Petitions.**

(a) Petitions for the granting of special exceptions shall be filed with the village clerk on forms provided therefor. The petitioner shall submit plans and specifications or other data or explanatory material stating the methods by which he will comply with the conditions specified for each granting of a special exception. At the time of filing his request for a grant of special exception, the petitioner shall pay to the clerk the fee required by section 36-55(a).

(b) The board of appeals shall review the application and, after a public hearing, shall grant or refuse the special exception and notify the petitioner and building inspector and/or zoning officer.

(Code 1988, § 5.123B)

#### **Sec. 36-86. Conditions for special exception.**

In hearing a request for any special exception, the board of appeals shall be governed by the following principles and conditions:

- (1) The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the board.
- (2) A special exception may be granted when the board of appeals finds from the evidence produced at the hearing that:
  - a. The proposed use does not affect adversely the general plan for physical development of the village as embodied in this chapter and in any master plan or portion thereof adopted by the village;
  - b. The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
  - c. The standards as may be set forth for a particular use for which a special exception may be granted can and will be met by the applicant.

(Code 1988, § 5.123C)

#### **Sec. 36-87. Special provisions.**

The board of appeals may and is hereby empowered to add to the specific provisions enumerated in this chapter others that it may deem necessary to protect adjacent properties, the general neighborhood, and the residents and workers therein.

(Code 1988, § 5.123D)

**Secs. 36-88—36-117. Reserved.****DIVISION 4. AMENDMENT PROCEDURES\*****Sec. 36-118. Authority to amend; request for amendment; fee.**

The regulations, restrictions, and boundaries established by this chapter may from time to time be amended, supplemented or repealed by the village as provided by applicable state law. Requests for amendment of this chapter may be made by any interested person by submitting an application for the proposed amendment to the village clerk. A fee shall be charged as currently established or as hereafter adopted by resolution of the village council from time to time.

(Code 1988, § 5.124A)

**Sec. 36-119. Written proposal.**

In the case of a text amendment, the applicant shall submit in writing the proposed text to be added and/or the existing text to be deleted.

(Code 1988, § 5.124B)

**Sec. 36-120. Map amendment requirements.**

In case of a map amendment, the applicant shall submit a written statement specifying the following:

- (1) The name and address of the owner of the land.
- (2) The street number, if any, or, if none, the location with respect to nearby public roads serving the land which is proposed to be reclassified.
- (3) A description, by metes and bounds, courses and distances of the land, or, if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the county, a lot, block and subdivision designation with appropriate plat reference.
- (4) An identification plat prepared by a civil engineer, surveyor, or other competent person and certified thereon by such person to be correct and in conformity with this section, showing the land proposed to be reclassified, or, if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded among the land records of the county, then a copy of such plat, the land proposed to be reclassified appearing in a color distinctive from that of other land shown on the plat.
- (5) The area of the land proposed to be reclassified, stated in square feet, if less than one acre, or in acres, if one acre or more.
- (6) The present classification and the classification proposed for such land.

(Code 1988, § 5.124C)

**Secs. 36-121—36-138. Reserved.**

\*State law reference—Amendments or supplements, MCL 125.3202.



### ARTICLE III. DISTRICT REGULATIONS

#### Sec. 36-139. Districts established; zoning map.

(a) For the purpose of this ordinance, the village is hereby divided or may in the future be divided, into the following zoning districts:

A	Agriculture
R-1	Residential, single-family
R-2	Residential, single-family
R-3	Residential, single and two-family
R-4	Residential, multiple-family
R-5	Mobile home park
C-1	Commercial, general
C-2	Commercial shopping center
I-1	Industrial, manufacturing
I-2	Industrial, service

(b) The locations and boundaries of the zones established in the village shall be shown on a map entitled "Zoning Map of the Village of Climax, Michigan," and as same may be amended subsequent to the adoption thereof; and said map section or portion thereof, together with all notations, dimensions and other data shown thereon, is hereby made a part of this article to the same extent as if the information set forth on said map were fully described and incorporated herein.

(c) The official copy of the zoning map shall be in the custody of the village clerk. (Code 1988, § 5.106)

#### Sec. 36-140. A Agricultural district.

(a) *Description of district.* The A agricultural district is composed of certain land in outlying areas presently of rural character. Such land is zoned for agricultural use with the intent that agriculture will be the principal land use within the foreseeable future. The regulations for this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to a low concentration and to those uses which would not be detrimental to future development.

