

ONEKAMA VILLAGE ZONING ORDINANCE

Effective Date: May 3, 1990

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ARTICLE 1: TITLE, PURPOSES AND LEGAL CLAUSES

101. Title

Onekama Village Zoning Ordinance shall be known as the "Onekama Village Permanent Zoning Ordinance", hereinafter called the "Ordinance".

102. Purposes

This Ordinance is based upon the Onekama Village Land Use Plan and designed:

- A. To promote and protect the public health, safety and general welfare;
- B. To protect the character and stability of the recreational, residential, commercial and industrial areas within the Village and promote the orderly and beneficial development of the Village;
- C. To regulate the intensity of use of land and parcel areas in a manner compatible with the Onekama Village Land Use Plan and to determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
- D. To lessen and avoid congestion on the public highways and roads;
- E. To provide for the needs of recreation, residence, commerce, and industry in future growth;
- F. To promote healthful surroundings for family life in residential and commercial areas;
- G. To set reasonable standards to which buildings and structures shall conform;
- H. To prohibit uses, buildings or structures which are incompatible with the character of development or the uses, buildings or structures permitted within specified zoning districts;
- I. To prevent such additions to or alteration or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder;
- J. To protect against fire, explosion, and other nuisances and hazards;
- K. To prevent the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning district;
- L. To conserve the value of land, buildings, and structures throughout the Village;
- M. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;
- N. To create an Appeals Board and to define the powers and duties thereof;
- O. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;
- P. To provide for the payment of fees for zoning permits;
- Q. To provide penalties for the violation of the Ordinance; and
- R. To accomplish any other purposes contained in Public Act 207 of 1921, as amended, being the City or Village Zoning act, MCL 125.581 et. seq.

103. Legal Basis

This Ordinance is enacted pursuant to Michigan Public Act 207 of 1921, as amended, being the City or Village Zoning Act, MCL 125. 581 et. seq.

104. Effective Date

This Ordinance was adopted by the Village Council of the Village of Onekama, Manistee County, Michigan, at a meeting held on May 3, 1990 and a notice of publication ordered published in the Manistee News Advocate, a newspaper having general circulation in the Village, as required by Public Act 207 of 1921, as amended, being the Village Rural Zoning Act, MCL 125.581 et. seq.

105. Scope

This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules, ownership association rules; ordinances, laws, regulations of any federal, state or county agency. When this Ordinance has more restrictive regulations, limitations or requirements, then this Ordinance shall control. The Administrator shall not be engaged in the enforcement of deed restrictions or private restrictions placed upon property by covenants.

DATE: May 3, 1990 Esther Pierson
Village President

DATE: May 3, 1990 Mary Kuipers
Village Clerk

Effective May 4, 1990 at 12:01 a.m.

ARTICLE 5: DEFINITIONS

501. Purpose

For the purpose of this Ordinance certain terms are defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number. The word "shall" is always mandatory and not merely permissive. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.

502. Undefined Words

Any word not defined herein, or not referred to in the S.I.C. Manual, shall be interpreted within its common and approved usage.

503. Definitions of Words:

ADMINISTRATOR means the Onekama Village Zoning Administrator as created in Section 8201 et. seq. (entire article).

ADULT BOOK AND/OR VIDEO STORE means an establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", hereinafter defined.

[Annotation: Definition added by amendment, effective June 14, 2002.]

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS REGARDLESS OF WHETHER ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SERVED means establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) persons who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

[Annotation: Definition added by amendment, effective June 14, 2002.]

ADULT MINI MOTION PICTURE THEATER means an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined for observation by patrons therein.

[Annotation: Definition added by amendment, effective June 14, 2002.]

ADULT MOTION PICTURE THEATER means an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as hereinafter defined for observation by patrons there.

[Annotation: Definition added by amendment, effective June 14, 2002.]

ADULT PANORAMAS means an establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of films, tapes or live entertainment showing "specified sexual activities" or "specified anatomical areas".

[Annotation: Definition added by amendment, effective June 14, 2002.]

ADULT PARAPHERNALIA/NOVELTY STORE means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

[Annotation: Definition added by amendment, effective June 14, 2002.]

ALTERATION means any construction, modification, remodeling, repair, improvement, relocation, replacement of a structure, building, dwelling, accessory building or structure which needs a permit under the provisions of Section 8401 et. seq. (entire article) or under the provisions of Section 8601 et. seq. (entire article).

ALTERED means any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

APPEALS BOARD means the Onekama Village Board of Appeals, created in Section 9601, pursuant to Public Act 207 of 1921, as amended, being City or Village Zoning act, MCL 125.581 et. seq.

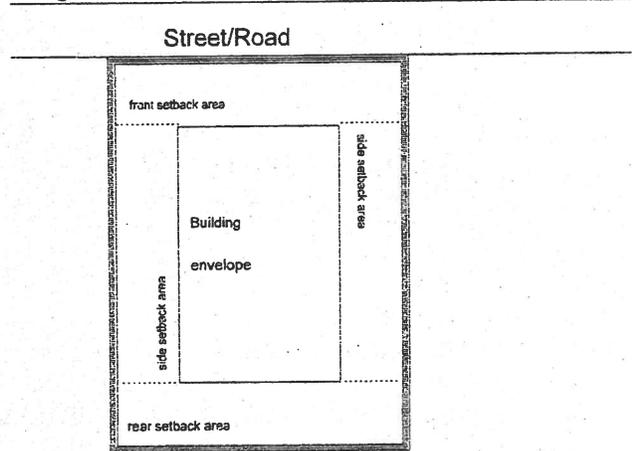
ARTICLE means the main divisions of this Ordinance, cited by the words "section XXX et. seq.". Articles are further divided by sections.

BUILDING means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. Buildings shall include awnings; eaves to the drip line; attached decks and porches with or without a roof; trailers, whether mounted or on wheels and situated on private property and used for purposes of a building.

BUILDING ENVELOPE means that portion of a parcel excluding the setbacks and applied to that parcel by this Ordinance.

BUILDING HEIGHT means the vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the highest height between eaves and ridge for gable, hip and gambrel roofs.

DWELLINGS means a use which is any house, building, structure, state licensed residential facility, or portion thereof which is occupied in whole or in part as a home residence, living or sleeping place for one or more human beings, either permanently or as transients designed to provide living, cooking and eating space for one family only, and does not have a common wall with any other dwelling. In no case shall a trailer coach, automobile chassis, tent or portable building be considered a dwelling.



[Annotation: Definition added by amendment, effective June 14, 2002.]

EASEMENT means a private irrevocable agreement of record between landowners, public utilities, persons, for a specific purpose such as but not limited to utilities, driveways, pipelines, pedestrian ways.

ENVIRONMENTAL ASSESSMENT means a summary review of environmental impacts of a project.

ENVIRONMENTAL IMPACT STATEMENT means a document which is a detailed review of the impacts on the environment by a proposed project.

FAMILY means an individual or a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

FENCE means a structure or planted hedge which is designed to do any one, or more, of the following;

- A. restrict passage through it regardless if the fence has a gate(s) or not,
- B. prevent viewing through it, and/or
- C. be decorative.

FLOOR AREA means the habitable first floor area of a building or structure, exclusive of garage, breezeway, porches, patios, or decks.

[Annotation: Definition added by amendment, effective June 14, 2002.]

HOBBY means an activity carried out by a person primarily for pleasure and self-entertainment.

HOST OR HOSTESS ESTABLISHMENTS means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.

[Annotation: Definition added by amendment, effective June 14, 2002.]

JUNK means

- A. old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;
- B. materials from demolition, waste building materials; and
- C. junked, abandoned, scrap, dismantled or wrecked (including parts of) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include classic or antique items kept and collected for their antique or collectable value, and shall not include junk kept at a licensed Type I, II or III landfill for purposes of disposal as solid waste.

MASSAGE PARLOR means any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna bathers and steam baths. The definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulders. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria: proof of graduation from a school of massage licensed by the State of Michigan; official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section; certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or , a current occupational license from another state.

[Annotation: Definition added by amendment, effective June 14, 2002.]

MOBILE HOME means a dwelling, transportable in one or more sections which is built on a permanent 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 therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Public Act 419 of 1976, as amended, being the Mobile Home Village Council Act, MCL 125.1101 et. seq., and administrative rules promulgated thereunder.

NONCONFORMING BUILDING, STRUCTURE means a structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated and existed prior to the effective date of this Ordinance.

NONCONFORMING USE means structure, building, plot, premise or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated and lawfully existing on the effective date of this Ordinance.

NUDITY - for purposes of this ordinance, nudity means exposure in a public place of male or female genitalia, female breasts. (Mothers breast feeding in public is excluded from this definition and this ordinance.)

[Annotation: Definition added by amendment, effective June 14, 2002.]

OPEN DANCE HALL means an establishment where open public dancing by patrons is available during at least four days per week with patrons furnished by the establishment.

[Annotation: Definition added by amendment, effective June 14, 2002.]

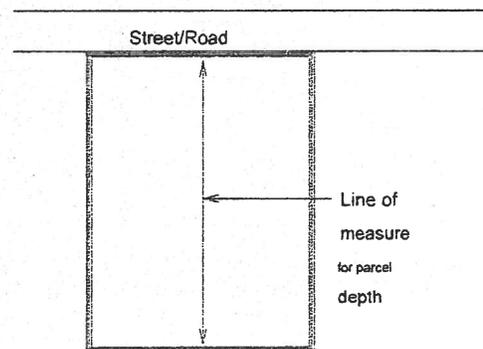
OWNERSHIP means the proprietor of the land who is a natural person, or his heirs, executors, administrator, legal representatives, successors, assigns, firm, association, partnership, corporation or government, or combination of any of them.

PARCEL means any tract or contiguous tracts of land in the same ownership, whether one or more platted lots or parts of lots, as identified by property tax parcel number in the Onekama Township assessment roll.

[Annotation: Definition of "Parcel" has been changed by amendment, adopted April 5, 1990, effective May 3, 1990.]

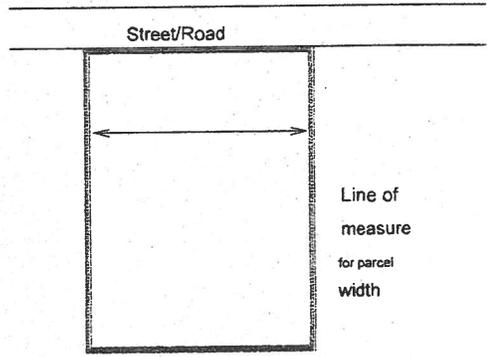
PARCEL MEASUREMENTS means:

- a. **DEPTH** of a parcel shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the front property line and rearmost points of the rear property line.



- b. **WIDTH**

1. The distance between straight lines connecting front and rear property lines at each side of the parcel.
2. In determining parcel frontage on odd shaped parcels if the parcel abuts on the outside curve boundary of a curving street and as a result the side property lines diverge toward the rear, the measurement of the width shall be equal distant and parallel to the front building lines of the principal building.
3. If the parcel abuts on an inside curve boundary of a curved street wherein the property lines converge toward the rear, the measure shall be taken at a point seventy (70) feet from the street property line of said parcel.
4. The average width measured at right angles to its depth.



PARKING SPACE means one unit of parking area provided for the parking of one automobile.
PERSONAL PROPERTY SALES means events such as garage sales, yard sales, basement sales or other similar events where personal property is offered for sale on a limited basis and not for a duration of more than three days within any three month period.

PRESIDENT means the chief elected official of the Village Council.
PROPERTY LINE means the outside perimeter of a legally described parcel of land.
RIGHT-OF-WAY means a public or private way for road purposes.

SECTION means a part of this Ordinance, being the next division under an Article. A section is cited by article number and section number, "XXX", with the last two digits being the section number, and the remaining digits to the left being the article number. Sections may be further divided into subsections "A.", divisions "1.", paragraphs "a.", and subparagraphs "(1)", for example.

