

EXHIBIT A  
CHARTER TOWNSHIP OF TEXAS  
COUNTY OF KALAMAZOO

ORDINANCE NO. 380  
AN ORDINANCE TO AMEND THE ZONING ORDINANCE  
REGARDING SECTIONS 36-2.2, 36-3.1, 36-4.60-64, 36-5.3, 36-  
5.7, 36-5.8, 37-7.5, and 36-7.8.

**Section 1. PURPOSE.**

The purpose of this Ordinance is to amend Section 36-2.2, Definitions; Section 36-3.0 District Uses to permit Seasonal Roadside Stand as use in the Agricultural District; Section 36-4.0 to add Use Standards for a Drive-Through Restaurant, Seasonal Roadside Stand, Special Event, Temporary Portable Toilet Facility, and Temporary Use; Section 36-5.0 to add and amend Site Standards for Landscaping, Screening, and Fencing, Parking Requirements, and Signs; and Section 36-7.0 to add and amend Administration and Enforcement for the Zoning Board of Appeals and Certificate of Occupancy.

**Section 2. Amendment of Chapter 2, Definitions**

The Township hereby amends Chapter 2 of the Zoning Ordinance, entitled "Definitions" with deleted text stricken and new text indicated in boldfaced font.

***Demountable Structure* means any structure assembled and installed for use, which is intended to remain in situ temporarily only. This includes marquee tents, grandstands, scaffold, timber, and fabric structures such as stage backdrops, or similar structures, as determined by the Building Official.**

~~Facade means the face or elevation of a building in a single plane of view.~~ ***Facade* means any separate face of a building, including parapet walls or any part of a building that encloses or covers usable space, chimneys, roof-mounted equipment, mounted antennas, or water towers. Where separate faces are oriented in the same direction or in directions within 45 degrees of one another, the faces are to be considered as part of a single facade. A roof is not a part of a facade.**

***Hardscaping* means the inanimate, hard elements in a landscape design encompassing features like a patio, walkway, driveway, retaining wall, constructed of stone, concrete, brick, pavers, or gravel.**

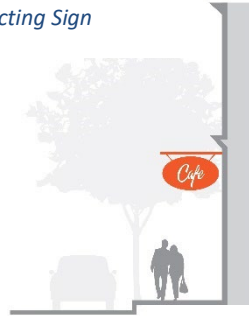
***Opaque* means sight obscuring or having such qualities as to constitute a complete visual barrier to persons outside the perimeter of the sight-obscuring object; to block view from neighboring properties or public rights-of-way.**

*Sign* is an advertisement, display, device, written and/or projected message, placard or similar device intended or used to advertise, inform, or direct attention to an object, product, place, activity, person, institution, organization, business, industry, and/or concept. [unchanged]

1. ***Awning Sign*** means a sign painted or screen printed on the exterior surface of an awning.
2. ***Billboard Sign*** means a sign exceeding 80 square feet in size and 15 feet in height, erected, maintained, and used for the purpose of displaying messages that can be seen from a long distance or read from a vehicle traveling at high speeds. A billboard sign differs from a freestanding sign based on its size. (*Under the HIGHWAY ADVERTISING ACT OF 1972 Act 106 of 1972, the definition of "Billboard" means a sign separate from a premise erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located. Billboard does not include an off-premises directional sign.*)
3. ***Blade Sign*** means a sign projecting perpendicularly from a main building façade that is visible from both sides
4. ***Canopy Sign*** means a permanent projecting sign affixed to the side or bottom surface(s) of an attached canopy.
5. ~~4.~~ ***Freestanding sign*** means a sign attached to a permanent foundation or decorative base and not attached or dependent for support from any building.
6. ~~2.~~ ***Menu board*** means an accessory sign specific to a drive through use.
7. ~~3.~~ ***Message center sign*** means a sign that includes electronic changeable content or changeable letters.
8. ~~4.~~ ***Portable sign*** means any sign that is designed to be transported, including but not limited to signs with wheels removed; with chassis or support constructed without wheels; designed to be transported by trailer or wheels; converted to A- or T-frame signs; attached temporarily or permanently to the ground, a structure or other signs; mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day to day operations of the business; searchlight stands; and air or gas-filled balloons or umbrellas used for advertising.

9. **Projecting Sign** means a sign attached to a building or other structure and extending beyond the attachment surface by more than twelve (12) inches. A “Projecting Sign” is differentiated from a “Wall Sign” based on the distance the sign projects from the surface of the building. “Blade Signs” are a type of Projecting Signs.

Figure 9: Projecting Sign



10. **Roof Sign** means a sign that is erected, constructed, and maintained upon, against, or above the roof or parapet of a building or any portion thereof. A sign mounted upon a mansard fascia that does not project above the highest point of the roof or parapet is considered a “Wall Sign.”

Figure 10: Sandwich Board Sign



11. **Sandwich Board Sign** means a temporary sign that is not permanently anchored or secured to either a building, structure, or the ground. Often referred to as “sidewalk signs,” sandwich board signs include, but are not limited to, “A” frame, “T” shaped, or inverted “T” shaped stands.
12. **Temporary Sign** means a display sign, banner, or other device constructed of cloth, canvas, fabric, plastic, or other light temporary materials, with or without a structural frame, or any other sign intended for a limited period of display that is not permanently anchored to the ground or a building.
- 13.5. **Wall sign** means a sign attached to or placed flat against the exterior wall or surface of any building, no portion of which projects more than 12 inches from the wall and may not project above the roof or parapet line.

**14.6.** *Window signs* are signs installed inside or on a window and intended to be viewed from outside the building. Window signs area is calculated separately from wall signs.

***Seasonal roadside stand*** means a temporary or mobile structure located along a road where farmers or vendors sell fresh, locally grown produce and other agricultural products directly to consumers during specific seasons (growing or harvest).

***Special event*** means the use of land for a temporary activity lasting no more than seven (7) days, which in no way constitutes a change in the use permitted in that zoning district, nor negatively impacts the existing and surrounding land uses. Uses that are accessory to a single-family residential use- private parties, gatherings, and similar activities, held by the homeowner at their private residence are not defined as a special event and are not regulated under the special event section.

***Temporary use or building*** means a land use or building permitted by the Planning Commission to exist during a specified period, with a duration of no less than eight (8) days and no more than twelve (12) months unless an extension is approved. The use of land for a temporary activity shall in no way constitute a change in the uses permitted in that zoning district, or a change in the existing character of the area or surrounding land uses.

***Tenant*** means someone who temporarily occupies or possesses real estate belonging to another, typically a landlord, through a formal agreement like a lease or rental agreement.

### **Section 3. Amendment to Chapter 3, Zoning Districts.**

The Township hereby amends Chapter 3.1 of the Zoning Ordinance, entitled "Agricultural" with new text indicated in boldfaced font.