(b) *Permitted uses.*

(1) Single-family dwellings and the accessory structures and uses normally auxiliary thereto; provided that nothing in this section shall prohibit the conversion or alteration of any single-family structure in existence at the time of passage of the ordinance from which this chapter is derived, into not more than two separate dwelling units, provided that such dwelling units shall conform with the following provisions:

a. There shall be no change or alternation of the exterior of the dwelling to change its appearance from that of a single dwelling unit.

- b. Any single-family dwelling converted under the provisions of this section shall be required to have within the enclosed walls of the original structure a total of not less than 2,000 square feet of habitable floor area for two dwelling units.
  - c. There shall be a minimum habitable floor area of 800 square feet for each separate dwelling unit within any single-family structure which has been converted to house two families.
  - d. The provisions of this section shall apply only to the conversion of single-family dwellings and shall not be construed to permit the construction of two-family dwellings.
- (2) State-licensed residential facilities, as required by MCL 125.3206.
  - (3) Any farm or agricultural activities, including stock nurseries, animal and livestock raising.
  - (4) The sale of farm or dairy produce which has been raised on the farm from which it is to be sold.
  - (5) Home occupations.
  - (6) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
  - (7) Signs, when in accordance with the provisions of section 36-168.
  - (8) Accessory uses or buildings, when in accordance with the provisions of section 36-170.
- (c) *Special exception uses.*
- (1) Churches, cemeteries, parochial and private schools.
  - (2) Eleemosynary, charitable and philanthropic institutions.
  - (3) Golf courses, private noncommercial clubs.
  - (4) Public utility buildings and structures necessary for the service of the community, provided that public utility activities of an industrial character, such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.
- (d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.  
(Code 1988, § 5.107)

**Sec. 36-141. R-1 Residential district, single-family.**

(a) *Description of district.* The R-1 residential district is composed of certain land in outlying areas presently of a rural residential character where low density single-family residential development has occurred or appears likely to occur. The regulations of this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe

environment for family life. To these ends, development is restricted to low density single-family residential use consistent with limited rural type facilities and services.

(b) *Permitted uses.*

- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto, as specified in section 36-140(b)(1).
- (2) State-licensed residential facilities as required by MCL 125.3206.
- (3) Home occupations.
- (4) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (5) Signs, when in accordance with the provisions of section 36-168.
- (6) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.* Any special exception use permitted in the A agricultural zone.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.  
(Code 1988, § 5.108)

**Sec. 36-142. R-2 Residential district, single-family.**

(a) *Description of district.* The R-2 residential district is composed of medium density single-family residential areas in the municipality where medium density single-family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to medium density single-family residential use, where adequate facilities and services will be provided.

(b) *Permitted uses.*

- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
- (2) State-licensed residential facilities as required by MCL 125.3206.
- (3) Home occupations.
- (4) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (5) Signs, when in accordance with the provisions of section 36-168.
- (6) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Any special exception use permitted in the A agricultural district.
- (2) Care home.
- (3) Hospital or medical clinic, excluding veterinary hospitals.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.

(Code 1988, § 5.109)

**Sec. 36-143. R-3 Residential district, single-family and two-family.**

(a) *Description of district.* The R-3 residential district is composed of higher density single-family and two-family residential areas in the municipality where high density single-family or two-family residential development has occurred, or appears likely to occur. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to higher density single-family and two-family residential use where adequate facilities and services will be provided.

(b) *Permitted uses.*

- (1) Single-family dwellings, and the accessory structures and uses normally auxiliary thereto.
- (2) State-licensed residential facilities as required by MCL 125.3206.
- (3) Two-family dwellings.
- (4) Home occupations.
- (5) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (6) Signs, when in accordance with the provisions of section 36-168.
- (7) Accessory uses, or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Any special exception use permitted in the R-2 residential district.
- (2) Children's day nursery.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.

(Code 1988, § 5.110)

**Sec. 36-144. R-4 Residential district, multiple-family.**

(a) *Description of district.* The R-4 residential district is composed of certain areas within the municipality where multiple-family residential development has occurred, or appears desirable to occur. The regulations for this district are designed to protect

and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. To these ends, development is restricted to multiple-family residential use where adequate public facilities and services will be provided.

(b) *Permitted uses.*

- (1) Two-family, semidetached dwellings and the accessory structures and uses normally auxiliary thereto.
- (2) Apartment houses, boardinghouses, garden apartment development and the accessory structures and uses normally auxiliary thereto.
- (3) Business offices in an apartment building for conducting business incidental to the rental, operation, service and maintenance of the apartment building, or buildings.
- (4) Home occupations, limited to existing single-family dwellings and to two-family semidetached dwellings.
- (5) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- (6) Signs, in accordance with the provisions of section 36-168.
- (7) Accessory uses or buildings, in accordance with the provision of section 36-170.