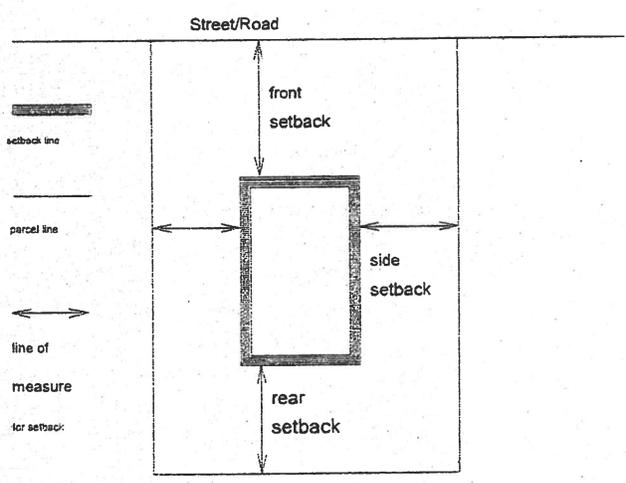
SETBACK means a line parallel to a property line which is a specified distance toward the center of a parcel from the property lines or water front. Side, front, rear and waterfront setbacks correspond to the respective yard. See yard in section 503.

SIGN means any structure or wall or other object used for the display of any message.

SPECIFIED ANATOMICAL AREAS means human genitals less than completely or opaquely covered including the pubic region, buttocks, or anus; or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible state of tumescence, even if opaquely covered.

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following: The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; masturbation, actual or simulated; the display of human genitals in a state of sexual stimulation, arousal or tumescence; excretory functions as part of or in connection with any of the activities opaquely covered including the pubic region, buttocks, or anus.

[Annotation: Definition added by amendment, effective June 14, 2002.]



STRUCTURE means anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, except, structure shall not include automobiles, trucks, trailer, hunting blinds, fences, hedges, sidewalks, gardens.

SUBSTANDARD PARCEL - A parcel of record or a parcel which is described in a land contract or deed executed and delivered before the effective date of this Ordinance which does not meet the size, width, depth requirements of this Ordinance or is not large enough to provide for the minimum required setbacks for a permanent structure.

SUBSTANTIAL OR SIGNIFICANT PORTION means a business or establishment which has: Thirty-five (35) percent or more of this stock, materials, or services, provided relating to or describing "specified sexual activities", and or "specified anatomical areas"; and/or thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both; and/or to specified sexual activities, specified anatomical areas, or both; and/or the advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment or media forms associated with the business or establishment, describes or relates to "specified sexual activities" and/or "specified anatomical areas".

[Annotation: Definition added by amendment, effective June 14, 2002.]

TEMPORARY DWELLING means a structure, either fixed or mobile, constructed for human occupancy on a temporary basis.

[Annotation: Definition added by amendment, effective June 14, 2002.]

TRAILER means a vehicle which can be drawn on a highway and is used for recreational or camping purposes. Includes the terms motor home, pole-trailer, trailer coach, trailer, mobile home as defined in Public Act 300 of 1949, as amended, being the Michigan Motor Vehicle Code, MSA 9.1801-9.1882, and including camping units, tents, or any other temporary dwellings.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS means and includes any of the following: the sale, lease or sublease of the business or establishment; the transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means; the establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

[Annotation: Definition added by amendment, effective June 14, 2002.]

USE means the purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

VARIANCE means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary or practical difficulty.

VILLAGE means the Village of Onekama, a general law Michigan village.

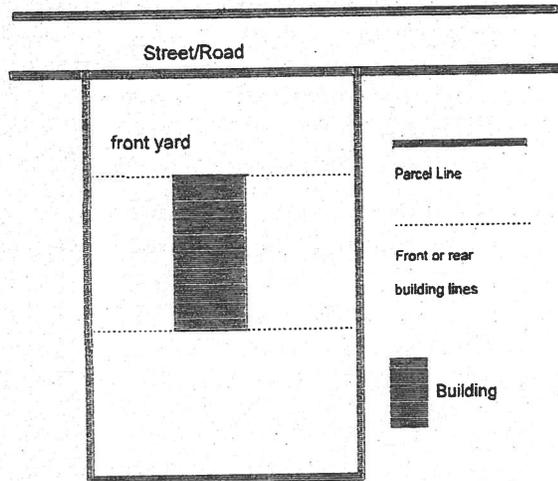
VILLAGE COUNCIL means the Onekama Village Council which has vested with it all the powers and duties of a Zoning Board pursuant to Public Act 207 of 1921, as amended, being City or Village Zoning Act, MCL 125.581 *et. seq.*

WATER BODIES means surface water, lakes, wetlands, rivers, streams, ponds, springs but does not include man-made farm ponds, storm water retention ponds, sediment ponds or impromptu or uncontrolled collection of storm water.

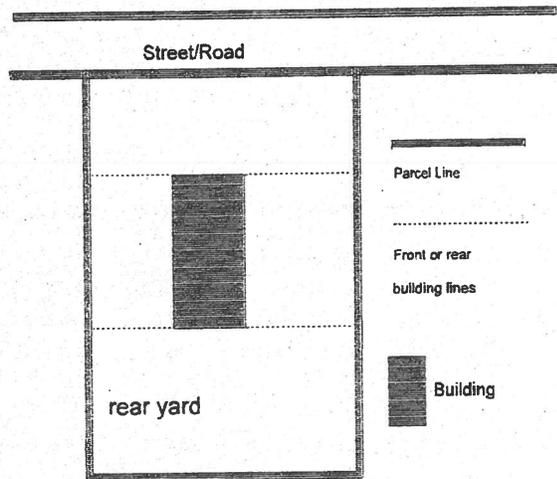
WETLAND - Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is classified as forested or non-forested emergent or flats in the Manistee County Land Use/Cover Classification system prepared under the Michigan Resource Inventory Act and characterized by a soil type which is alluvial land, undifferentiated, variably textured flood plain sediments.

YARD means an open unoccupied space extending the full width of a parcel or extending from the front building line to the rear building line.

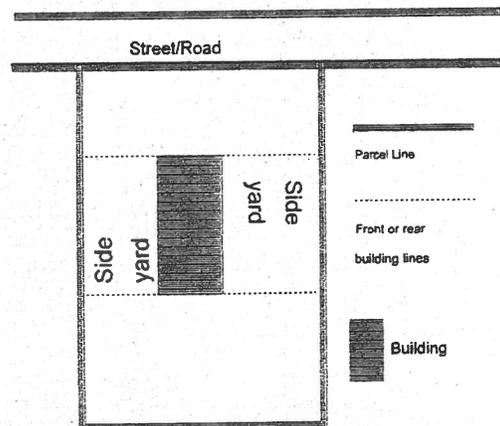
A. Front Yard means a yard between the front property line, which is adjacent to a road right-of-way, and the nearest building line:



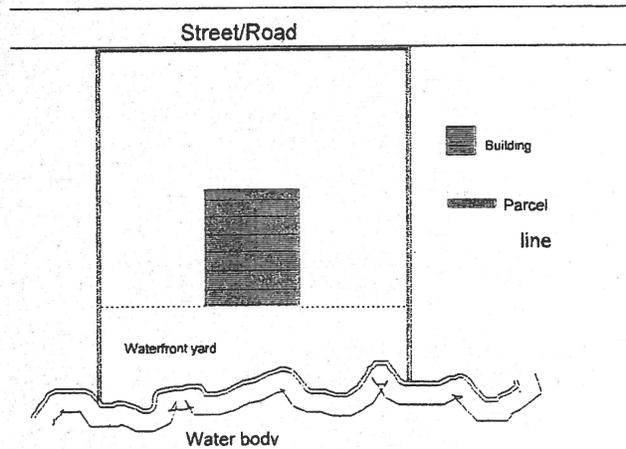
B. Rear yard means a yard between the property line on the opposite side of the parcel from the property line adjacent to a road right-of-way and the rear building line:



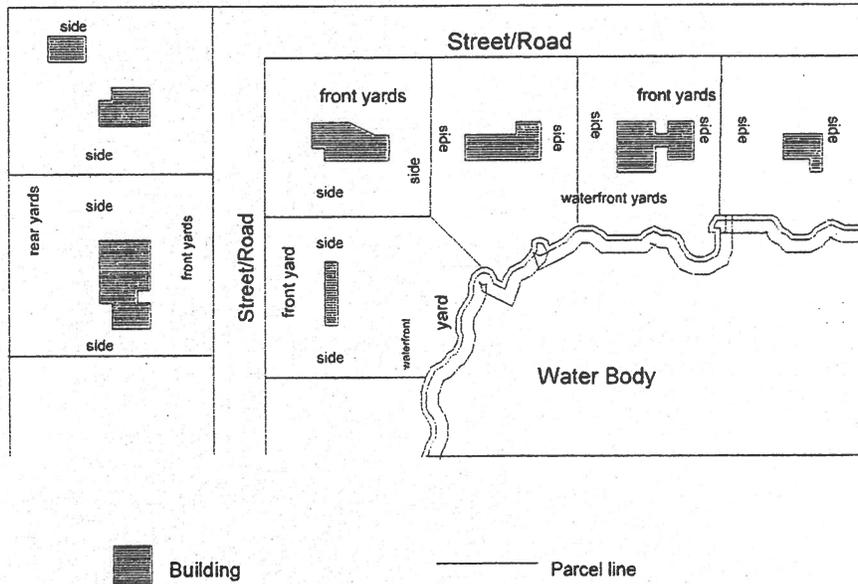
C. Side yard means the remaining yard(s) between the front and rear building lines, and the side line(s) of the parcel:



D. Waterfront yard means a yard between the water's edge and a building line. It may be situated in what would be a side or rear yard if the water body was not present:



E. A parcel may have any combination of yards, so that it may not have a rear yard, it may have two front yards, etc.:



WOODY PLANT or WOODY PLANT MATERIAL means vegetation characterized as having a wooden stem or trunk (as opposed to a fibrous or grass stem) and may include those plantings recommended in Lakeland Report Number 12 on Greenbelts; A Circle of Protection for Inland Lakes prepared by the University of Michigan, Biological Station, Douglas Lake, February 1979.

504. Standard Industrial Classification Manual

- A. For purposes of this Ordinance, where "uses" and "special uses" are listed for each land use district, those terms are defined in Section 505 of this Ordinance.
- B. Terms denoting "uses" which are not defined in Section 505 of this Ordinance, but which are followed by a capital letter and/or number or series of numbers enclosed in brackets ([]) shall be defined as found under the respective Standard Industrial Classification Code, as found in the Standard Industrial Classification Manual, 1987 published by the Executive Office of the United States President, Office of Management and Budget, and adopted by reference herein. Terms defined by use of the Standard Industrial Classification Code shall be exclusive and shall include only those uses or activities found included in the respective Standard Industrial Classification(s). A listing of more general classifications shall include all sub-classifications included within the general classification. If a term denoting a use is defined in Section 505 of this Ordinance, that

use shall not be considered within the respective Standard Industrial Classification(s), Standard Industrial Classification Manual, 1987 notwithstanding.

- C. Terms denoting "uses" which are not defined in Section 505 of this Ordinance, and not followed by a bracketed Standard Industrial Classification reference shall be interpreted within its common and approved usage.

505. Definitions of Uses:

ACCESSORY BUILDINGS means a use which is a supplementary building or structure on the same parcel as the main building, or part of the main building, occupied by or devoted exclusively to an accessory use. Such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings. An accessory building shall not include a storage building that is part of a marina. A storage building at a marina is a principle use.

ACCESSORY USE means a use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the land or buildings, but not including uses considered accessory buildings or accessory structures.

APARTMENT BUILDING means a use which is a dwelling designed for or occupied by three or more families, with separate housekeeping, cooking, and bathroom facilities for each.

DUPLEX means a use which is a dwelling designed for or occupied by two families only, with separate housekeeping, cooking, and bathroom facilities for each which complies with the standards given in this Ordinance.

DWELLING means a use which is a structure, mobile home, premanufactured or precut dwelling structure designed and used for the complete living accommodations of a single family which complies with the standards given in this Ordinance.

HOME OCCUPATION means a use which includes any activity carried out for gain by a resident and conducted as an accessory use in the person's home, but not a hobby.