Sec. 36-3.1.1A.- Intent [unchanged]

Sec. 36-3.1.1.B - Principal Permitted Uses [unchanged]

Sec. 36-3.1.C – Special Exception Uses

- i. Cemeteries
- ii. Parochial and private schools
- iii. Child care centers or day care centers within places of worship, parochial or private schools
- iv. Eleemosynary, charitable and philanthropic institutions
- v. Golf courses

- vi. Private noncommercial clubs
- vii. Public utility buildings and structures necessary for the service of the community
- viii. Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds, other recreational areas and hospitals clinics and nursing homes
- ix. Class B Home occupations
- x. Riding stables
- xi. Private airfields or aircraft landing strips
- xii. Earth removal, mining and processing operations
- xiii. Wind energy conversion systems
- xiv. Family adult foster care home
- xv. Residential care facilities
- xvi. Telecommunication Towers & Antennas
- xvii. Planned Unit Development
- xviii. Bed and Breakfast
- xix. Keeping of small livestock and honeybees within platted subdivisions and site condominiums
- xx. Roadside Farm Stand**

#### **Section 4. Amendment to Article 4, Use Standards.**

The Township hereby amends Article 4 of the Zoning Ordinance, entitled “Use Standards” with new sections indicated in boldfaced font:

Sec. 36-4.1 Accessory Uses, Buildings, and Structures in the Agricultural, Resource Conservation, and Residential Districts – [unchanged]

Sec. 36-4.2 Keeping of Livestock and Honeybees – [unchanged]

Sec. 36-4.3 Vehicle Sales and Repairs – [unchanged]

Sec. 36-4.4 Municipal Offices or Public Facilities in the CBD Corners Business District – [unchanged]

Sec.36-4.5 Animal Hospitals – [unchanged]

Sec.36-4.6 Asphalt & Concrete Ready-Mix Plant – [unchanged]

Sec. 36-4.7 Vehicle Repair, Minor and Major – [unchanged]

Sec. 36-4.8 Bars, Taverns, and Nightclubs – [unchanged]

Sec. 36-4.9 Reserved – [unchanged]

Sec. 36-4.10 Residential Care Facilities – [unchanged]

Sec. 36-4.11 Cemetery – [unchanged]

Sec. 36-4.12 Child Care Center/Day Care Center – [unchanged]

Sec. 36-4.13 Place of Worship – [unchanged]

Sec. 36-4.14 Club, Private Noncommercial – [unchanged]

Sec. 36-4.15 Drive-in Theater – [unchanged]

Sec. 36-4.16 Earth Removal, Excavations Commercial – [unchanged]

Sec. 36-4.17 Gasoline Service Station – [unchanged]

Sec. 36-4.18 Golf Course – [unchanged]

Sec. 36-4.19 Gravel Processing and Quarrying – [unchanged]

Sec. 36-4.20 Hospital – [unchanged]

Sec. 36-4.21 Hotel – [unchanged]

Sec. 36-4.22 Institutions of Charity, Eleemosynary, or Philanthropy – [unchanged]

Sec. 36-4.23 Junkyards, Building Material Salvage Yards – [unchanged]

Sec. 36-4.24 Kennel – [unchanged]

Sec. 36-4.25 Medical Clinic – [unchanged]

Sec. 36-4.26 Manufactured Home Sales – [unchanged]

Sec. 36-4.27 Motel – [unchanged]

Sec. 36-4.28 Offices and Office Buildings – [unchanged]

Sec. 36-4.29 Public Utility Buildings and Structure – [unchanged]

Sec. 36-4.30 Recreation, Commercial, Outdoors – [unchanged]

Sec. 36-4.31 Riding Stables, and Racetracks, Commercial

Sec. 36-4.32 Schools, Parochial and Private – [unchanged]

Sec. 36-4.33 Slaughterhouses – [unchanged]

Sec. 36-4.34 Storage or Warehousing of Commodities in the I-1 District – [unchanged]

Sec. 36-4.35 Reserved for Future Use – [unchanged]

Sec. 36-4.36 Veterinary Clinic – [unchanged]

Sec. 36-4.37 Volunteer or Township Fire Stations – [unchanged]

Sec. 36-4.38 Telecommunication Towers and Antennas – [unchanged]

Sec. 36-4.39 Wind Energy Conversion Systems – [unchanged]

Sec. 36-4.40 Mixed Use Development – [unchanged]

Sec. 36-4.41 Earth Removal, Mining and Processing Operations – [unchanged]

Sec. 36-4.42 Riding Stables – [unchanged]

Sec. 36-4.43 Private Airfields or Aircraft Landing Strips – [unchanged]

Sec. 36-4.44 Reserved – [unchanged]

Sec. 36-4.45 Research and Related Uses in the Industrial Districts – [unchanged]

Sec. 36-4.46 Special Exception Uses in the I-3 District – [unchanged]

Sec. 36-4.47 Accessory Uses in the EBT District – [unchanged]

Sec. 36-4.48 Home Occupations – [unchanged]

Sec. 36-4.49 Adult Uses – [unchanged]

Sec. 36-4.50 Solid Waste Transfer Facilities – [unchanged]

Sec. 36-4.51 Mobile Home Park Regulations – [unchanged]

Sec. 36-4.52 Planned Unit Development Standards – [unchanged]

Sec. 36-4.53 Bed and Breakfast – [unchanged]

Sec. 36-4.54 Outdoor Seating for Serving Patrons Alcoholic Beverages – [unchanged]

Sec. 36-4.55 Manufacturing, Compounding, and Assembling or Treatment of Articles –

or Merchandise – [unchanged]

Sec. 36-4.56 Single Family Dwellings in the RC District – [unchanged]

Sec. 36-4.57 Banquet Halls & Event Centers – [unchanged]

Sec. 36-4.58 Temporary Single-Family Dwellings – [unchanged]

Sec. 36-4.59 Yard Sales – [unchanged]

**Sec. 36-4.60 Drive-Through Restaurant**

1. The design and orientation of the drive-through lane(s) on a site shall be completed in a manner which will not impact the adjacent properties by way of traffic, noise, odors, light, litter, or similar factors.
2. At least one separate stacking lane shall be provided to accommodate a minimum number of cars as determined by the Planning Commission. The applicant shall demonstrate the number of stacking spaces will not adversely impact the operations of the establishment or negatively impact neighboring properties or the traffic flow in the area. All stacking lanes shall be positioned in such a manner that stacking will not interfere with on-site vehicle traffic, off-site vehicle traffic, and entering and exiting traffic.
3. A ten (10) foot wide bypass lane shall be provided around the drive-through lane(s) and stacking area.
4. Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.

**36-4.61 Seasonal Roadside Stand**

In the Agricultural District, a seasonal roadside stand, measuring no more than 200 square feet in area and not taller than ten (10) feet in height, shall be permitted under the following conditions:

1. A roadside stand that is located within two hundred (200) feet of a dwelling shall close not later than 10:00 p.m.
2. The stand shall be located not less than twenty (20) feet from the nearest public road right-of-way line or ten (10) feet from the road (pavement) edge, whichever is greater.
3. Any light source used shall be downward directed, shielded to not cause glare, and turned off when the stand is not operating.
4. A seasonal roadside stand meeting these standards shall not require a permit and shall not be classified as a special event or temporary use, as defined herein.

**36-4.62 Special Events**

The Planning Director may approve a Special Event Permit for an activity or use having a duration of no more than seven (7) days, under the following conditions:



1. The approval of the Special Event Permit shall in no way constitute a change in the uses permitted in the district nor on the property where the Special Event will be permitted. No changes in existing structures will occur, and demountable structures such as tents, etc., will be removed within 24 hours of the end of the temporary use.
2. No outdoor sales or consumption of liquor, wine, or beer shall be permitted, unless previously approved for that business or location, subject to special exception use and by a permit issued by the Michigan Liquor Control Commission.
3. An application shall be submitted and shall include a written description of the special event, a sketch plan of the Special Event area, and a written explanation as to the time, duration, nature of the event and activities, proposed parking area, and arrangements for removing the event at the termination of the Special Event permit.
4. For Special Events that utilize all or a portion of a parking lot for other than vehicle parking, the application shall be reviewed and approved by applicable departments and agencies to ensure appropriateness and safety (Fire, Sheriff's Department).
5. The following shall not be construed as a Special Event and are exempt from the provisions for a Special Event use:
  - A. Township, county, and state sponsored events.
  - B. Funeral processions and gatherings.
  - C. Garage sales, yard sales, estate sales, and private property auctions excluding the auctioning of items transferred to the property for the principal purpose of sale including what are commonly referred to as "consignment auctions."
  - D. Private gatherings such as weddings, graduation parties, and similar events occurring entirely on a residentially used property or common area of a multi-family residential development, provided the event is not open to the public and not for pecuniary gain or profit.
  - E. Approved activities conducted within a building designed for assembly use, such as places of gathering for worship, banquet halls, event centers, fraternal organizations, libraries, schools, and recreational facilities. *See Use Standards Section 36-4.14 for Places of Worship; Section 36-4.57 for Banquet Halls and Event Centers; Section 36-4.32 for Schools and Section 36-4.30 for Recreation Facilities.*
  - F. The outdoor temporary sales of seasonal goods including, but not limited to, Christmas trees and fireworks. A Temporary Use

Permit shall be required for these uses if in operation for more than seven (7) days.