(c) *Special exception uses.* Any special exception use permitted in the R-3 residential district.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.  
(Code 1988, § 5.111)

**Sec. 36-145. R-5 Mobile home park district.**

(a) *Description of district.* The R-5 mobile home park district is designed solely for mobile home parks and such accessory structures and uses normally associated thereto, in accordance with those regulations specified by the Mobile Home Commission Act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and in accordance with the area requirements specified herein.

(b) *Permitted uses.* Mobile home parks and those uses customarily incidental to the principal use.

(c) *Regulations required of mobile home parks.*

- (1) Mobile home park districts shall have frontage on a primary or major county street, or similarly adequate thoroughfare.
- (2) Mobile home park districts shall not be less than five acres in size.
- (3) The owner of every mobile home park which lies immediately adjacent to a residential district shall provide a screening area separating said park from the adjoining residential district. The screen shall be in the form of either a wall, fence, or evergreen planting which is compact and maintained in good

condition at all times. The height of the screen shall not be less than five feet, except where the screen would interfere with traffic safety, in which case it may be reduced in height to, but not less than, three feet. Adequate landscaping shall also be provided by the owner of the mobile home park within the front yard setback area between the mobile home sites and any public street so as to provide an attractive frontage upon said street.

- (4) Each mobile home site shall contain an area of not less than 2,000 square feet and have a width of not less than 30 feet.
- (5) Each mobile home site shall be well drained and be provided with a concrete slab base for the storage of each mobile home.
- (6) Site and development plans of new mobile home parks or additions to existing parks shall be submitted to and approved by the village council or its authorized representatives, as such may be designated from time to time by the board, and no mobile home park shall be licensed or licensable unless the plans are first approved by the village council or its authorized representative.
- (7) Every mobile home park established within the village shall be inspected periodically by an official designated by the village council. The frequency of said inspections, and any fees associated thereto, shall be determined by the village council.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.  
(Code 1988, § 5.112)

#### **Sec. 36-146. C-1 Commercial district, general.**

(a) *Description of district.* The C-1 commercial district is established for the accommodation of community needs for general retail sales and service facilities. The regulations are designated to permit development of the enumerated functions as limited to protect the abutting and surrounding properties.

(b) *Permitted uses.*

- (1) Bakery and dairy sales, retail only.
- (2) Automobile repair garage.
- (3) Automobile sales agency and adjoining outdoor sales area of new or used cars, provided that no dismantling of cars, or storage of dismantled cars shall take place outdoors.
- (4) Boats and equipment sales.
- (5) Commercial recreation enterprises; indoors.
- (6) Contractor's work shops.
- (7) Greenhouse, nursery.
- (8) Hotel, motel.
- (9) Machinery and heavy equipment sales; indoors.

- (10) Banks, savings and loan associations.
  - (11) Barbershops and beauty shops.
  - (12) Books, stationery and newspapers.
  - (13) Clothing and dry goods.
  - (14) Drugstores and pharmaceuticals.
  - (15) Florist and garden shops.
  - (16) Funeral establishments.
  - (17) Groceries and food stuffs.
  - (18) Hardware, hobby shops, household appliances.
  - (19) Laundromat, laundry and dry cleaning pickup station.
  - (20) Music and dancing schools.
  - (21) Offices, business or professional.
  - (22) Photography store.
  - (23) Radio and television, sales and service.
  - (24) Restaurant or similar eating establishment.
  - (25) Shoe sales and repair.
  - (26) Signs, when in accordance with the provisions of section 36-168.
  - (27) Clubs, private, noncommercial.
  - (28) Single-family and two-family residential structures existing within the present C-1 district as of April 16, 2005. Such residential structures shall be considered conforming and shall be permitted to be reconstructed, enlarged and improved in accordance with the lot, yard and area requirements of the R-3 residential district, single-family and two-family.
- (c) *Special exception uses.*
- (1) Animal hospital and kennel.
  - (2) Any general retail use similar to those uses permitted in this section.
  - (3) Bar, tavern or night club.
  - (4) Bus or truck terminal.
  - (5) Commercial recreation enterprises; outdoors.
  - (6) Commercial earth removal, excavations.
  - (7) Gasoline service stations.
  - (8) Package liquor sales.