MARINA means an establishment included in Standard Industrial Classification Code 4493, and also extends into or over, or abuts an inland lake or stream and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft. One boat dock maintained for private non-commercial use on lakefront lots shall not be included within the definition of "marina".

[Annotation: Definition of "Marina" was added by amendment, adopted April 5, 1990, effective May 3, 1990.]

MOBILE HOME PARK means a use which is a parcel of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary mobile home or trailer.

PARKS means uses which are public or private playgrounds, vest pocket parks, nature areas, natural areas, ball fields, open space preserves, arboretums, gardens, beaches, and so on but not including facilities designed for overnight or camping use.

ARTICLE 10: GENERAL REGULATIONS

1001. Purpose

It is the purpose of this Article to provide regulations that apply in all zoning districts to all permitted uses and special uses.

1002. Scope

Zoning applies to all parcels of land and to every building, structure or use. No parcel of land, no building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, altered, occupied, used or changed in use except in conformity with this Ordinance.

1003. Waste Accumulation and Outside Storage

- A. It shall be unlawful for any person to accumulate junk on any land except in a permitted junkyard or licensed sanitary landfill. No sewage, waste water or water containing foreign substances shall be deposited or drained into any water bodies unless the same has first been approved by state and county health authorities. The provisions of this section are not to be deemed to prohibit storing or spreading of manure, fertilizers, or other soil conditioners as part of a permitted farm, forestry or home garden or lawn operation.

1004. Wetlands

A zoning permit shall not be issued for any land use or structure which is located on, drains, and fills in a wetland. A variance to this section may be granted if:

1. A wetland permit has been issued by the State of Michigan, and
2. Denial of the permit does not allow any use of a parcel of land, as that parcel exists at the time of adoption of this Ordinance.

1005. Water Supply and Sewage Facilities

It shall be connected to a public sewer and water supply or to such private facilities in compliance with the Manistee County Sanitary Code, as amended, and approved by the local Public Health Department.

1006. Height

No building or structure or part thereof shall be erected or altered to a height exceeding thirty-five (35) feet or two stories, whichever is shorter. Any building or structure or part thereof may be erected or altered to any height if the building or structure includes built-in fire fighting systems on its upper floors and has alternative power or water delivery capability during a fire and if approved by the Appeals Board, pursuant to its power to grant variances or the Village Council in connection with a Special Use Permit application approval. This section does not apply to radio, television antenna systems, flag poles.

1007. Bulk Regulations

- A. The maintenance of setback, height, floor area ratio, coverage, open space, greenbelt, mobile home site, transition strip, parcel area and parcel area per dwelling unit required for one (1) use, building or structure shall be a continuing obligation of the owner of such building or structure of the parcel on which such use, building or structure shall be located. Furthermore, no setback, height, floor area ratio, coverage, open space, mobile home site, transition strip, greenbelt, parcel area per dwelling unit allocated to or required about or in connection with one parcel, use, building or structure may be allocated to any other parcel, use, building or structure.

- B. Land, once designated as a single parcel and dedicated to a use or improved with a building or structure, shall not be eligible for meeting the minimum area and yard requirements of the Land Use District in which it is located for another use, building or structure if the original parcel is reduced in size or divided into two or more parcels, by any method, unless each parcel, including the original parcel, resulting from such reduction in size or division, shall conform with the minimum area and yard requirements of the Land Use District in which it is located and such reduction in size or division does not violate any other applicable laws or ordinances including, but not limited to, the Manistee County and State of Michigan Subdivision Control Acts.
- C. Setbacks and Yard Requirements - The setback and yard requirements established by this Ordinance shall apply uniformly in each zoning district to every parcel, building or structure except, notwithstanding any other provision of this Ordinance, that any of the following structures may be located anywhere on any parcel: open and unroofed terraces, patios, flag poles, hydrants, clotheslines, arbors, trellises, recreation equipment, outdoor cooking equipment, sidewalks, private driveways, trees, plants, and shrubs.

1008. Traffic Visibility at Corners

No parking space, vehicle fence, hedge, planting of shrubs, signs or any similar structures shall be located, erected or maintained within a distance of fifteen (15) feet from the point of intersection of the front parcel line and the side parcel line adjacent to the road which obstructs safe vision at a road corner. This area forms an equilateral triangle.

[Annotation: Section 1008. Changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

[Annotation: Section 1008. Changed by amendment, to fifteen (15) feet, adopted May 8, 1997, effective June 1, 1997.]

1009. Vehicular Parking Space, Access and Lighting

- A. For each principal building or establishment hereafter erected or altered and located on a public road in any land use district, including buildings and structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown below. The parking spaces called for hereunder shall be considered minimum requirements under this Ordinance and in the case of more than one use on a parcel, the minimum shall be the sum of the required parking for each use:
1. Dwellings, Duplexes and Apartment Buildings: Two (2) parking spaces for each family unit occupying the premises.
 2. Hotels and other Lodging Places [70]: One (1) parking space for every three (3) spaces of legal sleeping capacity.
 3. Nursing and Personal Care Facilities [805], Hospitals [806]: Institutions of a Similar Nature: One (1) parking space for each four (4) beds, plus one (1) space for each doctor.
 4. Motion Picture Theaters [783]; Amusement and Recreation Services [79]; Membership Organization's [86] halls; Public Administration [J] halls/meeting centers; Theaters; Auditoriums and any other places of public assembly: One (1) parking space for each four (4) seats of legal capacity.
 5. Offices; Finance, Insurance, and Real Estate [H]; Offices of Physicians, Dentists, Osteopathic Physicians and other health practitioners [801-804]; Legal Services [81]; Social Services [83]; Miscellaneous Services [89]; Public Administration [J]: One (1) parking space for every two hundred (200) square feet of floor area; provided, however, that doctors' offices and clinics shall be provided with three (3) spaces for each doctor.
 6. Eating and Drinking Places [58]: One (1) parking space for each three (3) seats of legal capacity.
 7. Any other Retail Trade [G]: One (1) parking space for each two hundred fifty (250) square feet of floor area.
 8. Any other Services [I]: One (1) parking space for each two hundred (200) square feet of floor area.

- B. In addition to the above requirements, parking space in the proportion of one (1) space for every two (2) persons employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate shall be provided. Adequacy of parking shall be based upon the anticipated intensity of use of the business establishment by patrons and employees and by reference to the standards contained in Paragraph A. The Zoning Administrator shall establish the number of parking spaces required in the Land Use Permit.
- C. A parking space shall be a minimum area of 10 feet X 20 feet, with center and cross aisles being a minimum of 20 feet wide.
- D. Approval for location of all exits and entrances shall be obtained from the Village Council for all streets. Such approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements.

1010. Dwellings

No person shall use, occupy, permit the use or occupancy of a structure as a dwelling, or duplex, which does not comply with dwelling standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any district, except in a designated mobile home park, and except as hereinafter provided. All dwelling structures shall comply with the following minimum standards:

- A. No dwelling shall hereinafter be erected which shall have less than nine hundred (900) square feet of interior space and shall have a minimum width of twenty (20) feet.
[Annotation: Section 1010.A. Changed by amendment to add minimum dwelling size and widths, adopted April 5, 1990, effective May 3, 1990.]
[Annotation: Section 1010.A. Changed by amendment, adopted May 8, 1997, effective June 1, 1997.]
[Annotation: Subsection amended, effective June 14, 2002.]
- B. Every dwelling hereinafter erected shall have a roof slope of at least four (4) feet, or greater, vertical rise for each twelve (12) feet horizontal distance.
[Annotation: Section 1010.B. Changed by amendment, adopted September 24, 1992, effective October 1, 1992.]
[Annotation: Subsection amended, effective June 14, 2002.]
- C. It shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Bureau of Construction Codes, Department of Labor, under provisions of Public Act 230 of 1972, as amended, being MCL 125.1501 et. seq., including minimum heights for habitable rooms. Where a dwelling is required by law 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 the Michigan Building Code, then and in that event such federal or state standard or regulation shall apply.
- D. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said 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, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- E. It shall contain no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure including permanent attachment to the principal structure as long as such attachment does not include a bearing load on a mobile home and construction of a foundation as required herein.
- F. 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 similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- G. The foregoing standards 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 this Ordinance pertaining to such parks.

- H. All construction required by this section is commenced only after a construction permit has been obtained in accordance with the applicable construction code provisions and requirements.

1011. Location of Accessory Buildings and Structures

- A. All accessory buildings and structures shall be in the side yard or rear yard, except when built as part of the main building. Accessory buildings and structures shall not be placed in front or waterfront yards. An accessory building attached to the principal building of a lot shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building. An accessory building and structure, unless attached and made part of the principal building as provided, shall not be closer than ten (10) feet to the principal building, and shall meet all setback requirements of the district in which it is to be erected, moved, altered or used.

[Annotation: Section 1011.A. changed by amendment, adopted September 4, 1992, effective October 1, 1992.]

- B. No storage building shall be allowed in the Village unless the main dwelling or principal building is located on the same parcel of land

[Annotation: Section 1011.B. changed by amendment, April 5, 1990, effect May 3, 1990.]

1. No accessory building to a dwelling shall be more than nine hundred (900) square feet and side walls shall not be more than ten (10) feet in height measured from the floor to the top plate. Except if the accessory building is located on a parcel of land which is more than two (2) acres in size, the side walls shall not be more than twelve (12) feet in height measured from the floor to the top plate. Eaves shall be boxed and exterior surface painted or coated so as to maintain a residential appearance of the neighborhood.
2. No accessory building to a non-dwelling use shall be more than thirty-five (35) feet in height and any size so long as the building is in total compliance with the respective setback regulations of this Ordinance. Eaves shall be boxed and exterior surface painted or coated.

[Annotation: Section 1011.B-1 changed by amendment, adopted May 8, 1997, effective June 1, 1997.]

- C. Foundations for accessory buildings shall be placed in the ground so their bottom is below the frost line, or thirty (30) inches, whichever is greater.

1012. Open Air Markets

An open air market (including but not limited to farm markets, fruit markets, yard sales, garage sales, or any temporary sale of retail goods or services not housed in an enclosed year-round building) shall not be permitted unless it meets one of the following standards:

- A. It is located in a residential district and is on the parcel where the proprietor resides, or
- B. It is located in a commercial district and
 1. Is located on a parcel owned by the proprietor, and
 2. The enterprise has a Michigan sales tax license, and
 3. The enterprise complies with Michigan Department of Agriculture regulations for sale of food, if applicable, or
- C. It is permitted under this Ordinance as a permanent land use or special use for the specific parcel of land.

1013. Home Occupations

Home occupations shall not be allowed in any zoning district except as hereinafter provided:

- A. The home occupation(s) takes place in a dwelling owned by the resident and where the resident engaging in the home occupation lives on a full time basis.
- B. The home occupation(s) shall be accessory to the residential use of the property.
- C. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation except for a sign that shall not exceed eight (8) square feet in size.

[Annotation: Section 1013.C. changed by amendment, adopted April 5, 1990, effective May 3, 1990.]

- D. The home occupation(s) shall be conducted entirely within the enclosed dwelling or auto garage accessory to the house with no external evidence of the activity except for a sign that shall not exceed eight (8) square feet in size.

[Annotation: Section 1013.D. changed by amendment, adopted April 5, 1990, effective May 3, 1990.]

- E. The home occupation(s) shall not involve the
 1. generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 299.433 et. seq.) or
 2. use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910(2), except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, art and craft supplies or heating fuel.

1014. Temporary Dwellings

No person shall use or permit the use of any temporary dwelling or trailer as defined in this ordinance as a principal or seasonal dwelling on any site, field, lot or tract of land except,

- A. As temporary quarters during the construction and installation of a dwelling conforming to Article 10, Section 1010 of this Ordinance when the following conditions are met:
 1. The location of the temporary dwelling or trailer shall comply with all setback requirements of this ordinance.
 2. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
 3. The use of the temporary dwelling or trailer shall be limited to six (6) months beginning with the issuance of a permit. The permit may be renewed for not more than an additional six (6) months upon approval of the Zoning Administrator for good cause shown.
- B. As part of a campground licensed by the Michigan Department of Public Health.
- C. (a) On ones own land or, permitted by the land owner; (b) so the temporary dwelling or trailer does not remain on the site for a total period of more than three (3) weeks (cumulative) in a calendar year beginning with the issuance of a camping permit by the Zoning Administrator.