- G. Township-sponsored outdoor sale events comprised of multiple vendors displaying and selling predominantly products and commonly referred to as a “Farmers Market” or “Maker’s Market.”
- H. Other activities determined to be of a similar character to those identified in this section and approved by the Planning Director.

#### **36-4.63 Temporary Portable Toilet Facility**

The use of temporary portable toilet facilities shall be prohibited, except as follows: the use of temporary portable toilet facility shall be permitted during periods of construction pursuant to a valid building permit, a Township sponsored event, or a Special Event approved under this Ordinance. Use for Township related activities shall be exempt from this provision.

#### **36-4.64 Temporary Use**

The Planning Commission may grant a Temporary Use Permit for a use that does not require the erection of any capital improvement of a structural nature under the following conditions:

1. In classifying uses as not requiring capital improvements, the Planning Commission shall determine whether any proposed structures are either demountable structures related to the permitted use of land or structures which do not require foundations or sanitary connections. No Temporary Use shall install any permanent structures and shall be limited to demountable structures.
2. The granting of a Temporary Use shall in no way constitute a change in the uses permitted in the district nor on the property wherein the Temporary Use is permitted.
3. An application must be submitted meeting the sketch plan requirements of Section 36-6.1.2.B. The application shall include a written description of the temporary use, and a written explanation as to the time, duration, nature of use/activity requested, parking area(s), and arrangements for removing the use at the termination of the Temporary Use permit. Temporary Uses may be approved for a period of up to twelve (12) months, with the granting of one (1) six (6) month extension being permissible by the Planning Commission.
4. A Temporary Use Permit application shall be reviewed by applicable Township departments, agencies, and consultants to ensure appropriateness and safety.
5. All setbacks, lot coverage, off-street parking, lighting, and other ordinance requirements shall be met. The Planning Commission may also impose reasonable conditions on a Temporary Use that might be required to protect the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township.

6. Any outdoor activities will be limited to the hours between 8:00 a.m. and 10:00 p.m. and shall be in conformance with Article 3, Noise, of the Code of Ordinances.
7. The Temporary Use shall be in harmony with the general character of the district and meet the intent of the Texas Township Master Plan.
8. No Temporary Use permit shall be granted without first giving written notice to owners of property within 300 feet of the time and place of a public hearing to be held.
9. The Planning Commission may, after notice to the permit holder and holding a public hearing, revoke said Temporary Use permit upon showing that either the conditions of approval have not been met, that the use is having a negative impact on the surrounding properties, or that the use is contrary to original representations by the applicant.

## **Section 5. Amendment to Chapter 5.**

The Township hereby amends Article 5 of the Zoning Ordinances, entitled "Site Standards," with deleted text stricken and new text indicated with boldfaced font.

Sec. 36-5.1 Limitations on all land and Structures – [unchanged]

Sec. 36-5.2 Limitations on Area and Lot Frontage – [unchanged]

Sec. 36-5.3 Screening, Fencing, and Landscaping

The Township hereby repeals the existing language of Section 36-5.3, entitled "Screening, Fencing, and Landscaping," in its entirety, and adopts a new Section 36-5.3 "Landscaping, Screening, and Fencing," which reads as follows in its entirety:

### **1. Landscaping.**

- A. **Intent.** The purpose of required landscaping is to minimize the adverse effects of certain land uses and outdoor activities upon their surroundings and to improve the appearance of parking areas and street frontages within the community. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values within Texas Township. The standards of this section are intended to help achieve a number of functional and environmental objectives such as:
  - i. Reduce the physical impact between adjacent land uses by requiring complementary landscape treatments and providing a natural transition between uses.
  - ii. Screen headlights to reduce glare and incidental pollution.

- iii. **Control soil erosion by slowing the effects of erosive winds and water and increase soil water retention and natural storm filtering thereby helping prevent flooding, improving water quality, and directing drainage patterns.**
  - iv. **Recognize and preserve the aesthetic value of natural areas such as woodlands, wetlands, and floodplains within and adjacent to a development site.**
  - v. **Create privacy and reduce sound and visual disturbances.**
  - vi. **Establish aesthetically pleasing sustainable landscape for the long-term enhancement of the Township.**
- B. Regulation of Commercial, Industrial, Office, and Multiple-Family Residential Property and Use.** The provisions of this Section are applicable to commercial, industrial, office, and multiple-family residential properties and uses. Landscaping standards for residential subdivision and condominium properties and uses are regulated in Section 36-6.2, Subdivisions and Site Condominiums.
- C. Landscape Installation.** Required landscaping shall be installed before a Certificate of Occupancy is issued unless the Township authorizes occupancy or establishment of the use prior to complete landscape installation based on weather conditions or planting season. If the planting is deferred an escrow or bond 1.5 times the total cost of the landscape elements to be planted is required.
- D. Required Landscape Review.** All developments that are subject to Site Plan Review, as defined in Section 36-6.1 of this ordinance, must demonstrate that the requirements of this Section are met for any new building or structure. Any improvement to an existing development which includes building additions and/or loading shall be required to bring only the new improvements into compliance with this Section.
- E. Maintenance.** All landscaping materials and required green spaces shall be kept in a proper, neat, and orderly appearance, regularly free of weeds or tall grass, refuse, and debris. All unhealthy or dead plant materials shall be replaced by the next planting season or within one (1) year, whichever comes first. To ensure landscaping is healthy, an escrow amount, equal to 25% of the total landscape costs, shall be held in escrow. The escrow shall be released after a satisfactory one-year inspection on the health of the landscaping.
- F. Plant Diversity and Soils.** To promote ecosystem health, enhance biodiversity, and ensure long-term resilience against environmental

changes, a variety of tree species shall be used to meet the requirements of this section. To ensure tree and shrub survival, soil conditions shall be observed and vegetation planted near roads shall be salt resistant species.