- (9) Public utility buildings and structures necessary for the service of the community, provided that:
  - a. There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
  - b. Public utility activities of an industrial character such as repair and maintenance yards, storage facilities or activities which generate electronic interference are prohibited.
- (10) Riding stable, racetrack; commercial.
- (11) Volunteer or municipal fire station.
- (12) Used car lot.
- (13) Newspaper publishing and job printing.
- (14) Apartments as accessory uses.
- (15) Dwelling, two-family and multiple-family.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174. (Code 1988, § 5.113; Ord. No. 41, § 1, 4-5-2005)

**Sec. 36-147. C-2 Commercial district, shopping center.**

(a) *Description of district.* The C-2 commercial district is designed solely to provide for integrated community, or regional shopping centers. The regulations are designed to permit development of the enumerated functions as limited by the standards designed to protect abutting and surrounding properties.

(b) *Permitted uses.*

- (1) Any uses permitted in C-1 commercial zone, when established as an integrated shopping center.
- (2) Bowling alleys and commercial recreation enterprises such as dance halls, skating rinks (indoors).
- (3) Signs, when in accordance with the provisions of section 36-168.
- (4) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.* Any special exception use permitted in the C-1 commercial district.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174. (Code 1988, § 5.114)



**Sec. 36-148. I-1 Industrial district, manufacturing.**

(a) *Description of district.* The I-1 industrial district is composed of certain lands located along state highways, major county thoroughfares and railroad rights-of-way. The district is designed to provide land for industries of a manufacturing nature where all work is carried on within an enclosed building producing little external effect of an objectionable nature to the surrounding properties.

(b) *Permitted uses.*

- (1) Offices and office buildings.
- (2) Manufacturing, compounding, assembling or treatment of articles, or merchandise, where all work is carried on within an enclosed building, and where any outdoor storage is limited to not more than ten percent of the lot area, and is maintained within the rear yard area.
- (3) Public utility buildings.
- (4) Signs, when in accordance with the provisions of section 36-168.
- (5) Warehouses; fully enclosed.
- (6) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational area.
- (7) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Any industrial use which meets the intent and purpose of this district where all work is carried on within an enclosed building, and which does not emanate noise, vibration, odor, smoke, liquid wastes, or light to such an extent as to be objectionable to surrounding properties.
- (2) A determination of the board of appeals established under state law and this chapter shall be conclusive on any question of nuisance objectionableness of any business or operation under the terms of this section.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.

(Code 1988, § 5.115)

**Sec. 36-149. I-2 Industrial district, service.**

(a) *Description of district.* The I-2 industrial district is composed of certain lands located along major county thoroughfares and railroad rights-of-way. The district is designed to provide land for activities of an industrial nature, placing emphasis on the service type of industry as opposed to the manufacturing type of industry. Because of the nature of the district, it should be located so as to be least objectionable to adjoining commercial or residential uses.

(b) *Permitted uses.*

- (1) Automobile repair garage.

- (2) Construction and farm equipment sales.
- (3) Contractor's equipment yard.
- (4) Gasoline service station.
- (5) Grain equipment and processing.
- (6) Hardware and building supplies.
- (7) Ice and cold storage plant.
- (8) Lumber, fuel and feed yards.
- (9) Machine shops.
- (10) Public utility buildings and storage yards.
- (11) Signs, when in accordance with the provision of section 36-168.
- (12) Storage and warehousing.
- (13) Truck terminal, maintenance and service yard.
- (14) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (15) Accessory uses or buildings, when in accordance with the provisions of section 36-170.

(c) *Special exception uses.*

- (1) Landfill.
- (2) Earth removal, excavation; commercial.
- (3) Gravel processing and quarrying.
- (4) Junkyards, building material salvage yard.
- (5) Ready-mix concrete and asphalt plants.
- (6) Slaughterhouse.
- (7) Any industrial use which meets the intent and purpose of this district which does not emanate noise, vibration, odor, smoke, liquid wastes, or light, to such an extent as to be objectionable to surrounding properties.
- (8) A determination of the board of appeals established under state law and this chapter shall be conclusive on any question of nuisance, or objectionableness of any business or operation under the terms of this section.

(d) *Lot, yard and area requirements.* Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in section 36-174.  
(Code 1988, § 5.116)

**Secs. 36-150—36-166. Reserved.**

**ARTICLE IV. SUPPLEMENTAL REGULATIONS****Sec. 36-167. Parking of motor vehicles.**

(a) *Adequate number of spaces required.* Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto, in each district for all the occupants, employees and patrons of said property.

(b) *Plan required.* A plan showing the required parking and loading spaces, including the means of access and interior circulation, except for one-family and two-family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.

