

**Village of Lexington
Public Hearing and
Planning Commission Special Meeting
Village Hall, 7227 Huron Ave., Lexington, MI 48450
Thursday, May 11, 2023
7 PM**

Call to Order Public Hearing: Mike Ziegler

The purpose of this hearing is to take comments on proposed amendments to the following sections of the Village Zoning Ordinances,

Article 2 Definitions: Section 2.2 Accessory Buildings;

Article 3 Administration & Enforcement: Section 3.2.6 Duties, Section 3.4.10 Violations,
Section 3.9 Violations & Penalties, Section 3.4.1 Site Plan Review

Article 4 Zoning District Regulations: Section 4.11.1 Schedule of Regulations;

Article 5, Section General and Special Provisions: Section 5.4.1 Accessory Building Requirements.

Close the Special Hearing: Mike Ziegler

CALL TO ORDER SPECIAL MEETING: Mike Ziegler

ROLL CALL: Vicki Scott

Members:	Ziegler	Stencil	Roehl	Fulton	Kaatz
	Picot	Regan	Morris	Huepenbecker	

APPROVAL OF AGENDA:

PUBLIC COMMENT: (3-minute limit)

BUSINESS

Pages 1-4

1. **Approve recommending to Council the following amendments to the zoning ordinance related to Violations and Penalties:**
 - SEC. 3.2.6 Duties of Zoning Administrator (Violations)
 - SEC. 3.4.10 Violations
 - SEC. 3.9 Violations and Penalties
2. **Approve recommending to Council the following amendments to the zoning ordinance pertaining to Decks:**
 - SEC. 3.4.1 Site Plan Review
 - SEC. 4.11.1 Footnote to Schedule of Regulations
3. **Approve recommending to Council the following amendments to the zoning ordinance clarifying the Requirements for Temporary/Portable Accessory Buildings**
 - SEC. 2.2 Definition of Accessory Buildings and Structures
 - SEC. 5.4 Accessory Buildings
4. Discuss recommendation from Ad Hoc committee regarding screening dumpsters

PUBLIC COMMENT: (3-minute limit)

ADJOURNMENT



Memorandum

To: Village of Lexington, Mr. Dennis Klaas, Zoning Administrator
From: Adam Young, AICP, Project Manager/Vice President
Date: February 7, 2023
Subject: Zoning Ordinance Amendments

We have been asked to assist the Village of Lexington in the development of minor text amendments to the Village’s Zoning Ordinance. These amendments are being prepared to address concerns noted by the Village in the day-to-day administration of the ordinance. Specifically, the following sections/topics have been identified as needing amendments:

- Section 3.9 (Violations & Penalties) – The Village Council will soon be adopting a new violations fee schedule with higher fees. Therefore, Section 3.9 is proposed to be amended to reflect this new fee schedule, as may be amended over time. Amendments to two other related sections of the Zoning Ordinance are necessary to ensure consistency with regard to violations.
- You have indicated that the Zoning Ordinance is not clear as to the review and approval process for new, expanded, or reconstructed decks. The only apparent reference to decks is found in Section 4.11.1.(8), which seems to indicate that Planning Commission approval is required. Amendments to the Zoning Ordinance would be necessary to clarify that a zoning permit would be required to be reviewed and approved by the Zoning Administrator.
- Section 5.4 (Accessory Buildings) – The Village would like to tighten up its regulations pertaining to portable accessory structures. Amendments may be necessary to clarify that the accessory building provisions of Section 5.4 are applicable to any accessory structure, whether temporary, portable, or permanent. It may also be appropriate to add new language prohibiting the use of shipping containers as accessory buildings, except were associated with temporary construction activities.

For your review and consideration, the following text amendments are proposed to address these concerns. Text proposed to be deleted is shown with a strikethrough (i.e., ~~text to be deleted~~), while text to be added is shown in bold (i.e., **text to be added**).

Proposed Amendments related to Violations and Penalties

Amendment #1 - Amend Section 3.2 (Duties), Subsection 3.2.6, as follows:

SEC. 3.2 DUTIES

The Zoning Administrator Shall:

- 3.2.6. ~~Shall, after determining a violation of the Ordinance, revoke the LUP. Violations determined after the completion of the LUP permit shall be notified by mail and given ten (10) days to comply. Failure to comply with the ordinance shall result in a ticket issued or served by the Zoning Administrator or Village Police Department. Any person who violates this Ordinance or fails to comply with any of the requirements of~~

~~this Ordinance shall be fined pursuant to the Civil Infraction Schedule as established in the Village and shall be required to pay all costs and expenses incurred by the Village in prosecuting the violator. The owner of record of real property, a tenant on any real property, and any builder, architect, contractor or agent or person who commits, participates in, assists in, or maintains such violation may be found responsible of a separate offence and the penalties herein provided. The imposition of any fine, and/or cost shall not exempt or relieve the violator(s) from compliance with the provisions of this Ordinance.~~ **Order the discontinuance of illegal uses of land, buildings, or structures; order the removal of illegal buildings or structures; order the discontinuance of any illegal work being done; revoke land use permits where violations have been determined to occur; and/or take any other action authorized by this Ordinance to ensure compliance with or prevent violations of its provisions.**

Wade Trim Commentary: The proposed amendment to Section 3.2.6 deletes the specific procedures for violations (so that there is no conflict with the procedures outlined in Section 3.9) and substitutes general language to describe the duties of the Zoning Administrator to ensure compliance with the Ordinance or to prevent violations of the Ordinance.