[Annotation: Section added by amendment, effective June 14, 2002.]

1015. Signage

- A. Advertising signs may be permitted within the setback area provided that they comply with the following conditions:
 1. Such advertising sign or display complies with the statutes of the State of Michigan.
 2. Such stand-alone advertising signs shall be permitted in the Commercial/Residential districts, but must be no more than 64 square feet.
 3. Residentially zoned area permits only signs of no more than eight (8) square feet.
 4. Directional signs not more than four (4) square feet per sign may be placed on property regardless of zone, at road intersections. Such groups of signs shall be subject to the approval of the Zoning Board.
 5. Signs with a political message directly associated with a campaign on a pending ballot issue or candidate during a period of the campaign prior to the election, but not for more than 10 days after the election.
 6. Temporary sale, lease, or rent signs, providing:
 - a. No more than two (2) signs are displayed.
 - b. Such signs are located on the lot or structure for sale, lease or rent.
 - c. Such signs do not contain an area of more than ten (10) square feet.
 - d. Such signs are removed within seven (7) days following the sale, leasing, or renting of the property.
 7. Hanging signs or pylon signs (signs between two poles) must be no lower than nine (9) feet from the ground at their bottom edge.

- B. Provisions of Article 1015 shall not apply to: Bulletin boards of churches, schools, libraries, and other public buildings provided:
 - 1. Such boards are located on the premises thereof.
 - 2. Such boards are not located as to obstruct the view of traffic from the sidewalks, driveways, roadways, and adjoining properties.
- C. Sign Approval
 Advertising signs, billboards, advertising display, outdoor display, and other advertising may be erected and maintained within the Village by first obtaining the approval of the Zoning Board.

[Annotation: This Article approved by the Planning Board July 27, 2000 and adopted thereafter.]

1016. Regulation of Sexually Oriented Business

- A. Legal Basis.
 Article 10, Section 1016 is enacted pursuant to the general provisions of MCL 67.1a(1), governing the powers and immunities of villages. It is recognized that sexually oriented businesses have a deleterious effect upon adjacent areas, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of life in adjacent areas, especially when such uses are concentrated in the same general area. It is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require their dispersal through the commercial and industrial zoning of the Village of Onekama to hereby minimize their adverse impact to the best extent possible on any other permitted use.
- B. Conditions.
 In order to obtain and retain a special use permit for operation of a regulated use as defined by this Ordinance, the following conditions must be met, in addition to all other standards set forth herein for special use permits:
 - 1. A special use permit must be acquired through the special use procedures as described in this ordinance.
 - 2. In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as defined by this section shall not be located within 500 feet of two (2) other such regulated uses as defined by this section, nor within 500 feet of any residentially zoned district, school, day care center, church or other religious institution, or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective property lines.
 - 3. The regulated uses, as defined by this ordinance, shall only operate between the hours of 8 a.m. and 10 p.m.
 - 4. There shall be a manager on the premises at all times.
 - 5. No one under the age of 18 shall be allowed onto the premises by the on site manager of the regulated use.
 - 6. If a transfer of ownership or control occurs the existing special use permit shall be considered void. A new permit shall be applied for in advance of the proposed transfer.
 - 7. No product or service for sale or gift, or any picture or other representation thereof, which relates in anyway to "specified sexual activities" or "specified anatomical areas", shall be displayed so as to be visible from the street or exterior of the building on the regulated use.
 - 8. Once a special use permit has been issued, the regulated use shall not be expanded in any manner without first applying for and receiving approval of the Planning Commission as provided in the Onekama Village Zoning Ordinance.
 - 9. If a regulated use is discontinued, the use may not be reestablished without first applying for and receiving the approval of the Planning Commission as provided in the Onekama Village Zoning Ordinance.

10. The designated parking area for the sexually oriented business shall be lighted from dusk till dawn.
11. A secure and well-lighted entrance, separate from that provided for patrons, will be provided for all employees, regardless of their job descriptions.

C. **Exceptions to Conditions.**

The Planning Commission may waive the foregoing spacing requirements if it finds all of the following conditions exist:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed.
2. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other businesses and residents or a disruption in neighborhood development.
3. The establishment of the proposed regulated use in the area will not be contrary to any program of neighborhood conservation;
4. Where all other applicable regulations within the Onekama Village Zoning Ordinance or other pertinent zoning ordinances will be observed.

[Annotation: This section added by amendment, effective June 14, 2002.]

ARTICLE 18: GENERAL ZONING DISTRICT PROVISIONS

1801. Establishment of Districts

The Village is hereby divided into the following zoning districts as shown on the Official Zoning Map:

- A. Residential districts:
 - 1. Residential District
- B. Commercial districts:
 - 1. Commercial Residential District
- C. Overlay Zone:
 - 1. Portage Lake Shoreline Overlay Zone

1802. Provision for Official Zoning Map

For the purpose of this Ordinance the zoning districts as provided in Section 1801 of this Ordinance are bounded and defined as shown on a map entitled "Official Zoning Map of Onekama Village", a copy of which accompanies this Ordinance and which, with all explanatory matter thereon, is hereby incorporated into and made a part of this Ordinance by reference.

1803. Identification of Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Onekama Village", together with the effective date of this Ordinance.

1804. Changes to Official Zoning Map

If, in accordance with the procedures of this Ordinance and of Public Act 207 of 1921, as amended, being the Village Rural Zoning Act, MCL 125.581 *et. seq.* a change is made in a zoning district boundary, such change shall be made by or under the direction of the Village President promptly after the amendment authorizing such change shall have been adopted and published.

1805. Authority of Zoning Map

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Farr Center (Onekama Village Hall) shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Village.

1806. Replacement of Official Zoning Map

In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Village Council may by resolution authorize the transcribing and drawing of a duplicate official zoning map which shall supersede the prior Official Zoning Map. The duplicate Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the Zoning Ordinance or the prior Official Zoning Map. The duplicate Official Zoning Map shall be identified by the signature of the Village President, attested by the Village Clerk, and bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Onekama Village duplicated on February 12, 1993 which replaces and supersedes the Official Zoning Map which was adopted on May 3, 1990."

1807. Rules of Interpretation

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules of interpretation shall apply:

- A. A boundary indicated as approximately following the centerline of a highway, road, alley or easement shall be construed as following such line.
- B. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.
- C. A boundary indicated as approximately following the corporate boundary line of a city, village or township shall be construed as following such line.
- D. A boundary indicated as following a railroad line shall be construed as being the centerline of the railroad right-of-way.
- E. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- F. A boundary indicated as following the centerline of a water body shall be construed as following such centerline at the time of the interpretation.
- G. A boundary indicated as parallel to, or an extension of, a feature indicated in corrections A through F above shall be so construed.
- H. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- I. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstance not covered by subsections A through H above, or question in interpreting subsections A through H above, the Appeals Board shall interpret the zoning district boundary.

1808. Application of Regulations

The regulations established by this Ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land or building, dwellings and structures throughout each district.

ARTICLE 40: RESIDENTIAL DISTRICT

4001. Purpose

It is the intent of this district to provide for developed neighborhoods for residential and certain controlled immediate area retail and service businesses in certain parts of Onekama Village, to promote a compatible arrangement of land uses for homes, to keep neighborhoods relatively quiet and free from detrimental uses.

4002. Permitted Uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 et. seq. of this Ordinance:

- A. Educational Services [82].
- B. Religious Organizations [866].
- C. Dwelling.
 - 1. In home occupations (including, but not limited to, bed and breakfast)
[Annotation: Subsection amended, effective June 14, 2002.]
 - 2. parking for currently licensed automobiles.
 - 3. storage of recreational vehicles, boats, boat trailers or trailers, kept for use by the dwelling occupant only.
 - 4. on lake front lots, one boat dock for private use.
- D. Parks
- E. Accessory Buildings.

4003. Special Uses

Only the following uses shall be permitted, by Special Use Permit, as specified in Section 8601 et. seq. of this Ordinance:

- A. U.S. Postal Service [43].
- B. Retail Trade [G; 52-5999].
- C. Finance, Insurance and Real Estate [H; 60-6799].
- D. Services [I; 70-8999], not listed in Section 4002.
- E. Duplex.
- F. Apartment Building.

4004. Regulations and Standards

The following regulations shall apply to permitted uses and special uses in Residential District.

- A. Parcel Area - No building or structure shall be established on any parcel less than twelve thousand (12,000) square feet in area.
- B. Parcel Width - The minimum parcel width shall be seventy-five (75) feet, except a parcel which is a lot in a subdivision created prior to the effective date of this Ordinance, and it shall front on a road.
- C. Yard and Setback Requirements - The following requirements shall apply to every parcel, building or structure.
 - 1. Front Yard: The minimum setback shall not be less than twenty-five (25) feet from front property line, or fifty-eight (58) feet from centerline of a road, whichever is greater.
 - 2. Side Yards: The minimum width of either yard shall not be less than ten (10) feet, so long as Section 1008 is complied with on corner parcels.

[Annotation: Section 4004.C-2. Changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

3. **Rear Yard:** The minimum setback shall not be less than fifteen (15) feet.

[Annotation: Section 4004.C-3. Changed by amendment, adopted May 8, 1997, effective June 1, 1997.]

4. Setbacks are measured from the property line to the building or drip line around the building (including, but not limited to, awnings, eaves or gutters) and attached decks and porches with or without a roof and steps.

- D. No dwelling hereafter erected shall have less than nine hundred (900) square feet of floor area and shall have a minimum width of twenty (20) feet.

[Annotation: Section 4004.D. added by amendment, adopted September 24, 1992, effective October 1, 1992.]

[Annotation: Section 4004.D. changed by amendment, adopted May 8, 1997, effective June 1, 1997.]

[Annotation: Subsection amended, effective June 14, 2002.]

- E. Every dwelling hereafter erected shall have a roof slope of four (4) feet, or greater, vertical rise for each twelve (12) feet horizontal distance.

[Annotation: Section 4004.E. added by amendment, adopted September 24, 1992, effective October 1, 1992.]

[Annotation: Section 4004.E. changed by amendment, adopted May 9, 2002, effective June 14, 2002.]

ARTICLE 50: COMMERCIAL RESIDENTIAL DISTRICT

5001. Purpose

It is the intent of this district to provide for an established commercial district and a downtown business area in certain parts of Onekama Village, to promote a compatible arrangement of land uses for businesses and homes, to keep commercial areas free from detrimental uses.

5002. Permitted Uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 et. seq. of this Ordinance:

- A. Agricultural Services [07]
 - B. Forestry Services [085]
 - C. U.S. Postal Service [43]
 - D. Transportation Services [47]
 - E. Retail Trade [G: 52-5999]
 - F. Finance, Insurance and Real Estate [H: 60-6799]
 - G. Services [I: 70-8999]
 - H. Public Administration [J: 91-9721]
 - I. Dwelling.
 - 1. home occupation (including, but not limited to, bed and breakfast).
 - 2. parking for currently licensed automobiles.
 - 3. storage of recreational vehicles, boats, boat trailers or trailers kept for use by the dwelling occupant only.
 - 4. on lake front lots, one boat dock for private use.
 - J. Duplex
 - K. Apartment Building
 - L. Marinas
- [Annotation: Section 5002L. added by amendment, adopted April 9, 1990, effective May 3, 1990.]
- M. Parks
 - N. Accessory Buildings
 - O. Sign.