(c) *Parking space shall be provided in the manner and location herein specified.*

(1) No parking area, parking space or loading space which exists at the time the ordinance from which this section is derived becomes effective or which subsequently is provided for the purpose of complying with the provisions of this section shall thereafter be relinquished or reduced in any manner below the requirements established by this section, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this section within 300 feet of the proposed or existing uses for which such parking will be available.

(2) Parking of motor vehicles in residential zones, except those used for farming, shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed three-fourths of a ton. The parking of any other type of commercial vehicle or buses, except for those parked on school property, is prohibited in a residential zone.

(d) *Requirements for all parking spaces and parking lots.*

(1) Each automobile parking space shall be not less than 180 square feet in area or less than nine feet wide, exclusive of driveway and aisle space.

(2) All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have a dustfree surface resistant to erosion.

(3) Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lots.

(4) No parking space shall be closer than five feet from the property line.

(5) Off-street parking facilities in nonresidential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence, or compact planting not less than four feet or more than eight feet in height. Plantings shall be maintained in good condition and shall not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.

- (6) All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of single-family or two-family dwellings.
  - (7) Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
  - (8) Requirements for the provisions of parking facilities with respect to two or more property uses of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements, and provided further that the specifications in regard to location, plan, etc., are complied with.
  - (9) The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section; parking facilities for one use shall not be considered as providing the required parking facilities for any other use.
- (e) *Minimum required parking spaces.*
- (1) Apartment houses: 1¼ parking space per family unit.
  - (2) Office buildings: one parking space for each 200 square feet of floor space utilized for work space of employees.
  - (3) Retail stores, supermarkets, department stores, personal service shops, and shopping centers: one parking space for each 100 square feet area in the basement and on the first floor area used for retail sales, one space for each 150 square feet of floor area on the second floor use for retail sales, one space for each 300 square feet of floor area on the third floor used for retail sales, and one space for each 400 square feet on any additional floor area used for retail sales.
  - (4) Manufacturing buildings: one parking space for each three employees on the maximum shift.
  - (5) Libraries, museums and post offices: one parking space for each 100 square feet of floor area.
  - (6) Bowling alleys: three parking spaces for each alley.
  - (7) Motels and tourist homes: one parking space for each separate unit.
  - (8) Theaters, auditoriums, stadiums and churches: one parking space for each four seats.

- (9) Dance halls, assembly halls, and convention halls without fixed seats: one parking space for each 100 square feet of floor area, if to be used for dancing or assembly.
  - (10) Restaurants and nightclubs: one parking space for each 100 square feet of floor area.
  - (11) Schools:
    - a. Private or public elementary and junior high schools: one parking space for each employee normally engaged in or about the building or grounds.
    - b. Senior high schools and institutions of higher learning: one parking space for each employee normally engaged in or about the building or grounds, and one additional space for each five students enrolled in the institution.
- (Code 1988, § 5.117)

**Sec. 36-168. Signs and outdoor advertising structures.**

(a) In any residential zone, an incidental sign not exceeding one square foot in area to advertise only home occupations or professional services shall be permitted. Such sign may be attached to the building, or may be located on the property of such use, but may be no closer to the street than the building setback line.

(b) In any zone where agricultural use is permitted, an incidental sign advertising the sale of farm products grown on the premises shall be permitted. Such sign will not exceed 48 square feet in area and shall be so located that it will not interfere with the full view of traffic.

(c) In any zone, one temporary real estate sign not exceeding six square feet in area shall be permitted for each lot, parcel or tract under 25,000 square feet in area. Such sign may be increased in size, or additional signs may be permitted for each additional 25,000 square feet of property advertised. No single sign shall exceed 250 square feet in area, and in no event shall more than two such 250 square foot signs be permitted on one lot, parcel or tract advertised, regardless of property area.

(d) Temporary signs on buildings under construction shall be limited to a total area of 48 square feet for all such signs.

(e) In any commercial or industrial district, a sign is permitted only where it advertises a business occupying the same lot or parcel of land upon which the sign is erected. Signs shall meet the building setback and height requirements, except for, and in addition to, the requirements provided below.

- (1) In any commercial or industrial district, a sign may be affixed flat against the wall of the building, or may project therefrom not more than 42 inches. Signs projecting over public property shall be at least 11 feet above the finished grade or sidewalk. The total sign area shall not exceed two square feet for each foot in length or height of the wall to which it is affixed. No such sign shall extend more than four feet in height above the building wall to which it is affixed.
- (2) One identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area of said sign shall be

based on one square foot for each front foot of the building or group of buildings for which it is established; provided, however, that it shall not exceed 400 square feet in area, or be closer to the front, side or rear property line, than one-half the distance of the required building setback.