- G. Planting Locations.** Trees and woody shrubs shall not be placed closer than three (3) feet to a fence line or property line as measured from the center of the root ball. Landscaping planted within ten (10) feet of a fire hydrant shall be no taller than six (6) inches at maturity.
- H. Sight Triangles.** All required landscaping plans must incorporate clear vision triangles (sight triangles) that preserve the visibility of pedestrians and motorists. Any plant material taller than three (3) and a half feet shall not be permitted within sight triangles.
- I. Landscape Plan Specifications.**
  - i. A separate detailed landscape plan, prepared by a licensed or registered design professional shall include:**
    - 1) Scale and north arrow;**
    - 2) All existing and proposed buildings and structures;**
    - 3) Existing and proposed utilities and utility easements (water sewer, well, septic, cable);**
    - 4) Locations of all natural, historical, and architectural features. Natural features shall include all woodlands, trees, non-EGLE regulated wetlands, lakes, rivers, drainageways, topography, etc.;**
    - 5) Location(s) of any EGLE-regulated wetland(s), including submission of a wetland delineation by a qualified wetland consultant, and indication of the status of application for an EGLE wetland permit or copy of permit received including description of any wetland mitigation required;**
    - 6) Identify all landscape elements and provide a tree inventory for trees that will be preserved;**
    - 7) Delineate the location of tree protection fencing and limits of grading at the perimeter of areas to be preserved;**
    - 8) Illustrate location, spacing, species, and size of proposed plant material.**
    - 9) Separately identify compliance with the minimum numeric requirements for frontage landscaping, greenbelt, parking lot landscaping, detention ponds, interior landscaping, and screening; required trees or materials cannot be double counted;**
    - 10) Identify any existing trees and landscaping that will be used to meet the requirements of this section.**

- 11) Provide typical cross sections to illustrate views from adjacent land uses and the slope, height, and width of proposed berms or landscape elements;
- 12) Provide significant construction details to resolve specific conditions such as limits of grading adjacent to areas with trees and vegetative cover to be preserved, tree wells to preserve existing trees or culverts to maintain natural drainage patterns;
- 13) Provide planting details to ensure proper installation and establishment of proposed plant material;
- 14) Identify grass areas and other methods of ground cover;
- 15) Identify a landscape maintenance program including irrigation and a statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this section; and
- 16) Lot coverage calculations.

**J. Minimum Landscaped Area.** All lots with an approved site plan must have at least 25% of their gross lot area landscaped or covered in vegetation (grass, low ground cover, shrubs, flowers, mulch) other than hardscape as a part of an approved landscaping plan.

**K. Frontage Landscaping.** Within all non-residential districts, a landscape strip along the road, connector, or right of way frontage shall be required. This landscape strip shall be located within the property and adjacent to the right of way line and encompass the entire length of any road, connector, or right of way frontage. Frontage landscaping shall be required in accordance with this section:

- i. The area between the right of way or edge of road pavement and the sidewalk or trailway shall be planted and maintained with grass.
- ii. Frontage landscaping is intended to provide a transition between the roadway, connector, or right of way and an existing or proposed land use.
- iii. All portions of the frontage landscaping shall be planted and maintained with grass, ground cover, shrubbery, trees, and other materials specified for use herein.
- iv. To determine the number of required frontage plantings, see Table 36-5.3.1.
- v. The placement of trees and shrubs may simulate a natural setting, be staggered, placed in rows, or grouped to meet the requirement. The number of required plantings shall be placed anywhere within the frontage landscape strip. Creativity in design of the plantings is encouraged.

- vi. **Where underground utilities prohibit full compliance, the Planning Commission may adjust the location of the required materials so as long as the required number landscape plantings is met. Where there is insufficient area in the front yard for the required frontage plantings, such required landscaping may be located elsewhere on the site. The applicant is required to show that the landscaping requirements cannot be accommodated in the required area.**
  - vii. **Landscaping shall be installed such that when mature it does not obscure traffic signs, fire hydrants, lighting, or obstruct vision for safety of ingress and egress.**
- L. Greenbelt. On non-residential parcels, a greenbelt shall be planted along the subject parcel's interior property lines in accordance with the following requirements and Table 36-5.3.1:**
- i. **Greenbelts shall include only living materials and planting beds, except for approved sidewalks, pathways, signs, drives, and essential services.**
  - ii. **Greenbelts shall have a water source.**
  - iii. **Greenbelt plantings may be arranged to simulate a natural setting such as massing or staggered rows, except where the Planning Commission finds a more formal arrangement (i.e., planted staggered in two (2) rows, spaced 15 feet on center) would be more consistent with the established character of the area.**
  - iv. **Greenbelts shall be designed to ensure adequate clearance for pedestrians and vehicles, clearance from overhead utility lines, adequate separation from underground utilities, and accessibility to fire hydrants. Where such conditions prohibit full compliance, the Planning Commission may adjust the location of the required materials so as long as the required number of plantings is met.**

TABLE 36-5.3.1		C-1, C-2, C-3, C-4, I-1, O, EBT	CBD
Frontage Landscaping	<i>Minimum width</i>	10 feet	5 feet
	<i>Required Plantings</i>	Two (2) deciduous trees plus three (3) shrubs <u>per 30 linear feet</u> of frontage	Two (2) deciduous plus three (3) shrubs per 30 linear feet of frontage
Greenbelt	<i>Adjacent to Residential District</i>	Minimum width of 20 feet.  Minimum of one (1) deciduous plus three (3) shrubs) <u>per 30 linear feet</u> , or fraction thereof, along the side and rear property lines. *	Not required unless located within a compatibility zone and subject to Section 36-3.1.18.D
	<i>Adjacent to Nonresidential District</i>	Minimum width of 10 feet.  Minimum of one (1) deciduous tree <u>per 60 linear feet</u> , or fraction thereof, along the interior property lines.* **	

\* The Planning Commission may approve the substitution of large evergreen trees for up to 50 percent of the required deciduous trees when appropriate in consideration of the land use and existing character of adjacent uses.

#### **M. Parking Lot Landscaping.**

- i. **Parking screening.** Off-street parking facilities in commercial, industrial, office, and multiple-family residential districts shall be effectively screened on any side that adjoins, is adjacent to, or faces a public right of way, private road, access connector, and/or if abutting an agriculture or residential district.
  - 1) A wall or hedgerow, no less than 30 inches in height shall be required.
  - 2) Hedgerows shall be planted with small evergreen or deciduous shrubs, planted 2 1/2 feet on center within a landscape area of at least four (4) feet.
  - 3) A wall shall be no less than 30 inches in height and constructed of masonry materials that complement the principal building.
- ii. **Parking islands and perimeter plantings.**
  - 1) There shall be provided and maintained a minimum of 100 sq. ft. of landscaping, conforming to the specifications of this section, for each parking space provided in the parking lot with a minimum of 100 sq. ft. on any lot. Frontage landscaping and greenbelts shall not used to satisfy parking lot landscaping requirements.



- 2) Parking lot islands shall not be less than 3' in any single dimension and shall be protected from automobile encroachment with curbing or other permanent means.
- 3) A minimum of one (1) deciduous or large evergreen tree shall be planted around the perimeter of the parking lot for each 400 sq. ft. or fraction thereof of required parking.
- 4) In order to delineate on-site circulation, improve sight distance at the intersection of parking aisles, access connectors, and private roads, protect the vehicle at the end of a parking bay, and define the geometry of internal intersections, end islands (landscaped with raised concrete curb) shall be required at the end of all parking bays that abut traffic circulation aisles in off-street parking lots.
- 5) One large deciduous street tree is required on each end island.

Table 36-5.3.1 Parking Lot Screening, Island, and Perimeter Landscaping		
<b>Parking Screening:</b>  For all parking that adjoins is adjacent to or faces a public right of way private road access connector and/or if abutting an agricultural or residential district	Wall or hedgerow no less than 30 inches in height	<b>Hedgerow:</b>  Evergreen shrub or deciduous shrubs, planted two and a half (2 ½) feet on center, within a landscape area width of at least four (4) feet
		Wall: no less than 30 inches in height and constructed of masonry materials that complement the principal building
<b>Parking Island/Perimeter Landscaping</b>	Island: no less than three (3) feet in any single dimension and no less than 100 sq. ft.  Minimum of one (1) deciduous tree in each island	Minimum of one (1) deciduous or large evergreen tree shall be planted around the perimeter of the parking lot for each 400 sq. ft. or fraction thereof of required parking

**N. Existing Plant Material.** On some sites, sound ecological management principles dictate that reasonable efforts are made to preserve mature trees, shrubs, and other live plant materials from heedless or needless destruction. In instances where healthy plant materials exist on a site prior to its development, the Planning Commission and Planning Director (for administrative reviews) may allow credit for preserved materials in

keeping with the intent of this section so long as the functional or practical equivalent landscaping is provided.