5003. Special Uses

Only the following uses shall be permitted, by Special Use Permit, as specified in Section 8601 et. seq. of this Ordinance:

- A. Construction [C: 15-1799]
 - B. Manufacturing [D: 20-3999]
 - C. Local and Interurban Passenger Transit [41]
 - D. Trucking and Warehousing [42]
 - E. Water Transportation [44] except Marinas
- [Annotation: Section 5003E. changed by amendment, not to include marinas, adopted April 9, 1990, effective May 3, 1990.]
- F. Communications [48]
 - G. Electric, Gas and Sanitary Services [49]
 - H. Wholesale Trade [F: 50-5199]
 - I. Adult book and/or Video Store
 - J. Adult Motion Picture Theater
 - K. Adult Mini Motion Picture Theater
 - L. Adult Paraphernalia/Novelty Store
 - M. Massage Parlor
 - N. Host or Hostess Establishments

- O. Open Dance Hall
- P. Adult Live Entertainment Establishments Regardless of Whether Alcoholic Beverages May or May Not be Served

Q. Adult Panoramas

Any combination of the foregoing I. through Q.

[Annotation: Subsections I through Q. added by amendment, effective June 14, 2002.]

5004. Regulations and Standards

The following regulations shall apply to permitted uses and special uses in the Commercial Residential District.

[Annotation: Section 5004 changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

A. Parcel Area - No building or structure shall be established on any parcel less than twelve thousand (12,000) square feet in area.

[Annotation: Section 5004.A. changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

B. Parcel Width - The minimum parcel width shall be seventy-five (75) feet, except a parcel which is a lot in a subdivision created prior to the effective date of this Ordinance, and it shall front on a road.

[Annotation: Section 5004.B. changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

C. Yard and Setback Requirements - The following requirements shall apply to every parcel, building or structure.

1. Front Yard: The minimum setback shall not be less than zero (0) feet from front property line, or thirty-three (33) feet from centerline of a road, whichever is greater.

2. Side Yards: The minimum width of either yard shall not be less than ten (10) feet; so long as Section 1008 is complied with on corner parcels.

3. Rear Yard: The minimum setback shall not be less than fifteen (15) feet.

[Annotation: Section 5004.C-3. Changed by amendment, adopted May 8, 1997, effective June 1, 1997.]

4. Setbacks are measured from the property line to the building or drip line around the building (including, but not limited to, awnings, eaves or gutters) and attached decks and porches with or without a roof and steps.

D. No buildings and structures hereafter erected shall have less than nine hundred (900) square feet of floor area and shall have a minimum width of twenty (20) feet.

[Annotation: Section 5004.D. changed by amendment, adopted May 8, 1997, effective June 1, 1997.]

[Annotation: Subsection amended, effective June 14, 2002.]

E. Every dwelling hereafter erected shall have a roof slope of four (4) feet, or greater, vertical rise for each twelve (12) feet of horizontal distance.

[Annotation: Subsection amended, effective June 14, 2002.]

ARTICLE 70: PORTAGE LAKE SHORELINE OVERLAY ZONE

7001. Purpose

This overlay district is to protect the shoreline of Portage Lake and other bodies of surface water in Onekama Village from erosion, prevention of runoff-laden pollutants, preservation of plant materials necessary for removal of nutrients prior to their entering the lake or surface water, preserving the aesthetics of a vegetated shoreline and providing for shoreline maintenance, while at the same time providing for development of the waterfront uses which are in compliance with the Portage Lake Management Plan.

7002. Area Affected

This overlay district shall include all lands between the following two lines:

- A. The waterfront, being a line dividing the water from the upland at the ordinary high water mark, or the actual point where the water and land meet, whichever is closer to the center of the water body.
- B. The rear parcel line (being the parcel line farthest landward from the waterfront) of littoral parcels; or, in the case of parcels situated at the lakefront, but which are not littoral because they are situated so a road, right-of-way, common area or any other public way --but not privately-owned land-- is between the waterfront and parcel line closest to the lake, the parcel line which is farthest landward from the waterfront; and side or other parcel lines necessary to connect the rear parcel line with other rear parcel lines or parcel lines which are farthest landward from the waterfront.

7003. Permitted Uses

All uses permitted by right or potential special uses listed in the respective underlying district shall be permitted except as otherwise noted here:

- A. Privately-owned littoral land on which exists uses which are private or public parks, recreational facilities, clubs, which provide access to the water's edge for a select membership, property owners' association, property owners within an area development (but not a private business or where users reside or are lodged on the same littoral parcel of land on which the facilities are located) shall be prohibited.
- B. Docks and launch ramps for use by more than the resident of the privately-owned littoral parcel on which the dock and launch ramps are located (but not a marina permitted under this Ordinance) shall be prohibited.

Whenever other provisions of this Ordinance conflict with provisions of this Article, the provisions of this Article shall apply. Whenever other provisions of this Ordinance and provisions of this Article have similar regulations but which differ in how restrictive they are, the more restrictive of the two shall apply.

7004. Regulations

No building or structure shall hereafter be erected or enlarged unless the following regulations are complied with for and maintained in connection with such building, structure or enlargement.

- A. The minimum size of a lot shall be fifteen thousand (15,000) square feet.

B. Minimum lot width: One hundred (100) feet at the shoreline, not including any new or additional shoreline that may be created after adoption of this section of this Ordinance as a result of making a channel, bay, estuary, seawall, or similar modification of the shoreline.

C. Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:

[Annotation: Section 7004.C-2. was deleted from the ordinance. This section prohibited construction in the flood plain.]

1. When one has a manicured lawn within 11 feet of a water body, then within ten (10) feet of the edge of water bodies trees with a trunk diameter of three inches at breast height, or greater, shall not be removed unless dead or chronically diseased, but may be pruned for a filtered view. Other trees or woody plant material of a smaller diameter at breast height, shall not be removed, except to prune or clear a filtered view of the water body. It shall be the landowner's responsibility to maintain (and establish if necessary at the time new construction occurs) this vegetation belt in a healthy state.

D. Setback for all structures, driveways for motor vehicles, and solid waste disposal: Forty (40) feet landward (measured horizontally) from the waterfront line, or two (2) feet above the surface (measured vertically) of the water body, whichever is farther landward if the principal and accessory structures, if applicable, are connected to the Village sewer system. If they are not connected to the Village sewer system and use of on-site septic disposal is permitted, then the isolation distances given here shall be doubled.

[Annotation: Section 7004.D. changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

ARTICLE 80: NONCONFORMITIES

8001. Purpose

Within the districts established by this Ordinance or by amendments thereto, there exist buildings and structures and uses of parcels, lots, buildings, and structures which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated or restricted under this Ordinance. These uses are referred to as nonconformities and may continue until they are discontinued, damaged or removed. These nonconformities are declared by this Ordinance to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such nonconformities shall not be enlarged, expanded or extended except as provided herein nor to be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same district.

[Annotation: Section 8001 changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

8002. Extensions

A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered, or expanded during its life; and a parcel may not be used or built upon; except for any one or combination of the following and subject to the corresponding restrictions:

- A. If the nonconformity is a use which is not otherwise allowed in the zoning district; then the use and the structures upon which the use is associated shall not be expanded more than fifty (50) percent in size, hours of operation or level of service, or any other extension than what exists at the time of adoption of this Ordinance. Under no condition shall the parcel be expanded and the use be expanded to a contiguous parcel.
- B. If the nonconformity is the parcel is too small and already has existing uses and structures; then the structures shall not be expanded more than:
 1. fifty (50) percent of the ground area occupied by the structure at the time of adoption of this Ordinance, or
 2. as much as possible without infringing on all applicable setbacks in this Ordinance, whichever is less. Any expansion of the structure shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the parcel into compliance, or to lessen the nonconformity if the use is permitted in the respective zoning district.

[Annotation: Section 8002, B-2. Changed by amendment, adopted September 14, 1992, effective October 1, 1992.]
- C. If the nonconformity is the parcel is too small, and the parcel is vacant; then a use or structure shall not be permitted unless contiguous land is added to the parcel, to make the parcel large enough, except:
 1. It is documented by the applicant that contiguous land, or enough contiguous land, can not be purchased, and
 2. The parcel is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the Manistee-Mason District Health Department, and
 3. The nonconforming parcel was not created by division, which does not comply with both the zoning Ordinance in effect at the time of the division and this Ordinance, and
 4. A variance is granted by the Appeals Board.
- D. If the nonconformity is the structure is too small; then the use shall not be expanded more than fifty (50) percent in hours of operation or level of service, or other similar extension than what exists at the time of adoption of this Ordinance. Nothing here is intended to prevent any amount of addition to the size of the structure, if:

1. The size of the structure is the only nonconformity, and
2. The addition results in the structure being in full compliance, or as a second choice, closer to compliance.

8003. Repairs and Maintenance

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the Michigan State Construction Code as promulgated by the Michigan State Bureau of Construction Codes, Department of Labor, under provisions of Public Act 230 of 1972, as amended, being MCL 125.1501 et. seq., relative to the maintenance of buildings or structures; provided, however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed sixty (60) percent of the reproduction value of such building at the time such work is commenced; and provided, further, there shall be no change of use of such building or part thereof at the time such work is done.

8004. Building Damage

No building damaged by fire, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except in conformity with the provisions of this Ordinance. Such reconstruction, repair or restoration shall be completed within one (1) year following the damage and resumption of use shall take place within ninety (90) days of completion. The (1) one year may be extended by the Appeals Board if it finds one of the following conditions to exist:

- A. The delay was not avoidable due to weather;
- B. The delay was a result of a criminal investigation; or
- C. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance.

8005. Completion

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the actual physical construction of which shall have been diligently prosecuted prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption or amendment.

8006. Abandonment

Any building, structure or land that has been used for nonconforming purposes but which has not been occupied by such nonconforming use for one (1) year or more shall not thereafter be used unless it conforms to the provisions of this Ordinance. An extension may be granted by the Appeals Board for the following reasons:

- A. Property held in Probate;
- B. Insurance settlement in dispute; or
- C. Criminal investigation.

8007. Change of Tenancy or Ownership

There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

8008. Notification

Within thirty (30) days after the effective date of the adoption of this Ordinance or any amendment thereto, any nonconforming user shall file with the Zoning Administrator a written statement of the nature and extent of his, her or its nonconforming use.

8009. Nonconforming Special Uses

- A. There are uses which were permitted by right under the Onekama Village Building Code of 1963 in effect immediately prior to this Ordinance which are not permitted uses under this Ordinance. Of those uses, there are some which are listed as potential special uses in this Ordinance. Those existing uses which were permitted uses, and are listed as special uses in this Ordinance, shall not be considered nonconforming uses.
- B. Those uses, or parts of uses, which exist as a permitted use immediately prior to this Ordinance, and are listed as special uses in this Ordinance shall be considered to be an approved existing special use with the configuration shown on a site plan drawn to reflect how the use exists at the time of adoption of this Ordinance. Parts of uses which are nonconforming immediately prior to the adoption of this Ordinance shall continue to be nonconforming under this Ordinance. A permit in existence pursuant to this subsection shall be known as an unwritten Special Use Permit.
- C. An owner of an unwritten Special Use Permit may, at no charge to the owner, obtain from the Council a certification of a site plan reflecting how the use exists at the time of adoption of this Ordinance with identification of nonconforming parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this Ordinance, aerial photographs flown in spring 1985 by Manistee County or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the County photos but before the adoption of this Ordinance, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above mentioned photo(s) may be accepted as the site plan for the unwritten Special Use Permit.
- D. When a special use owner applies to amend the unwritten Special Use Permit for expansion or change, a written Special Use Permit shall be prepared for the entire use and parcel. In review of the Special Use Permit amendment application for expansion or change, the Council shall only review and act on the expansion or change portion of the Special Use Permit. If the application for amendment of the Special Use Permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the unwritten Special Use Permit.

ARTICLE 82: ADMINISTRATION OF THE ORDINANCE

8201. Purpose

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violations and enforcement of the provisions of this Ordinance and amendments thereto.