- (3) One identification sign may be erected for each separate commercial enterprise situated on an individual lot and operated under separate ownership from any adjoining commercial enterprise. Such sign shall not exceed 80 square feet in area, or be closer to the front, side or rear property line than one-half the distance of the required building setback.
- (4) Outdoor advertising signs (billboards) are permitted only in commercial and industrial zones under the following conditions:
  - a. Except as otherwise provided herein, signs and outdoor advertising structures are required to have the same setback as other principal structures or buildings in the zone in which they are erected.
  - b. Where two or more outdoor advertising structures are located along the frontage of a single street or highway, they shall not be less than 500 feet apart. A double face (back-to-back) or a V-type structure shall be considered as a single structure.
- (5) No sign or outdoor advertising structure shall be erected at any location where, by reason of the position, size, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead or confuse traffic.
- (6) Signs of medical practitioners, commercial and industrial establishments and outdoor advertising structures may be illuminated; provided, however, that such illumination shall be concentrated upon the surface of the sign, and the sign shall be so located and arranged as to avoid glare or reflection onto any portion of any adjacent highway, or into the path of oncoming vehicles, or onto any adjacent premises.
- (7) In no event shall any sign or outdoor advertising structure have flashing or intermittent lights or be permitted to rotate or oscillate.
- (8) Signs of a public or quasi-public nature noting special events of general interest, such as a county fair, public or general election, horse show, etc., shall not exceed 80 square feet in area except by special exception. Such signs shall be removed within ten days after the event.

(Code 1988, § 5.118)

**State law reference**—Highway advertising act, MCL 252.301 et seq.

### **Sec. 36-169. Nonconforming uses.**

The following regulations shall control nonconforming uses in existence at the time of passage of the ordinance from which this chapter is derived.

- (1) If the cost of repair or replacement of a nonconforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or

the public enemy, exceeds 50 percent of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this chapter.

- (2) Nonconforming uses or structures in existence at any time of passage of the ordinance from which this chapter is derived shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this chapter.
- (3) If the nonconforming use of any land or structure shall terminate its activity for a continuous period of time exceeding one year, such use shall not be reestablished, and any future use of land and structure shall be in conformity with this chapter.
- (4) If a nonconforming use is changed to a permitted or more restrictive use in the district on which it is located, it shall not revert or be changed back to a nonconforming or less restrictive use.
- (5) The lawful nonconforming use of land not involving substantial buildings, nonconforming advertising signs and structures which are not necessary to the permitted uses of substantial structures, and temporary, movable or makeshift buildings, fences and other structures which are accessory to nonconforming uses not involving substantial buildings, shall be discontinued and the incidental structures removed within five years from the date of passage of the ordinance from which this chapter is derived. All subsequent use of such land shall be in conformity with the provisions of this chapter.

(Code 1988, § 5.119)

**State law reference**—Nonconforming uses or structures, MCL 125.3208.

### **Sec. 36-170. Accessory uses or buildings.**

Any use which complies with all of the following conditions may be operated as an accessory use:

- (1) The use is clearly incidental and customary to and commonly associated with the operation of the permitted uses.
- (2) The use is operated and maintained under the same ownership and on the same lot or contiguous lot to the permitted uses.
- (3) The use does not include structures or structural features inconsistent with permitted uses.
- (4) The use does not include residential occupancy, except for living quarters for farm, domestic or other employees having employment on the premises.
- (5) Accessory buildings other than farm buildings shall be located only in the rear yard.
- (6) If an accessory use is carried on within the structure containing the permitted uses, the gross floor area within such structure utilized by accessory uses (except garages and off-street loading facilities) shall be not greater than 20

percent of the gross floor area, but not to exceed 300 square feet of a single unit dwelling; ten percent of the gross floor area of a structure containing any permitted uses other than a single-unit dwelling.

- (7) Fallout shelters are permitted as accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately, and in addition to shelter use, may be used for any accessory use permitted in the district, subject to the district regulations in such use. Fallout shelters constructed completely below ground level may be contained within any yard area.