**2. Screening:**

**A. Between residential and non-residential uses: Each non-residential use immediately adjacent to a residential district or use must provide screening to separate the use, buildings, and structures from the adjacent residential district or use.**

- i. Screening shall be walls, fences, berms, or evergreen trees, or any combination of these that provides visual and physical separation and obscures dumpsters, parking lots, loading areas, or mechanical equipment from public view. Screening shall always be maintained in good condition.**
- ii. An evergreen screen shall consist of a double row of staggered trees planted fifteen (15) feet on center, with a mixture of species approved by the Planning Director. Rather than a double row of staggered trees, a more natural arrangement of trees may be approved if the Planning Commission determines that the intent of the ordinance is met and that the screening provides visual or physical separation and obscures dumpsters, parking, loading areas, and equipment between the residential and the non-residential district or use.**
- iii. A berm shall have an undulating top and sides with a slope not greater than 3:1.**
- iv. The height of the wall, fence, evergreen tree, or top of berm shall not be less than six (6) feet.**
- v. If a development that requires screening between a residential district or use and non-residential district or use is proposed to be completed in phases, the screening for the entire development shall be planted in the first phase and before occupancy for any building is given.**
- vi. To achieve the intent of the ordinance, all mixed-use developments adjacent to residential district or uses shall be treated as a non-residential use for the purpose of screening and shall install continuous screening along all property lines as required by this section.**
- vii. Screening shall be required if adjacent property is undeveloped.**
- viii. Notwithstanding any provision of this section to the contrary, the Planning Commission may waive or modify the screening standards imposed by this screening section; provided, however, that before any such waiver is granted by the Planning Commission, the evidence presented shows that either of the following conditions exist:**

- 1) That there are physical constraints upon the property that preclude strict adherence to the required planting standards, or
- 2) That the area to be screened by landscaping is of an extraordinary design or finish that would be compromised by a landscaped screen.

**B. Landscape Material Specifications.** The following varieties of planting materials are recommended for use within the Township based on tolerance, survival rates, and compatibility. These native trees and plants are well-suited to the local climate, soil, wildlife, and require less maintenance.

- i. All such materials shall meet the recommended minimum sizes specified at the time first planted (whether initially or replaced). The Planning Director may allow alternative species.
- ii. All plants shall meet minimum quality requirements and be free of defects, and of normal health, height, leaf density, and spread as defined by the American Standard for Nursery Stock, ANSI Z60.1, latest available edition, American Horticulture Industry Association.
- iii. Installation. All landscaping shall be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy growth.
- iv. Species Diversity. Diversity among required plant material is required for visual interest and to reduce the risk of losing a large population of plants due to disease.
- v. Soil Types. Choosing trees and plants that are compatible with soil is important for their success. Michigan Department of Agriculture and Rural Development (MDARD) provides resources for identifying soil types in the Township.
- vi. Native Varieties of Plant Materials: For the success of the listed native species, the preferred measure of acidity or basicity of the soil and soil type and/or condition is noted.
- vii. Unless specified on this prohibited list, a species is permitted.

**C. Deciduous Trees: Tree plantings should be at least 2.5" caliper DBH (Diameter at Breast Height):**

<b>Native Species</b>	<b>Soil pH range</b>	<b>Soil Characteristic</b>
American Beech	4.0 to 7.4	loamy to clay soil
American Sweetgum	4.5 to 7.0	well-drained soil
Basswood	4.5 to 7.5	moist, well-drained soil
Black Walnut	6.5 to 7.2	loamy, well-drained soil
Blackgum	5.5 to 6.5	well-drained, rich soil
Bur Oak	5.5 to 8.0	fertile loamy soil
Chestnut	5.5 to 6.5	well-drained soil
Chinkapin Oak	6.5 to 7.0	moist to dry, well-drained soil
Cockspur Hawthorn	6.0 to 7.5	moist, well-drained soil
Downy Hawthorn	of 6 to 7.5	chalk, loam, clay, or sandy soil
Eastern Redbud	6.6 to 7.8	fertile clay or sandy soil
Flowering Dogwood	6.0 to 7.0	textured, well-drained soil
Hophornbeam	5.0 to 7.5	moist, well-drained soil
Ninebark	4.5 to 6.5	clay or loamy soil
Northern White Cedar	5.5 to 7.2	moist, well-drained, mineral rich soils
Paper Birch	5.0 to 7.5	loamy or sandy soil
Red Oak	< 7.5	moist to dry, well-drained soil
Redbud (Judas Tree)	4.5 to 7.5	clay or sandy soil
Shagbark Hickory	6.0 to 7.5	deep, fertile soil
Smooth Serviceberry	5.5 to 7.0	well-drained soil
Spicebush	5.0 to 8.0	clay, loamy, or rocky soil
Sugar Maple	5.5 to 7.3	loamy, well-drained soil
Swamp White Oak	> 7.2	deep, moist to wet, poorly drained soil
Sycamore	4.9 to 6.5	deep, moist soils
Tuliptree	4.5 to 8.2	loamy and gravelly soil
White Oak	5.5 to 8.0	loamy or clay soil

Native Species	Soil pH range	Soil Characteristic
Wild Black Cherry	5.5 to 8.0	moist well-drained soil
Winterberry	4.5 to 6.5	wet, swampy soil

**D. Large Evergreen Trees: All plantings should be at least 6' in height:**

Native Species	Soil pH range	Soil Characteristic
Balsam Fir	4.0 to 6.0	gravely, sandy soil, and peat bogs
Black Spruce	4.0 to 7.0	wet, cold, shallow soil
Colorado Fir	5.5 to 6.0	moist, well-drained soil
Douglas Fir	6.5	sandy, well-drained soil
Jack Pine	5.0 to 7.5	sandy soil
Northern White Cedar	5.5 to 7.2	well-drained soil
Red Pine	4.5 to 6.0	moist soil
Tamarak	> 6.0	wetland soil
White Fir	4.5 to 7.0	moist well-drained soil
White Spruce	4.7 to 8.2	well-drained soil
Yews	5.3 to 7.8	rich, loamy soil

**E. Small Evergreens: All plantings should be at least 4' in height:**

Native Species	Soil pH range	Soil Characteristic
Arborvitae	6.5 to 8	deep, moist, well-drained loamy soils
Upright Juniper	5.5 to 7.0	dry, clay soils
Upright Yews	5.5 to 7.5	rich, loamy soils

**F. Deciduous Shrubs: All deciduous shrubs should be at least 18" in height.**

Native Species	Soil pH range	Soil Characteristic
Buttonbush	6.8 to 7.2	average to very wet soil
Red Chokeberry	< 6.8	clay, dry, moist, or