8202. Zoning Administrator

- A. The provisions of this Ordinance shall be administered by the Onekama Village Zoning Administrator (administrator). Applicants for the office of administrator shall be interviewed by the Village Council. The Village Council shall appoint, from the list of applicants an administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Village Council shall determine, and the duty of the enforcement of this Ordinance shall rest with the administrator as shall be authorized by law.
- B. Eligibility. Any elected official of the Village and all members of the Appeals Board shall be ineligible for appointment to the office of administrator, except as otherwise provided in Section 8202.C.
- C. Interim Administrator. For the event of the resignation, death, disability, vacation or disqualification of the Administrator, the Council shall appoint a Deputy Zoning Administrator who shall serve as interim administrator until a new Administrator shall be appointed by the Village Council, or the existing Administrator again assumes his duties.
[Annotation: Section 8202.C. changed by amendment, adopted April 5, 1990, effective May 3, 1990, this section used to automatically name the village president as the interim zoning administrator.]
- D. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the administrator to reasonably conclude that in addition to the standards set forth in Section 8403, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services and facilities affected by such order, requirement, decision or determination, protects the public health, safety and welfare and is consistent with the constitutional requirements of due process and equal protection of the law.

8203. Zoning Administrator Duties

The administrator shall submit to the Village Council monthly reports fully explaining the type and nature of uses permitted by right; the nature and extent of violations of this Ordinance; and the type and nature of nonconforming uses, buildings, and structures.

ARTICLE 84: PERMITS

8401. Land Use Permits

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this Ordinance until a permit authorizing the same shall be issued by the administrator.

8402. Land Use Applications

- A. If a use is listed in a respective land use district as a permitted use, anyone with an interest in a parcel may apply for a zoning permit under this section. Zoning permit applications are made on a form prepared by the administrator and presented to the administrator.
- B. The administrator shall require that the application include the form, copies of plans, specifications and such other information as he may deem necessary. Such other information shall include, but not be limited to:
 1. A site plan, if required by the Village Council.
 2. A copy of a registered survey of the lot, prepared by a Michigan registered land surveyor, is required of the purpose of construction and compliance with this ordinance.
[Annotation: Section 8402. D-4 added by amendment, adopted May 8, 1997, effective June 1, 1997.]
 3. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
 4. A concise statement of all operations and uses which will be conducted on the land and buildings.
 5. A concise statement of the services, if any, to be offered to the public, if applicable.
 6. Any other information required by this Ordinance.
 7. A non-refundable fee. The fee shall be established from time to time by the Council.
- C. The application and site plan, if applicable, shall show the proposed use and structures which will be developed in compliance with all aspects of this Ordinance.
- D. Upon receipt of a zoning permit application, the zoning administrator shall review the application to insure it is complete, to coordinate its review with other agencies, if required, and act on the application within ten (10) days:
 1. If the application is not complete, the administrator shall return the application with a letter that specifies the additional material required.
 2. If the application is complete, but is found not to conform with this Ordinance, a permit denial shall be sent to the applicant, in writing, listing the violations of the Ordinance, and what changes would be necessary to obtain a permit, if any changes made would make it possible for a permit to be issued.
 3. If the application is complete and the proposed land use and structures are found to comply with this Ordinance, a zoning permit shall be issued.
- E. A zoning permit issued under this Ordinance shall be considered one of the "other applicable laws and ordinances" referenced in Section 11(1) of P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1511(1). Thus a zoning permit shall be required prior to the issuance of a Michigan State Construction Code permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.

8403. Compliance

No permit shall be issued under this Article for any use which fails to conform to any relevant provision of this Ordinance or which fails to conform to any minimum requirement established for the land use district in which the proposed use is to be located, or which fails to conform to any standard set forth in the definition of the

proposed use, as defined in this Ordinance, or which fails to conform to the general regulations set forth in this Ordinance.

8404. Permit Exemptions

Section 8401 notwithstanding, a zoning permit or fee is not needed under this section for the following uses. Nothing in this section exempts or requires construction permits, other than required by P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.

- A. Only exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner, and the use of the land remains one of those listed as permitted in the respective land use district.
- B. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.
- C. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of over ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service to individual customers/clients, but not including regional, long distance, interstate distribution or collection systems.
- D. Open Space.
- E. Individual recreation uses such as boating, hiking, hunting, fishing and trapping.
- F. Plowing and planting cash crops, row crops, orchards, or use of land as pasture or fallow when part of a permitted agricultural operation on one or more parcels of land.
- G. Harvesting of timber as part of a forest management activity when part of a forest management plan.
- H. Hedges, arbors, trees, gardens, plants, shrubs.
- I. Sidewalks, driveways to dwellings, duplexes, apartment buildings.
- J. Domestic animal shelters.
- K. Accessory structures to dwellings and duplexes which are constructed for minors or children for purposes of play, including, but not limited to, (i.e. swimming pools, playhouses, dollhouses, treehouses, forts, hideouts, etc.) and such structures shall comply with the setback requirements of this Ordinance.

[Annotation: Subsection amended, effective June 14, 2002.]

- L. Personal property sales.

8405. Start Work Deadline

A permit issued under this Article is void if the use is not commenced within one (1) year. A renewal may be granted by the Administrator after a restudy of the permit at no cost to the applicant, and the applicant continues to meet all requirements for a permit.

8406. Void Permits

- A. A violation of any condition or specification in a permit issued under this Article shall void the permit.
- B. Any improper or incorrect information contained in the application for permit issued under this Article shall void the permit until properly corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

ARTICLE 86: SPECIAL USES

8601. Purpose

The formation and enactment of this Ordinance is based upon the division of the Village into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted uses, however, it is recognized there are certain other and additional land and/or building uses which it may be necessary or desirable, because of their particular nature and due to certain circumstances, to allow in certain locations in certain districts but which on account of their actual or potential impact on neighboring uses or public facilities need to be carefully regulated with respect to their location for the protection of the Village. Such uses, on account of their peculiar location need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

8602. Authority to Grant Permits

The Village Council shall have the authority to approve Special Use Permits in accordance with required standards subject to such conditions of design and operation, safeguards and time limitations as it may determine for all special uses specified in the various district provisions of the Ordinance. The administrator shall issue these permits.

8603. Application and Fee

If a use is listed in a respective land use district as a prospective special use, anyone with an interest in a parcel may apply for a Special Use Permit under this Article. Special Use Permit applications are made on a form prepared by the administrator and presented to the administrator along with additional required data, exhibits and information, and depositing the required fee. Such application shall be accompanied by a fee as established from time to time by the Council. Any additional costs incurred in processing such application such as publication fees and postage for notifying persons entitled to notice and per diem for council member's attendance at special meeting(s) shall be paid by the applicant before the permit is issued. No part of such fee shall be returnable to the applicant.

8604. Data, Exhibits, and Information Required in Application

An application for a Special Use Permit shall contain:

- A. the applicant's name and address in full;
- B. a signed affidavit the applicant is the owner involved or is acting on the owner's behalf;
- C. the address and legal description of the property involved;
- D. an accurate scaled drawing of said property showing the existing and proposed location of all buildings and structures thereon, the types thereof, and their uses;
- E. copies of permits or letters showing:
 1. approval,
 2. tentative approval, or
 3. letters of understanding for concurrent approval with the Village Council by the Michigan Department of Natural Resources, Soil Erosion and Sedimentation Control Agency, and any other applicable agencies where approval is required. (Receiving Department of Natural Resources' approval, or other agency approval, in no way obligates the Village Council to grant approval unless all standards in Section 8608 and elsewhere in this Ordinance are found by the Village Council to be complied with.)
- F. an environmental assessment, if required by another state or federal agency, prepared under the requirements and guidelines of and for another state or federal agency for the project in order to avoid preparation of two environmental assessments. If the Village Council can not make the

necessary findings with the environmental information provided, it may require, at the applicant's cost, submittal of additional information or an Environmental Impact Statement.

- G. a statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this Ordinance, as stated in Section 8608; and
- H. a site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Village Council can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The Village Council, upon initial review of the site plan, may act to require any information specifically waived by the administrator to be submitted. Unless so waived all site plans shall include the following information.
1. The property, identified by parcel lines and location including dimensions, angles and size, correlated with the legal description of said property. Such plan shall further include the name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
 2. The scale, north point, boundary dimensions, topography (at least two (2) feet contour intervals), and natural features such as woodlots, water bodies, wetlands, flood plain, high risk erosion areas, slope over 25%, beach, sand dunes, drainage and similar features.
 3. Existing man-made features such as buildings, structures, high tension towers, pipelines, existing utilities such as water and sewer lines, excavations, bridges, culverts, drains and easements, and shall identify adjacent properties and their existing uses.
 4. The location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, their relation one to another and to any existing structures on the site, the height of all buildings and square footage of floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
 5. The proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes and service parking.
 6. The proposed location, use and size of open spaces and the location of any landscaping, fences or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.
 7. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Village Council determines that the site and use warrant a more critical review of topography.
 8. Generalized soil analysis data, which may include data prepared by the Manistee County Soil Conservation District or Manistee County Planning Department regarding the soils and their adaptability to the use. More detailed information may be required where the Village Council determines that the site and use warrant a more critical review of soils.
 9. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.
 10. A complete description of the proposed development including: Areas of the site, the number of parcels or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related material as applicable.

- 11. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to groundwater reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.
- 12. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.
- 13. A vicinity map showing the location of the site in relation to the surrounding street system.
- 14. Show any changes or modifications required for any applicable regulatory agencies' approvals. (Site plan or design plan changes required after the Village Council issues a Special Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Use Permits.)
- 15. Existing zoning of the site and all surrounding properties.
- I. A statement or other proof of evidence by applicant of present or future compliance with standards contained elsewhere in this Ordinance.
- J. Names and addresses of all owners and occupants of all property owners within 300 feet of the boundary of the property as set forth in section 8606.A.3 and 8606.A.4.

8605. Application Review for Completeness

Upon receipt of a Special Use Permit application, the administrator shall review the application to insure it is complete, and includes all the elements specified in Section 8603 and 8604 of this Ordinance.

- A. If the application is not complete, the administrator shall return the application with a letter that specifies the additional material required.
- B. If the application is complete, the administrator shall confer with the Village President to establish a date to hold a meeting and/or hearing on the Special Use Permit application.

8606. Notice of Consideration or Public Hearing

- A. The administrator shall, upon establishing a date for a meeting and/or hearing, schedule a meeting upon the application, preceded by notification of not less than five (5) nor more than fifteen (15) days prior to the date the application will be considered, to:
 - 1. the Applicant,
 - 2. to the owners of the property for which approval is being considered,
 - 3. the owners of all property within 300 feet of the boundary of the property for which approval is being considered, as shown by the latest assessment roll,
 - 4. all occupants of structures within 300 feet of the property in question. If the name of an occupant is not known, the term "occupant" may be used in the notice. Notification need not be given to more than one (1) occupant of a structure, except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure, and
 - 5. the general public by publishing in a newspaper which circulates in the Village.
- B. All notices shall:
 - 1. describe the nature of the special land use request,
 - 2. indicate the property which is the subject of the special land use request,
 - 3. state when and where the special land use request will be considered,
 - 4. indicate when and where written comments will be received concerning the request, and

5. indicate the person or persons who may request a public hearing on the special land use request. If a public hearing is requested, notification as required for notice of a request for special land use approval shall be given, and said public hearing shall be held before a decision is made on the special land use request which is based on discretionary grounds.

8607. Meeting or Hearing

The Village Council shall hold a meeting(s) and/or hearing for purposes of detailed review of the Special Use Permit application.

8608. Special Use Permit Decision and Standards

- A. Following the meeting(s), or public hearing, as the case may be, Village Council shall either grant, grant with conditions, or deny a permit for such special land use and shall state its reasons for its decision in the matter within ninety (90) days from the date the administrator finds the special permit application as submitted to be complete as provided in Section 8605 of this Ordinance. The Village Council shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence supporting its decision on such a use on the proposed site, or parcel. If the Village Council finds all the standards set out in this Ordinance are complied with, then the Village Council shall grant the Special Use Permit. The burden of proof of facts which might establish a right to a Special Land Use under the standards herein set forth shall be upon the applicant.
- B. The general standards for determining whether a Special Use Permit is granted are that the proposed use:
 1. Will be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance, both generally and for the particular district.
 2. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
 3. Will be served adequately by essential public facilities and services such as highways, roads, police and fire protection, drainage structures, refuse disposal, or the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
 4. Will not be hazardous or disturbing to existing or future neighboring uses.
 5. Will not create excessive additional requirements at public cost for facilities and services.
 6. Will be consistent with the general public health, safety and welfare.
 7. Will not affect adversely the Land Use Plan for physical development of the Village as embodied in this Ordinance and in any master plan or portion thereof adopted by the Village Council.
 8. Will be in conformance with any specific standards given with special or temporary uses listed elsewhere in this Ordinance.
 9. The design complies with all applicable general regulations and specific district regulations listed elsewhere in this Ordinance.