(Code 1988, § 5.120)

### **Sec. 36-171. Home occupations.**

Any home occupation operated in a single dwelling unit may be operated only if it complies with all of the following conditions:

- (1) The business is operated in its entirety within the single dwelling and not in a garage or accessory building, and only by the person maintaining a dwelling therein.
- (2) The business does not have any employees or regular assistants not residing in the dwelling, except for offices of doctors, dentists or other similar practitioners.
- (3) The dwelling does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling.
- (4) The occupation conducted therein is clearly incidental and secondary to the residential use of the building.
- (5) No goods or services are sold which are not produced by the immediate members of the family therein.
- (6) Restaurants, beauty and barbershops, and business or trade shall not be considered home occupations.
- (7) Noise or other objectionable characteristics incidental to the business shall not be discernible beyond the boundaries of the lot.
- (8) The business does not utilize more than 20 percent of the gross floor area, but not to exceed 300 square feet, in the single unit dwelling.

(Code 1988, § 5.121)

**State law reference**—Instruction in craft or fine art considered a home occupation, MCL 125.3204.

### **Sec. 36-172. Screening.**

Every commercial or industrial use occupying land immediately adjacent to a residential district shall have a screening area separating the commercial or industrial use from adjoining residential districts. The screen shall be in the form of either



a wall, fence, or evergreen planting which is compact and maintained in good condition at all times. The height of the screen shall not be less than five feet, except where the screen would interfere with traffic safety, in which case it may be reduced to not less than three feet in height.

(Code 1988, § 5.122)

**Sec. 36-173. Lot, yard and area requirements—General.**

(a) This section contains general lot, yard and area requirements, and is used as a supplement to the specific requirements contained in section 36-174.

(b) Where the majority of the frontage along one side of a street within 500 feet of a vacant lot has been built upon at the time of passage of the ordinance from which this chapter is derived, any building erected on such vacant lot shall not be less than the average setback of the improved frontage.

(c) On corner lots, the width of the side yard adjacent to the side street shall be equal to the front yard setback of the lot adjoining the rear of said corner lot. When the lot adjoining said corner lot along the rear line does not front on the side street of the corner lot, the side yard shall not be less than two-thirds the front yard setback required for that district or equal the height of the building, whichever is greater.

(d) Where property is contiguous to an existing or an officially proposed major county street, the minimum front, side or rear yard contiguous thereto shall be increased in depth so as to permit a 100-foot right-of-way for major county streets.

(e) The minimum distance between multiple-family buildings within a single project area shall be as follows:

- (1) Where buildings are front-to-front or front-to-rear: two times the height of the taller building but not less than 50 feet.
- (2) Where buildings are side-to-side, if there are no windows on the side walls: a distance equal to the height of the taller building, but not less than 20 feet.
- (3) Where buildings are front to side or rear to side, if there are no windows on the side walls: 1½ times the height of the taller building, but not less than 30 feet.
- (4) Where buildings are rear and side-to-side with windows on the side walls: 1½ times the height of the taller building, but not less than 40 feet.

(f) When a roadway is located between two buildings, the width of the roadway shall be in addition to the minimum distance between buildings provided in this section.

(g) Where the majority of the frontage along one side of a street within 500 feet of a vacant lot has been built upon at the time of passage of the ordinance from which this chapter is derived, any building hereafter erected on said vacant lot shall not be less than the average of the improved frontage.

(h) The setback or yard area of any commercial or industrial use or activity associated thereto maintained on a parcel of land adjacent to a residential district shall be two times that required within the district as specified in this section, or a

minimum of 25 feet, whichever is greater, and said use or activity shall be effectively screened by compact evergreens, fence or wall, from any adjoining residential district.

(i) The portion of the building extending beyond 35 feet in height shall be set back from each lot line one additional foot beyond the minimum requirement for each foot in height above 35 feet.

(Code 1988, § 5.127)

**Sec. 36-174. Same—Specific, by zoning district.**

Lot, yard, and area requirements within the zoning districts established by this chapter shall be as follows:

	<i>Zoning District</i>								
	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>R-5</i>	<i>C-1</i>	<i>C-2</i>	<i>I-1 and I-2</i>
	<i>Principal Structure</i>								
Minimum lot frontage, lot width (feet)							none	150	none
Single-family	200	125	100	75	70	30			
Two-family	200	250	ns	100	80	ns			
Multiple-family	ns	ns	ns	ns	100	ns			
Minimum lot area per dwelling unit (square feet)							none	20,000	50,000
Single-family	40,000	20,000	15,000	8,000	8,000	2,000			
Two-family	40,000	15,000	ns	5,000	5,000	ns			
Multiple-family	ns	ns	ns	ns	2,000	ns			
Maximum Building or Structure Height (feet)	35	35	35	35	50	25	35 3/	35 3/	35 3/
Maximum Building Coverage of Lot (%)	10	15	20	25	30	30	100	30	30
Minimum floor area per dwelling unit (square feet)									
Single-family	1,200	1,200	1,000	1,000	800	ns			
Two-family	800	800	ns	700	700	ns			
Multiple-family	ns	ns	ns	ns	600	ns			
Minimum front yard setback 1/ (feet)	50	40	35	35	30 3/	35	10	50	50
Minimum side yard 2/ (feet)	20	15	10	10	10 4/	10	none	25	25
Minimum rear yard (feet)	50	40	35	30	30 5/	5	none	25	25