<b>Native Species</b>	<b>Soil pH range</b>	<b>Soil Characteristic</b>
		wet soil
Alternate-Leaf Dogwood	5.0 to 7.0	rich, moist soil
Redosier Dogwood	5.5 to 6.6	well-drained soil
American Elderberry	5.5 to 6.5	moist and rich to dry soil
American Hazelnut	4.5 to 8.0	well-drained soil
Michigan Holly	5.5 to 6.5	rich, moist soils
New Jersey Tea	6.8 to 7.2	sandy, well-drained soil
Ninebark	4.5 to 6.5	moist or dry, gravelly soil
Alleghany Serviceberry	< 6.8	moist soil
Shadow Serviceberry	5.5 to 7.0	sandy, loamy, well-drained soil
Maple Leaf Viburnum	< 6.8	most to dry, rocky soil
Arrow Viburnum	6.9 to 8.0	dry to wet soil
Nannyberry Viburnum	5.0 to 7.5	dry to wet, variety of soil
Witchhazel	< 6.8	moist, well-drained soil
Shrubby Cinquefoil	5.0 to 7.0	moist, well-drained soil

**G. Evergreen Shrubs: All plantings should be at least 36" in height:**

<b>Native Species</b>	<b>Soil pH range</b>	<b>Soil Characteristic</b>
Boxwood	6.8 to 7.5	well-drained soil
Euonymus Ilex	6.0 to 7.0	well-drained to dry soil
Evergreen Azalea	4.5 to 5.5	moist, well-drained soil
Pieris	6.5 to 6.0	moist soils

Rhododendron	4.5 to 6.0	moist, well-drained soils
Spreading Juniper	5.5 to 7.0	well-drained soils
Spreading Yew	6.0 to 7.0	loamy soil and heavy clay soils

**H. Grasses, Rushes, and Sedges:** Big Bluestem Grass, Bottlebrush Grass, Hard-stem Bulrush, Indian Grass, June Grass, Little Bluestem Grass, Path Rush, Pennsylvania Sedge, Prairie Cordgrass, Purple Lovegrass, Canada Wild Rye, Wild Rye, Switchgrass, Tussock Sedge, and Wool-Grass.

**I. Ground Covers.** Ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one (1) year after planted.

**J. Lawn/Grass.** Lawn areas shall be planted in species normally grown as permanent lawns in Southwest Michigan and may be sodded or hydroseeded.

**K. Prohibited Plant Materials.** Unless specified on this prohibited list, a species is permitted. The following plant materials and or their clones and cultivators shall not be planted in the Township because of susceptibility to storm damage, disease, and/or other undesirable characteristics:

- i. American Elm
- ii. Ash (White and Green)
- iii. Blue Spruce
- iv. Box Elder
- v. Bradford (Flowering) Pear
- vi. Eastern Red Cedar
- vii. European Barberry
- viii. Northern Catalpa
- ix. Poplar
- x. Silver Maple
- xi. Tree of Heaven
- xii. Willow
- xiii. Cottonwood varieties

### **3. Fencing:**

**A. A fence is a structure that is exempt from setback requirements in all districts, unless stipulated in the zoning district.**

- B. Fencing is either less than 50 percent solid or is opaque, which includes all fencing between 50% to 100% solid.
    - C. Materials utilized shall be in the form of traditional fencing sold for retail purposes, including metal, vinyl, or wood.
    - D. Fence height shall be measured from the existing, or preconstruction, grade and shall not be placed upon a berm unless specifically approved as part of site plan review. (Note: Front yards, side yards and rear yards are established by the location of the principal building and street frontage.)
  - E. Commercial:
    - i. In the commercial (C-1, O-1, C-2, C-3, C-4) and industrial (I-1 and EBT) districts, the maximum height for any fencing within the side and rear yards shall be eight (8) feet. Within the CBD the maximum height shall be six (6) feet. In the front yard, the maximum height shall be six (6) feet and the fence shall not be opaque.
  - F. Agricultural:
    - i. In the Agricultural (A) district where the principal use is not agricultural, the maximum height of any fencing shall be 6' and shall be not more than 50% solid within the front yard.
    - ii. Barbed woven wire or electrified fencing may be used to enclose pastures.
    - iii. The Planning Commission, in considering a request for a Special Exception Use permit in the Agricultural district, may require fencing in excess of 6' as a condition of approval if it determines that such fencing will satisfy standards for approving the Special Exception Use permit.
  - G. Residential:
    - i. In residential districts (R-1, R-1A, R-2, R-3, R-4, R-5 and R-6) and within the within platted, open space or site condominium in the Agricultural District, the maximum height of any fencing shall be six (6) feet, provided such fencing is not located within the front yard.
    - ii. Any fencing located within the front yard shall not exceed four (4) feet in height and shall not be opaque.
4. Non-residential and multi-family dumpsters
- A. The owner, lessee, or agent, and occupants of every building where waste, garbage, or recyclable materials accumulate shall be responsible for providing clean and proper locations and receptacles for storage, disposal, and recycling of such waste, subject to the following:



**B. Location.**

- i. Dumpsters shall be located in the side or rear yard provided that no dumpster shall extend closer to the front of the lot than any portion of the principal structure.**
- ii. The dumpster shall not encroach into a required parking area and shall be clearly accessible to servicing vehicles.**
- iii. Dumpsters shall be sited as far from a residentially zoned or used property as is feasible.**

**C. Dumpsters shall be placed on a concrete pad. The concrete pad must extend a minimum of ten (10) feet in front of the dumpster enclosure.**

**D. Dumpsters shall be screened on three sides with a permanent enclosure constructed of masonry, stone, cement block, or vinyl panels, not less than six (6) feet in height. The dumpster enclosure shall complement or match the principal building's façade color.**

**E. Screening. Dumpsters and enclosures shall be screened from view from adjoining properties and public streets with small evergreen trees in accordance with Section 36-5.3.N.2.**

**F. The fourth side of the dumpster enclosure shall be equipped with an opaque lockable gate. The gate shall be the same height as the enclosure around the other three (3) sides.**

**G. Interior bollards shall be placed at each corner and along the rear section of the dumpster enclosure.**

**H. Temporary Dumpsters. Temporary Dumpsters on site for construction, demolition, or similar temporary purposes may be permitted for the duration of the project provided that consistent progress is made on the project (with a valid building permit).**

Sec 36-5.4 Supplemental Regulations for Riparian Property – [unchanged]

Sec 36-5.5 Riparian Lot Use Regulations – [unchanged]

Sec. 36-5.6 Exterior Lighting Requirements - [unchanged]

Sec. 36-5.7 Parking Requirements

36-5.7.1 - Off-Street Parking Spaces Required – [unchanged]

36-5.7.2 - Submission of Parking and Loading Space with Application for Building Permit – [unchanged]

### 36-5.7.3 - Minimum Required Parking Spaces – [unchanged]

### 36-5.7.4 - Number and Location of Parking Spaces

Number and Location of Parking Spaces. Parking spaces shall be provided in the following specified manner and location:

- A. No parking area, parking space or loading space which exists at the time the ordinance from which this Chapter derives becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this Chapter, unless additional parking area or space is provided sufficient for the purpose of complying with the provision of this Chapter within 300 feet of the proposed or existing uses for which such parking will be available.
- B. Parking of motor vehicles in residential zones, except for those used for farming or for public utility or emergency vehicles, shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type, not to exceed 8,000 pounds gross vehicle weight. The parking of any other type of commercial vehicle, or buses, except those parked on school property, is prohibited in a residential zone.
- C. **Stacking spaces for drive-through facilities:**
  - i. **Stacking spaces for drive-through facilities shall be provided:**