8609. Special Use Permit Conditions.

- A. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said Village Council in its decision and shall be filed with the administrator. Any conditions, limitations or requirements upon which approval is based shall be:
 1. reasonable and designed to protect natural resources, the health, safety and welfare of the public;

2. relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
 3. a valid exercise of the police power;
 4. related to the purposes which are affected by the proposed use or activity;
 5. consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective District;
 6. designed to insure compatibility with adjacent uses of land and the natural environment, or
 7. designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- B. The Village Council shall have the right to limit the duration of a Special Land Use where the same is for mining, or sweetening plant operation and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use.

8610. Record of Special Use Permit

The scaled drawing, site plan and specifications and all conditions, limitations, and requirements imposed by the Village Council shall be recorded with the Village and shall be incorporated as a part of the Special Use Permit. A notice of the Special Use Permit in recordable form as provided by law shall be recorded with a property description in the Manistee County Register of Deeds, miscellaneous records.

8611. Security Requirement.

To insure compliance with this Ordinance and any conditions, limitations or requirements imposed by the Village Council as necessary to protect natural resources or the health, safety and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area, the Village Council may require

- A. a cash deposit,
- B. certified check,
- C. irrevocable bank letter of credit or
- D. surety bond

in an amount and under the conditions provided by law. Such security shall be deposited with the Village Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Village Council may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

8612. Amendment of Special Use Permit

An application may be considered to amend an existing Special Use Permit, and shall be handled in the same manner as the initial Special Use Permit application prescribed by Section 8601 *et. seq.* of this Ordinance. By mutual agreement between the Village and applicant, minor nonsubstantive changes may be made to an existing Special Use Permit if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special Use Permit.

8613. Transfer of Special Use Permit

In order to insure continued compliance with the terms of this Ordinance and a Special Use Permit issued under it, in cases where security has been required under section 8611, a Special Use Permit shall specify reasonable terms for transfer of a valid special use permit security from the present landowner or operator to a subsequent owner or operator. The responsibility for said transfer in accord with the terms of the Special Use Permit shall be that of the permit holder of record with the administrator. Failure of a Special Use Permit holder to properly transfer a Special Use Permit security shall not release the permit holder of record from Ordinance penalties for any subsequent action undertaken on the land in violation of the terms of the Special Use Permit. Proper completion of the transfer shall require documentation of assumption by the new owner of an interest in the parcel in question and a written agreement that the new owner/operator will assume the obligations for which the security was given when so required by the Special Use Permit. When such security is deposited properly with the

Village by the new permit holder, any security on deposit with the Village by the previous permit holder shall be returned in accordance with the terms of this Ordinance. A transfer of a Special Use Permit security to a new owner shall not be required where there is no security requirement.

8614. Construction Code Permit

A Special Use Permit issued under this Ordinance shall be considered one of the "other applicable laws and ordinances" referenced in Section 11(1) of P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1511(1). Thus a Special Use Permit shall be required prior to the issuance of a Michigan State Construction Code permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 et. seq.

8615. Expiration of Special Use Permit

A Special Use Permit shall be valid for as long as the approved Special Use continues in accordance with the terms stated in the approved permit. A Special Use Permit shall expire or be discontinued by one or more of the following conditions:

- A. When a special use replaces or supersedes the original special use on a property, provided however, the Village Council may approve two or more special uses as appropriate to occupy a site simultaneously.
- B. When the original special use is replaced by a permitted use and the applicant does not include a special use in his zoning permit application and/or site plan.
- C. When the applicant requests the rescinding or removal of the special use.
- D. When, after 48 months from the date of a signed permit, and based on evidence of vacating, abandoning and/or moving to another location, the Village Council declares a special use to be null and void for reasons stated, following notice and hearing as provided in Section 8616.

8616. Violation of Permit

Any violation of the terms, conditions or limitations of a Special Use Permit shall be cause for revocation or suspension of the Permit. The Village Council may either revoke or suspend, pending correction of the violation, any Special Use Permit. The act to revoke or suspend the Permit shall occur after giving notice to the permit holder, specifying the violation(s) alleged to exist and when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the Permit shall occur after or at the hearing on the mater. Before revoking or suspending the permit the Village Council shall make a finding that a material violation of the Special Use Permit exists. The permit holder shall be given a reasonable opportunity to correct the violation(s).

ARTICLE 96: APPEALS BOARD

9601. Appeals Board Established

There is hereby established an Appeals Board, which shall perform its duties and exercise its powers as provided in Public Act 207 of 1921, as amended, being the City or Village Zoning Act, MCL 125.581, in such a way the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

9602. Duties of the Appeals Board

The Appeals Board shall hear and decide such matters as the Appeals Board is specifically authorized to pass on as provided in this Ordinance and such matters as may be provided by law, including, but not limited to, variances, interpretation of Ordinance text and map.

9603. Variance

A variance from the terms of this Ordinance shall not be granted by the Appeals Board unless and until:

- A. A written application for a variance is submitted, demonstrating:
 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 3. That the special conditions and circumstances do not result from the actions of the applicant.
 4. That granting the variance will not alter the essential character of the area.
- B. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- C. The Appeals Board shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.
- D. The Appeals Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- E. The Appeals Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- F. In granting any variance, the Appeals Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including requirements for buffering between uses by landscaping, fencing, vegetation or other similar methods. 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 Ordinance and punishable under Section 9805.
- G. Under no circumstances shall the Appeals Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

9604. Voiding of and Reapplication for Variance

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless:
 - 1. The construction authorized by such variance or permit has begun within one (1) year after the granting of such variance and pursued diligently to completion; or
 - 2. The occupancy of land or buildings authorized by such variance has taken place within one (1) year after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Appeals Board, shall be resubmitted for a period of one (1) year from such denial, except on grounds of new evidence or proof of changed conditions found by the Appeals Board to be valid.

9605. Interpretation of Ordinance Text

- A. Interpretation - Pursuant to the requirements of Public Act 207 of 1921, as amended, being City or Village Zoning Act, MCL 125.581; nothing contained herein shall be construed as prohibiting the Appeals Board from interpreting the text of this Ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance text.
- B. Standards - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Appeals Board shall consider the relevant policies for the Land Use District in question as set forth in the Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District.
- C. Precedent - An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a Special Use Permit in that land use district, but shall otherwise be subject to all requirements of Section 8608.
- D. Ambiguities in the text of this Ordinance shall be resolved in favor of the legislative intent of the Onekama Village Council by reference to the purposes of this Ordinance and the land use and development component of the Onekama Village Master Plan and if doubt still exists, it shall be resolved in favor of Onekama Village.

9606. Appeals to the Appeals Board

The following provisions shall apply:

- A. Appeals, How Taken - Appeal from the ruling of the Administrator concerning the enforcement, administration, and interpretation of this Ordinance text and map may be made to the Appeals Board, by the filing with the administrator a demand for appeal specifying the grounds thereof within thirty (30) days of the date a decision is received by the appellant. Date of receipt shall be presumed to be five days after the date shown on the decision. The demand for appeal shall be on a form prepared by the Village for that purpose and shall also include a site plan. The Administrator shall forthwith transmit to the Appeals Board all the papers constituting the record upon which the action appealed from was taken.
- B. Who May Appeal - Appeals to the Appeals Board may be taken by any person aggrieved or by any officer, department, Village Council, any member of the Village Council, agency, or bureau of the Village, County, or State.

- C. Fee for Appeal - A fee prescribed by the Village Council shall be paid to the administrator at the time of filing the demand for appeal. If the Village Council finds an applicant to be indigent, the fee may be waived by the Village Council.
- D. Effect of Appeal: Restraining Order - An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Appeals Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Appeals Board or by the Circuit Court, on application, on notice to the Administrator and on due cause shown.
- E. Hearing By the Appeals Board: Request: Notice: Hearing - When a request for appeal has been filed in proper form with the Appeals Board, the Administrator shall immediately place the demand for appeal upon the calendar for hearing, and cause notice to interested parties, stating the time, place, and object of the hearing to be served personally or by certified return receipt mail. Interested parties, at a minimum, shall include Appeals Board members, the Village's attorney, the appellant, the property owner and resident, and adjoining property owners and residents.
- F. Representation at Hearing - Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- G. Decisions of the Appeals Board and Appeals to the Circuit Court - The Appeals Board shall decide by an affirmative vote of a majority of all its members upon all matters appealed within sixty days of the receipt of a demand for appeal, and fee from the administrator, unless mutually agreed by both parties to extend the time, and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Administrator. The Appeals Board decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Appeals Board in each particular case. Any person having an interest affected by such decision shall have a right to appeal to Circuit Court as provided by law.

9607. Appeals Board Members

The Appeals Board shall consist of the following five (5) members:

- A. First member shall be a member of the Village Council.

[Annotation: Section 9607.A. changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

- B. The remaining four members shall be selected and appointed by the Village Council from among the electors residing in the Village, but shall not be members of the Village Council or elected to any village office.

[Annotation: Section 9607.B. changed by amendment, adopted September 24, 1992, effective October 1, 1992.]

- C. In the case where two or more members cannot hear an appeal due to conflict of interest, illness or other absence, the Village Council may appoint alternate(s) for that appeal, so long as the alternates are not elected to any village office.

ARTICLE 98: AMENDMENT VALIDITY PENALTIES

9801. Initiating Amendments and Fees

The Village Council may from time to time, amend, modify, supplement or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the administrator, the Village Council, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the Village Council, or the Administrator, the petitioner or petitioners requesting an amendment shall at the time of application pay a filing fee as set from time to time by the Village Council.

9802. Amendment Procedure

The procedure for making amendments to the Ordinance shall be in the manner provided by law, with all amendment proposals being referred to the Village Council for statutorily required notices, hearing, and action by Village Council, with or without an additional public hearing, with fifteen (15) days notice given in a newspaper. Within fifteen (15) days of adoption, a notice to that effect shall be published in a newspaper and a copy of the amendment filed with the Village Clerk.

9803. Conformance to Court Decree

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Village Council and the amendments published without referring the same to any other Board or agency.

9804. Captions

The captions used in this Ordinance shall not be deemed to be a part of this Ordinance and shall not be construed to enlarge or restrict the rights and obligations otherwise contained herein.

9805. Violations and Penalties: Nuisance Per Se: Abatement

Uses of land, and dwellings, buildings or structures, including tents and mobile homes, used, erected, altered, razed or converted in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of the Ordinance shall upon conviction thereof be subject to a fine of not more than three hundred (\$300.00) dollars and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed ninety (90) days, or both, in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. The Village Council, Administrator, Appeals Board, the Village Attorney or any owner or owners of real estate within the district in which such building, structure or land is situated may institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, construction, alteration, reconstruction, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

9806. Repeal of Ordinance

The Onekama Village Building Code of 1963 and all amendments thereto are hereby repealed effective coincident with the effective date of this Ordinance.

9807. Pending Applications

All applications for permits, appeals and variance requests pending before the Administrator, Appeals Board on the effective date of this Ordinance shall be acted upon only in conformance with the provisions of this Ordinance.

9808. Validity and Severability Clause

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not effect any other provisions of this Ordinance not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, district, use, building or structure, such ruling shall not effect the application of said provision to any other land, parcel, district, use, building, or structure not specifically included in said ruling.

9809. Period of Effectiveness

This Ordinance shall remain in full force and effect henceforth unless repealed.