Amendment #2 - Amend Section 3.4 (Site Plan Review), Subsection 3.4.10, as follows:

3.4.10. Violations.

The approved final site plan shall regulate development of the property and any violation of this Article, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this Ordinance ~~as provided in Article 1 of the Code of Ordinances, and shall be subject to all penalties therein~~ **subject to penalties in accordance with Section 3.9.**

Wade Trim Commentary: The proposed amendment to Section 3.4.10 eliminates any conflicting language regarding violations and simply refers to penalties "in accordance with Section 3.9."

Amendment #3 - Amend Section 3.9 (Violations & Penalties) as follows:

SEC. 3.9 VIOLATIONS & PENALTIES

Uses of land, buildings, or structures, including tents and mobile homes, erected, altered, razed, or converted in violation of this Ordinance are hereby declared to be nuisances 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 this Ordinance shall upon conviction thereof be subject to a fine of not more than ~~"as per Council Resolution"~~ **(as outlined in the "Village of Lexington Fee Schedule" adopted by the Lexington Village Council)** and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed thirty (30) days, or both. Each day that a violation is permitted to exist from the time of formal citation by the Village shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

Wade Trim Commentary: This proposed amendment to Section 3.9 make a reference to the newly adopted Village of Lexington XXXXXXXXXXXXXXXXXXXX.

Proposed Amendments Pertaining to Decks

Amendment #1 - Amend Section 3.4 (Site Plan Review), Subsection 3.4.1.,3 as follows:

SEC. 3.4 SITE PLAN REVIEW

3.4.1. Where required.

3. A full site plan reviewed and approved by the Planning Commission shall not be required for individual single-family dwellings, **additions to single-family dwellings, decks, porches,** or residential accessory storage or garages. However, a **site plot** plan shall accompany a land use **permit** application to be reviewed and approved by the Zoning Administrator to ensure such improvements meet all of the requirements of this ordinance.

Wade Trim Commentary: This proposed amendment clarifies that site plan review is not required for single-family dwellings, including additions, decks, porches, garages, and accessory structures. Rather, a land use permit from the Zoning Administrator must be secured.

Amendment #2 - Amend Section 4.11 (Schedule of Regulations), Subsection 4.11.1.,8 as follows:

SEC. 4.11 SCHEDULE OF REGULATIONS

4.11.1. Footnotes to Schedule of Regulations.

8. Decks and porches are conditionally allowed within the front setback area if they are not supported by a permanent foundation. A land use permit is required, and approval is made on a case-by-case basis ~~by the Planning Commission~~ (see Sections 3.4.1.3 and 3.4.1.4). Existing nonconforming decks and porches may be replaced without a land use permit provided the replacement is of the same size and in the same location.

Wade Trim Commentary: This proposed amendment deletes the language suggesting that the Planning Commission must approve decks. New cross references point readers to the applicable ordinance sections dealing with the review of decks – Section 3.4.1.3 for a deck within the R-1 District and Section 3.4.1.4 for a deck on a Cottage Lot.

Proposed Amendments Clarifying the Requirements for Temporary/Portable Accessory Structures

Amendment #1 - Amend Section 2.2 (Definitions), definition for "Accessory Buildings and Structures" as follows:

ACCESSORY BUILDINGS AND STRUCTURES. A supplementary building or structure on the same lot or parcel of land as the principal building, occupied by or devoted exclusively to an accessory use. **This definition refers to both temporary and permanent structures, and**

includes canvas, vinyl or similar carports, storage tents (as opposed to personal recreational tents) and shelters.

Wade Trim Commentary: This proposed amendment clarifies that accessory structures may include temporary and portable structures.

Amendment #2 - Amend Section 5.4 (Accessory Buildings), Subsection 5.4.1 as follows:

SEC. 5.4 ACCESSORY BUILDINGS

5.4.1. Requirements Applicable to Accessory Buildings.

The following requirements shall apply to accessory buildings and structures. However, these requirements shall not apply to temporary or portable accessory buildings or structures located on the premises for less than seventy-two (72) hours during any thirty (30) day period.

[No proposed changes to existing subsections 1 through 14]

15. **The placement and use of any cargo container as an accessory building or structure is prohibited. For the purposes of this subsection, a cargo container shall be defined as a reusable vessel that was originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, which is capable of being mounted or moved by rail, truck or ship, including any other portable containers or pods used for storage with similar appearance and characteristics of cargo containers. This provision shall not apply to the temporary use of storage containers for construction activities on properties with an active building permit.**

Wade Trim Commentary: By amending the definition of accessory buildings and structures to include temporary and portable structures, they would therefore be subject to the requirements of Section 5.4. However, the first part of this amendment exempts temporary or portable accessory structures which will be on the premises for less than 72-hours. The second part of this amendment is to add a new subsection which specifically prohibits the use of any cargo container or storage pod as an accessory building, except if they are on site for less than 72-hours or are placed on property while the site is under construction.

If you have any questions or need further information, please contact me at 313.961.3650 or ayoung@wadetrim.com.

ACY:lkf
AAA 8140-23

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