<b>36-5.7.4 Drive-Through Stacking Space Requirements</b>	
<b>Use</b>	<b>Minimum Spaces</b>
<b>Automated teller machine</b>	<b>2 (measured from ATM)</b>
<b>Bank</b>	<b>3 (measured from teller or service area)</b>
<b>Car wash, attendant hand wash</b>	<b>3 (measured from vehicle entrance)</b>
<b>Car wash, automated or customer- operated</b>	<b>2 (measured from vehicle entrance)</b>
<b>Pharmacy</b>	<b>2 (measured from pick-up window)</b>
<b>Restaurant drive-through</b>	<b>The minimum number of spaces shall be based off trip generation for the establishment provided by the applicant</b>
<b>Other</b>	<b>As determined by the Planning Director (based on most similar uses) or trip generation for the</b>

	use provided by the applicant
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- ii. **Dimensions of Stacking Spaces.** Each lane of stacking spaces shall be at least nine (9) feet in width and at least twenty (20) feet in length.
- iii. **Location and Design.** Stacking lanes shall be located on the subject property and shall not be located within required driveways, drive aisles, access to parking, ingress from, or egress to the street.
- iv. **All areas associated with drive-through facilities,** including drive-through signs, stacking lanes, trash receptacles, loudspeakers, and service windows must be located to the rear or on the non-street-facing side of the property if possible. Drive-through lanes shall be set back at least ten feet (10') from abutting residentially zoned properties, and screening shall be provided along the common lot line in accordance with Section 36-5.3.1.A.
- v. **Pedestrian Access.** The principal pedestrian access to the entrance of the use from a public sidewalk shall not cross the drive-through facility stacking lane.

36-5.7.5 Requirements for Parking Spaces and Lots. Requirements for all parking spaces and parking lots shall be as follows:

36-5.7.5. A. For 90-degree parking...[unchanged]

36-5.7.5. B. In commercial, industrial, and multi-family zones...[unchanged]

36-5.7.5. C. Any lighting used to illuminate...[unchanged]

36-5.7.5. D. No parking space or parallel drive aisle...[unchanged]

36-5.7.5. E. Off-Street parking facilities...[unchanged]

36-5.7.5. F. In residential zones...[unchanged]

36-5.7.5.G. The storage of merchandise...[unchanged]

36-5.7.5.H. All off-street parking areas...[unchanged]

36-5.7.5.I. Area for all necessary loading...[unchanged]

36-5.7.5.J. Requirements for the provision of parking facilities...[unchanged]

36-5.7.5.K. The number of parking spaces required for land...[unchanged]

36-5.7.5.L. Parking space requirements...[unchanged]

**M - Parking Abutting Sidewalk.** For parking layouts of 45 degrees, 60 degrees, or 90 degrees, where a parking space abuts a sidewalk, the minimum sidewalk width shall be seven feet, or the length of the parking space shall be twenty-one (21) feet to accommodate vehicle overhang.

**N - Vehicle Stacking Spaces.** The required stacking spaces shall be a minimum nine feet wide and twenty feet in length. Stacking spaces shall not conflict with the use of required parking spaces.

**O - Dedicated Pick Up Spaces.** Dedicated pickup areas are vehicular use areas permanently designed and arranged for drive-up services including but not limited to the delivery of a product sold onsite to an individual in their vehicle, whether that individual is the end consumer or a delivery service employee, or ride services offered to patrons who will or have obtained a product or service available onsite. For every dedicated pick-up space, the number of required parking spaces may be reduced by five (5) spaces.

**P - Single Family Residential Parking.**

- i. Single-family residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve.
- ii. No parking shall be permitted on a regular basis on lawns or other unpaved areas on residential lots, except for approved gravel, pervious pavement/block, or other similar materials.
- iii. For single-family detached dwellings, a minimum three (3) foot wide lawn or landscape strip shall be required between the edge of parking area pavement and all property lines to provide adequate room for drainage, snow storage, and landscaping.

## Sec. 36-5.8 Signs –

36-5.8.1 – Purpose [unchanged]

36-5.8.2 – Applicability [unchanged]

36-5.8.3 – Prohibited Signs [unchanged]

#### 36-5.8.4 – Signs Exempt from Regulation

- A. Any public notice or warning required by a valid and applicable federal state, or local law, regulation, or ordinance. [unchanged]
- B. Any sign inside a building, not attached to a window or door that is not legible from a distance of more than 3 feet beyond the lot line of the parcel on which such sign is located.[unchanged]
- C. Traffic control signs on private property, not exceeding 4 square feet in area. [unchanged]
- D. Directional and temporary signs on private property, not exceeding 3 square feet in area, 4 feet in height and set back a minimum of 100 feet from the road right-of way. [unchanged]
- E. **Signs erected on a Township owned building or land.**

#### 36-5.8.5 – Signs in the Public Right -of- Way [unchanged]

#### 36-5.8.6 – Signs Allowed on Private Property [unchanged]

36-5.8.6.A [unchanged]

36-5.8.6.B [unchanged]

36-5.8.6.C [unchanged]

5.8.6.C.i. [unchanged]

5.8.6.C.ii. [unchanged]

5.8.6.C.iii. [unchanged]

5.8.6.C.iv. [unchanged]

5.8.6.C.v. [unchanged]

5.8.6.C.vi [unchanged]

5.8.6.C.vii. [unchanged]

**5.8.6.C.viii. Development Construction signs are permitted subject to the following restrictions:**

- 1) **One (1) development construction sign may be erected on the site where work is scheduled to begin.**
- 2) **Development Construction signs shall not be larger than 32 square feet in sign area and shall not exceed eight feet in height.**
- 3) **Development Construction signs shall be set as required for Freestanding Sign Dimensional Requirements in Table 36-5.8.6.C.i.**
- 4) **Development Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.**
- 5) **Development Construction signs shall be removed within 15 days after the issuance of an occupancy permit for the building or structure or completion of the residential development which is the subject of the**

**development construction sign (100% of homes built).**

35-5.8.7 – Computations [unchanged]

35-5.8.8 – Design, Construction and Maintenance [unchanged]

Sec. 36-5.9 Access Management - [unchanged]

Sec. 36-5.10 Underground Utilities – [unchanged]

Sec. 36-5.11 Reserved – [unchanged]

Sec. 36-5.12 Stub Roads and Cul-de-Sacs that Abut Property Lines at the Boundaries of Platted and Condominium Subdivisions – [unchanged]

Sec. 36-5.13 Reserved – [unchanged]

**Section 6. Amendment of Article 7, Administration and Enforcement**

The Township hereby amends Article 7 of the Zoning Ordinance, entitled “Administration and Enforcement,” with deleted text stricken and new text indicated with bold face.

Sec. 36-7.1 Administration – [unchanged]

Sec. 36-7.2 Enforcement – [unchanged]

Sec. 36-7.3 Violations – [unchanged]

Sec. 36-7.4 Sanctions – [unchanged]

Sec. 36-7.5 Zoning Board of Appeals

1. Establishment. There shall be a Zoning Board of Appeals (ZBA) as provided under the applicable state statute, which shall consist of five regular members, plus no more than two alternate members, appointed in accordance with state statute and which shall have such powers and duties as prescribed by law and by this Chapter.
2. Authority. ~~The Board of Appeals shall have the authority to do as follows:~~
  - A. ~~Hear and decide upon request, the interpretation of the provisions of this Chapter.~~
  - B. ~~Nonuse and Dimensional Variances.~~