October 29, 2002

[P:\WP\TOWNS\Zoning Information\Zoning.onevillage.onk]

THE VILLAGE COUNCIL OF THE VILLAGE OF ONEKAMA ORDAINS:

THE FOLLOWING CHANGES TO THE VILLAGE OF ONEKAMA ZONING
ORDINANCE WERE ADOPTED BY THE VILLAGE COUNCIL OF THE VILLAGE
OF ONEKAMA ON MAY 9, 2002.

Changes agreed upon by Planning Commission members.

Article 5: Definitions. **Delete: "Accessory Structure"**

Add: Temporary Dwellings : A structure, either fixed or mobile, constructed for human occupancy on a temporary basis.

Add: Dwellings : Dwelling means a use which is any house, building, structure, state licensed residential facility, or portion thereof which is occupied in whole or in part as a home, residence, living or sleeping place for one or more human beings, either permanently or as transients designed to provide living, cooking and eating space for one family only, and does not have a common wall with any other dwelling. In no case shall a trailer coach, automobile chassis, tent or portable building be considered a dwelling.

Add: Floor Area: Floor area means the habitable first floor area of a building or structure, exclusive of garage, breezeway, porches, patios, or decks.

Article 10: Section 1010 'A' : No dwelling shall hereinafter be erected which shall have less than nine hundred (900) square feet of floor area and shall have a minimum width of twenty (20) feet.

Article 10: Section 1010 'B' : Every dwelling hereinafter erected shall have a roof slope of four (4) feet, of vertical rise for each twelve (12) feet of horizontal distance.

Article 10: Section 1014. No person shall use or permit the use of any temporary dwelling or trailer as defined in this ordinance as a principal or seasonal dwelling on any site, field, lot or tract of land except,

- A. As temporary quarters during the construction and installation of a dwelling conforming to Article 10, Section 1010 of this Ordinance when the following conditions are met:
 1. The location of the temporary dwelling or trailer shall comply with all setback requirements of this ordinance.
 2. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
 3. The use of the temporary dwelling or trailer shall be limited to six (6) months beginning with the issuance of a permit. The permit may be renewed for not more than an additional six (6) months upon approval of the Zoning Administrator for good cause shown.
- B. As part of a campground licensed by the Michigan Department of Public Health.
- C.
 - (a) On ones own land or, permitted by the land owner.
 - (b) So the temporary dwelling or trailer does not remain on the

Changes agreed upon by Planning Commission members.

site for a total period of more than three (3) weeks
(cumulative) in a calendar year beginning with the issuance
of a camping permit by the Zoning Administrator. *REQUIREMENTS OF A.I.*

Article 40: Section 4002 'C'-1 Amend to read as follows: In home occupations (including, but not limited to, bed and breakfast).

Article 40: Section 4004 'D' Amend to read as follows: No dwelling hereafter erected shall have less than nine hundred (900) square feet of floor area and shall have a minimum width of twenty (20) feet.

Article 40: Section 4004 'E' Amend to read as follows: Every dwelling hereafter erected shall have a roof slope of four (4) feet, or greater, vertical rise for each twelve (12) feet of horizontal distance.

Article 50: Section 5004 'D' Amend to read as follows: No buildings and structures hereafter erected shall have less than nine hundred (900) square feet of floor area and shall have a minimum width of twenty (20) feet.

Article 50: Section 5004 'E' Amend to read as follows: Every dwelling hereafter erected shall have a roof slope of four (4) feet, or greater, vertical rise for each twelve (12) feet of horizontal distance.

Article 84: Section 8404-K. Amend to read as follows: Accessory structures to dwellings and duplexes which are constructed for minors or children for purposes of play, including but not limited to, (i.e. swimming pools, playhouses, dollhouses, treehouses, forts, hideouts, etc) and such structures shall comply with the setback requirements of this ordinance.

EFFECTIVE DATE.

This Ordinance shall take effect on the 21st day following publication by the Village Council.

THOSE VOTING IN FAVOR: LIZ MILLER, JOE SKIERA, DR Schwing
TOM KLEINSORGE RALPH DRUMM

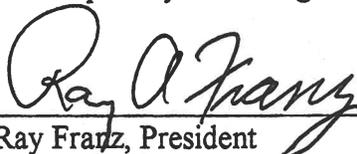
THOSE VOTING AGAINST:

THOSE ABSENT OR ABSTAINING:

CERTIFICATION BY VILLAGE PRESIDENT

I, RAY FRANZ, President of the Village of Onekama, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of the Amendments to the Village of Onekama Zoning Ordinance as adopted by the Village Council at a meeting held on the 9th day of May, 2002.

Dated: May 9, 2002



Ray Franz, President
Village of Onekama

CERTIFICATION BY VILLAGE CLERK

I, RUTH HUDSON, Clerk of the Village of Onekama, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of the Amendments to the Village of Onekama Zoning Ordinance as adopted by the Village Council at a meeting held on the 9th day of May, 2002.

Dated: May 9, 2002



Ruth Hudson, Village of Onekama Clerk

ARTICLE 10, SECTION 1014

REGULATION OF SEXUALLY ORIENTED BUSINESS

SECTION 1: PURPOSE: The Village of Onekama Zoning Ordinance is hereby amended by adding ARTICLE 10, SECTION 1014. •

SECTION 2: LEGAL BASIS: Article 10, Section 1014 is enacted pursuant to the general provisions of MCL 67.1a(1), governing the powers and immunities of villages. It is recognized that sexually oriented businesses have a deleterious effect upon adjacent areas, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of life in adjacent areas, especially when such uses are concentrated in the same general area, it is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require their dispersal through the commercial and industrial zoning of the Village of Onekama to hereby minimize their adverse impact to the best extent possible on any other permitted use.

SECTION 3: DEFINITIONS. The Onekama Village Zoning Ordinance (the "Ordinance") is hereby amended by adding the following definitions to Article 5, Section 503:

For the purpose of this Article of the Zoning Ordinance, the following terms and designations shall have the indicated meanings:

- a. **Adult book and/or video store:** An establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," hereinafter defined.
- b. **Adult motion picture theater:** An enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or specified anatomical areas, "as hereinafter defined for observation by patrons there;
- c. **Adult mini motion picture theater:** An enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein;
- d. **Adult paraphernalia/novelty store:** An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal;

- e. **Massage parlor:** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna bathers and steam baths. The definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of an physician, surgeon, chiropractor, osteopath, or physical therapist duly licenses by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulders. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:
1. Proof of graduation from a school of massage licensed by the State of Michigan;
 2. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
 3. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,
 4. A current occupational licenses from another state.
- f. **Host or hostess establishments:** Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee;
- g. **Open dance hall:** An establishment where open public dancing by patrons is available during at least four days per week with patrons furnished by the establishment;
- h. **Adult live entertainment establishments regardless of whether alcoholic beverages may or may not be served:** Establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) persons who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities";
- i. **Adult panoramas:** An establishment which has a substantial or significant portion of its business devoted to the viewing by patrons or films, tapes or live entertainment showing "specified sexual activities" or "specified anatomical areas"
- j. **Specified sexual activities:** Means and includes any of the following:
1. The fondling or other intentional touching or human genitals, pubic region, buttocks, anus or female breasts;
 2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
 3. Masturbation, actual or simulated;

4. The display of human genitals in a state of sexual stimulation, arousal or tumescence;
 5. Excretory functions as part of or in connection with any of the activities opaquely covered including the public region, buttocks, or anus.
- k. Specified anatomical areas: Means human genitals less than completely or opaquely covered including the pubic region, buttocks, or anus; or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible state of tumescence, even if opaquely covered;
- l. Nudity: For purposes of this Ordinance nudity means exposure in a public place of male or female genitalia, female breasts. (Mothers breast feeding in public is excluded from this definition and this ordinance).
- m. Substantial or significant portion: Means a business or establishment which has:
1. Thirty-five (35) percent or more of this stock, materials, or services, provided relating to or describing "specified sexual activities", and or "specified anatomical areas"; and/or
 2. Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both; a/or to specified sexual activities, specified anatomical areas, or both; and/or
 3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment or media forms) associated with the business or establishment, describes or relates to "specified sexual activities" and/or "specified anatomical areas".
- n. Transfer of ownership or control of a sexually oriented business: Means and includes any of the following:
1. The sale, lease or sublease of the business or establishment;
 2. The transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means;
 3. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

SECTION 4: SPECIAL USES: Commercial By Special Use. The Ordinance is hereby amended by adding the following Special Use to Article 50, Section 5003.

The following uses are regulated uses that may be allowed in the Commercial District by special use permit:

- a. Adult book and/or video store
- b. Adult motion picture theater
- c. Adult mini motion picture theater
- d. Adult paraphernalia/novelty store

- e. Massage parlor
- f. Host or Hostess establishments
- g. Open Dance hall
- h. Adult live entertainment establishments regardless of whether alcoholic beverages may or may not be served.
- i. Adult panoramas
- j. Any combination of the foregoing.

SECTION 5: CONDITIONS:

In order to obtain and retain a special use permit for operation of a regulated use as defined by this Ordinance, the following conditions must be met, in addition to all other standards set forth herein for special use permits:

- a. A special use permit must be acquired through the special use procedures as described in this Section.
- b. In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as defined by this section shall not be located within 500 feet of two (2) other such regulated uses as defined by this section, nor within 500 feet of any residentially zoned district, school, DayCare center, church or other religious institution, or public park or other public facility, as measured along a religious institution, or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective property lines;
- c. The regulated uses, as defined by this section, shall only operate between the hours of 8 a.m. and 10 p.m.;
- d. There shall be manager on the premises at all times;
- e. No one under the age of 18 shall be allowed onto the premises by the on site-manage of the regulated use;
- f. If a transfer of ownership or control occurs the existing special use permit shall be considered void. A new permit shall be applied for in advance of the proposed transfer;
- g. No product or service for sale or gift, or any picture or other representation thereof, which relates in anyway to "specified sexual activities" or "specified anatomical areas", shall be displayed so as to be visible from the street or exterior of the building on the regulated use;
- h. Once a special use permit has been issued, the regulated use shall not be expanded in any manner without first applying for and receiving approval of the Planning Commission as provided in the Onekama Village Zoning Ordinance;
- i. If a regulated use is discontinued, the use may not be reestablished without first applying for and receiving the approval of the Planning Commission as provided in the Onekama Village Zoning Ordinance;
- j. The designated parking area for the sexually oriented business shall be lighted from dusk till dawn.
- k. A secure and well-lighted entrance, separate from the provided for patrons, will be provided for all employees, regardless of their job descriptions.

SECTION 6: EXCEPTIONS TO CONDITIONS:

The Planning Commission may waive the foregoing spacing requirements if it finds all of the following conditions exist:

- a. The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed;
- b. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other businesses and residents or a disruption in neighborhood development;
- c. The establishment of the proposed regulated use in the area will not be contrary to any program of neighborhood conservation;
- d. Where all other applicable regulations within the Onekama Village Zoning Ordinance or other pertinent zoning ordinances will be observed.

SECTION 7: REPEAL OF CONFLICTING ORDINANCES: All ordinances in conflict herewith are hereby repealed.

SECTION 8: EFFECTIVE DATE.

This Ordinance shall take effect on the 21st day following publication by the Village Council.

THOSE VOTING IN FAVOR: LIZ MILLER, KEN BAUER, TOM KLEINSORGE
RALPH DRUMM & JOE SKIERA DR SCHWING

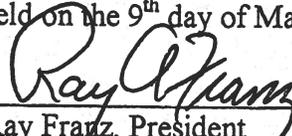
THOSE VOTING AGAINST: RAY FRANZ

THOSE ABSENT OR ABSTAINING:

CERTIFICATION BY VILLAGE PRESIDENT

I, RAY FRANZ, President of the Village of Onekama, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of the Ordinance as adopted by the Village Council at a meeting held on the 9th day of May, 2002.

Dated: May 9, 2002



Ray Franz, President
Village of Onekama

CERTIFICATION BY VILLAGE CLERK

I, RUTH HUDSON, Clerk of the Village of Onekama, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of the Ordinance as adopted by the Village Council at a meeting held on the 9th day of May, 2002.

Dated: May 9, 2002



Ruth Hudson, Village of Onekama Clerk