<i>Zoning District</i>									
	<i>A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>R-5</i>	<i>C-1</i>	<i>C-2</i>	<i>I-1 and I-2</i>
<i>Accessory Buildings</i>									
Minimum building setback (see section 36-170(5))	ns	ns	ns	ns	ns	ns	ns	ns	ns
Minimum side yard 2/ (feet)	5	5	5	5	5	25	none	10	15
Minimum rear yard (feet)	5	5	5	5	5	25	none	10	15
Maximum building height (feet)	15	15	15	15	15	15	15	15	15
Maximum building coverage (percentage of rear yard)	5	10	15	20	25	20	10	10	10

NS = None Specified  
(Code 1988, § 5.128)

**Sec. 36-175. Standards required of special exception uses.**

(a) Special exception uses shall comply with all of the following standards; provided that the board of appeals may add to these standards where it is necessary to protect adjacent properties, the general neighborhood and the residents and workers therein:

<i>Special Exception Use</i>	<i>Minimum Required Standard</i>
Animal hospital and kennel	2, 4, 5e
Asphalt and concrete ready-mix plant	2, 4, 5f
Automobile repair garage	2, 4, 5d
Bar, tavern and nightclub	2, 4, 5e
Bus or truck terminal	2, 4, 5e
Care home	3, 5a
Cemetery	2, 3, 5a
Church	1, 5b
Club, private noncommercial	1, 4, 5b
Drive-in theater	2, 5f, 9
Landfill	2, 5f, 9
Earth removal, excavations commercial	2, 5e
Gasoline service station	2, 4, 5d, 7
Golf courses	2, 3, 5d
Gravel processing and quarrying	2, 4, 5f
Hospital	2, 3, 5c
Institutions: charitable, eleemosynary, philanthropic	1, 3, 5c
Junkyards, building material salvage yard	2, 4, 5f, 9

<i>Special Exception Use</i>	<i>Minimum Required Standard</i>
Kennel	2, 4, 5e
Liquor, package sale	5d
Medical clinic	1, 4, 5a
Mobile home sales	2, 4, 5e
Nursery: children's	1, 4, 5a
Offices and office buildings	2, 4, 5a
Public utility buildings and structures	1, 4, 5a, 9
Quarrying	2, 4, 5f
Recreation, commercial; outdoors	2, 4, 5e
Riding stable; racetrack; commercial	2, 4, 5f
School: parochial and private	1, 5b
Slaughterhouse	2, 4, 5f
Truck terminal	2, 4, 5e
Used car lot	2, 4, 5e, 8
Volunteer or municipal fire station	2, 4, 5e
Dwelling: two-family or multiple-family	3, 8

(b) The minimum required standards enumerated below are referred to by the numbers following each special exception use in the table in subsection (a) of this section:

1. The use shall have frontage on an existing or officially proposed road having a major or greater classification.
2. The use shall have frontage on an existing or officially proposed road having a major or greater road classification.
3. The use shall have off-street parking facilities to satisfy average parking needs.
4. The use shall have off-street parking facilities to satisfy peak parking needs.
5. Buildings and activities shall not be closer than the specified number of feet to adjacent residential properties:
  - a. 25 feet.
  - b. 50 feet.
  - c. 100 feet.
  - d. 200 feet.
  - e. 500 feet.
  - f. 1,000 feet.
6. Public utility buildings shall, whenever practicable, have an exterior appearance similar to those buildings in the immediate area. The public utility buildings and structures shall have suitable landscaping, screen planting and fencing whenever deemed necessary by the board of appeals.
7. Gasoline pumps or other service appliances shall be set back at least 20 feet from the lot line.

8. No major repairs or dismantling shall be permitted outside of a closed structure.
9. The use shall be enclosed by a solid wall or compact screening of suitable material as determined by the board of appeals and shall not be less than six feet in height.

(Code 1988, § 5.129)