- ~~i. Grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements within the Zoning Ordinance or any other nonuse standard where there are practical difficulties in carrying out the strict letter of this Chapter so that the spirit of the Chapter shall be observed, public health and safety secured, and substantial justice done. in making such determination, the Zoning Board of Appeals shall base its decision on the following standards:~~
    - ~~a. That the variance will not permit the establishment of any use which is not allowed as a permitted or special exception use within the zoning district in which the property is located.~~
    - ~~b. That compliance with the strict letter of the Chapter would unreasonably prevent the owner or occupant of the property from using such property for a permitted use and that relaxation of the requirement would provide substantial relief to the owner or occupant and would be consistent with justice afforded to other property owners.~~
    - ~~c. That the granting of the variance is not based upon a self-created hardship but, rather, on the unique characteristics of the property. That in granting the variance, conditions may be imposed in order to ensure that the applicant does not receive relief beyond that which is necessary to achieve such justice under the Chapter.~~
  - ~~ii. Approval of a dimensional variance related to a special exception use shall not constitute approval of that use, but shall be considered by the Planning Commission in connection with an application for a special exception use or for an amendment to a special exception use that was previously approved. The Zoning Board of Appeals shall act on any variance requests related to a special exception use before Planning Commission action on the application for special exception use or for an amendment to a special exception use permit.~~
  - ~~C. 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 Township employee when passing upon an application for a building or other permit, or by any other officer or body in the administration of this Chapter. Nothing in this Section shall be deemed to authorize appeals from Planning Commission decisions arising from requests for special exception use permits.~~
- The ZBA shall perform its duties and exercise its powers as provided in the Zoning Enabling Act (MCL 125.3101 et seq.) in such a way that the objectives of this Chapter shall be attained, the public health, welfare, and safety secured, and substantial justice done. The Zoning Board of Appeals shall hear and decide only those matters which it is specifically authorized to hear and decide as provided in this Chapter. The ZBA shall have the authority to hear and decide upon request:**
- A. Interpretation of the provisions of this Chapter.**
  - B. Nonuse (Dimensional) Variances.**
  - C. Appeals of Administrative Decisions.**

- 3. Interpretation.** The ZBA is authorized to issue an official interpretation of the Zoning Ordinance. Interpretations may be related to either the text of the Zoning Ordinance or to the boundaries of the zoning map.
  - A.** The Zoning Board of Appeals shall make such decisions so that the spirit and intent of this Ordinance shall be observed.
  - B.** Text interpretation shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance.
  - C.** Map interpretation shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the Zoning Board of Appeals shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance.
  - D.** Prior to deciding a request for an interpretation, the Zoning Board of Appeals may confer with the Township staff and consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions.
  - E.** A decision providing an interpretation may be accompanied by recommendation for consideration of an amendment to the Ordinance.
- 4. Nonuse (Dimensional) Variances.** The Zoning Board of Appeals shall have the power and duty to authorize in specific cases such nonuse (dimensional) variances from:
  - A.** Approval, construction, structural changes, or alteration of buildings or structures related to dimensional requirements within the Zoning Ordinance or any other nonuse standard where there are practical difficulties in carrying out the strict letter of this Chapter.
  - B.** Findings. In making such determination, the Zoning Board of Appeals shall base its decision on the applicant's demonstration that all the following standards have been met:
    - i.** That the variance will not permit the establishment of any use which is not allowed as a permitted or special exception use within the zoning district in which the property is located.
    - ii.** That strict compliance with the requirements would provide substantial relief to the owner or occupant and would be consistent with justice afforded to other property owners or other restrictions authorized by law for the ZBA review.
    - iii.** That the granting of the variance is not based upon a self-created



hardship but rather on the unique characteristics of the property and not on general conditions in the area.

- iv. That in granting the variance, conditions may be imposed to ensure that the applicant does not receive relief beyond that which is necessary to achieve such justice under the Chapter.
- v. That the variance observes the spirit of the Chapter, secures public safety, and does substantial justice.

C. Approval of a dimensional variance related to a Special Exception Use shall not constitute approval of that use, but shall be considered by the Planning Commission in connection with an application for a Special Exception Use or for an amendment to a Special Exception Use that was previously approved. The Zoning Board of Appeals shall act on any variance requests related to a special exception use before Planning Commission action on the application for Special Exception Use or for an amendment to a Special Exception Use.

5. Appeal of Administrative Decision. The Zoning Board of Appeals shall hear and decide appeals where there is an error alleged in any refusal of building, use, or occupancy permit or in any order, requirement, decision, or determination made by the Zoning Administrator or other Township employee, in the enforcement of this Chapter. In exercising the above mentioned powers, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this Chapter, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken.

i. Process. Appeals from the ruling of the Zoning Administrator of the Township Board concerning the enforcement of the provisions of this Chapter may be made to the Zoning Board of Appeals, by the filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record of the action or decision being appealed.

ii. Findings. In making such a determination, the Zoning Board of Appeals shall determine whether the Administrative decision being appealed:

- 1) Followed proper procedures in their decision-making.
- 2) Is based on the correct application of the zoning ordinance.
- 3) Is in compliance with the law and other applicable statutes.

iii. Who may appeal. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board, agency,

or bureau of the Township, county, or state.

- iv. **Representation at hearing. At the hearing, any party or parties may appear in person or by agent or by attorney.**

3. **6. Limitation of Authority.**

**A. Nothing in the Chapter shall be deemed to authorize appeals from Planning Commission decisions arising from requests for special exception use permit.**

**B. 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; nor to authorize the Board of Appeals to validate, ratify, or legalize any violation of law or any of the regulations of this Chapter.

**C. B-** The Board of Appeals shall not amend any portion of this Chapter or the Zoning Map; nor shall such power or authority be vested in the Board of Appeals.

**D. G.** A variance granted by the Board of Appeals shall be valid for a period of one year, unless during such time a building permit for any construction pursuant to such variance shall be obtained and construction started. A variance related to lot area or lot frontage shall run with the land, establishing as the equivalent to a lot of record.

**E. D-** No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.

**F. The Zoning Board of Appeals' decision of such appeals shall be in the form of a motion and findings of fact, containing a full record of the findings and determination of the Zoning Board of Appeals in each particular case.**

**7. Appeal decision of the Zoning Board of Appeals. A party aggrieved by the decision shall have the right to appeal to the Circuit Court within the time period established by the Michigan Zoning Enabling Act, MCL 125.3606, as amended.**

**8. Conditions and safeguards. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter, provided that said conditions:**

- A. Are designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of the public.**
  - B. Are necessary to meet the intent and purpose of this chapter, are related to the standards established in the chapter for the land use or activity under consideration, and are necessary to ensure compliance with those standards.**
- 9. Violations.** Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter, and punishable under Section 36-7.3 of this chapter.
- 10. Limitations of authority.** Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the district involved, reduce the required lot area or road frontage below the minimum required for the district therein located or permit any use expressly, or by implication, prohibited by the terms of this chapter in said district. Approval of use variances require a vote of 2/3 of the members of the Zoning Board of Appeals.

Sec. 36-7.6 Application for Variances or Appeals – [unchanged]

Sec. 36-7.7 Zoning Permit to Erect or Alter Structures – [unchanged]

Sec. 36-7.8 Certificate of Occupancy

- 1. 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 a certificate of occupancy has been issued for that premises certifying that the structure or use complies with the provisions of this Chapter
- 2. Such occupancy permits shall be granted or denied within ten days from the date that a written application is filed with the building inspector or Zoning Enforcement Officer.
- ~~2.~~ **3.** The issuance of a certificate of occupancy shall not be construed as permitting any violation of this Chapter.
- 4. Such occupancy permits shall be granted or denied within ten (10) days from the date that a written application is filed with the Building Official or Planning Director.**
- 5. When a change in use, change in ownership of the property, change in ownership of the business, or a change of tenant occurs, a new certificate of occupancy shall be obtained.**

Sec. 36-7.9 Nonconformities – [unchanged]

Sec. 36-7.10 Nonconformity Created by Exercise of Power of Eminent Domain –  
[unchanged]

Sec. 36-7.11 Building Upon Unplatted Land – [unchanged]

Sec. 36-7.12 Amendment Procedure – [unchanged]