

CHARTER TOWNSHIP OF OSHTEMO ORDINANCE NO. 668

Adopted: March 12, 2024

Effective: March 19, 2024

ARTICLE 30 - MIXED USE DISTRICT ORDINANCE NO. 668

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO, COUNTY, MICHIGAN
ORDAINS:

SECTION I STATEMENT OF PURPOSE:

The Mixed Use District was established for the purposes of implementing Oshtemo Township’s adopted Sub Area Plans and encouraging a mix of uses in the planned redevelopment of existing commercial areas into mixed use. The Mixed Use District designation is designed to accommodate, through comprehensive planning, zoning, and project review, integrated residential, commercial, office, technology, and public uses on larger parcels of land. The mixed-use district strives to encourage innovative development that incorporates high-quality building design, compatibility with adjacent uses, preservation of unique environmental features, and the creation of open spaces and amenities that enhance the quality of life of residents.

SECTION II ESTABLISHING A MIXED-USE DISTRICT:

A. LOCATION AND SIZE CRITERIA

Mixed Use Districts may be established in areas of the Township with an adopted Sub Area Plan or within a C: Local Business District. A minimum contiguous site area of five (5) acres shall be required.

The proposal shall show all contiguous holdings of the owner or option purchaser and how it is integrated into the overall comprehensive development plan, unless specifically waived by the Planning Commission.

B. DEVELOPMENT OWNERSHIP

The proposed Mixed-Use District shall be under common ownership or control while being constructed, such that there is a unified responsibility for the completion of the project. Sufficient documentation of ownership or control, such as a development agreement, shall be submitted with the application for approval. Land divisions within the district and property transfers may be made once Section 30.30 A, CONDITIONS FOR DEVELOPMENT, is met.

C. APPLICATION REQUIREMENTS

The owner or option purchaser of a tract of land shall seek approval of a Mixed Use District zoning designation with the simultaneous submittal of a comprehensive development plan. The comprehensive development plan shall include:

- (1) **Plan Area.** All contiguous holdings of the owner or option purchaser and how it’s integrated into the overall comprehensive development plan, unless specifically waived by the Planning Commission.
- (2) **Letter of Intent.** A letter of intent that includes a full description as to how the proposed comprehensive development plan satisfies the eligibility requirements and design principles of

this Section and, if applicable, evidence of how the proposed plan meets the criteria for qualifying for a density bonus.

- (3) **Development Schematic Plan.** A development schematic plan illustrating the proposed streets and the areas designated for residential, commercial, or mixed uses. Potential specific uses proposed in each area shall be outlined; see Section 30.30 for a list of uses permitted in the district. The development schematic plan shall include the proposed acreage for each use category and the proposed residential densities for each identified residential and mixed-use area.
- (4) **Site Circulation.** A circulation and access management plan for the project shall be provided. This plan shall include proposed street names and phasing (if any for development purposes), proposed non-motorized connections, and connectivity to the surrounding transportation network. The design of the circulation and access management plan shall be governed by Article 240 Oshtemo Streets and Mobility Ordinance. Private Streets shall be permitted as outlined in Article 240.
- (5) **Traffic Impact Study (TIS).** A complete analysis of traffic generated by the entire development and the impact said development would have on the surrounding transportation system shall be provided as outlined in Article 240 Oshtemo Streets and Mobility Ordinance. The transportation system includes but is not limited to truck routes, emergency routes, State and County roads, non-motorized network(s), public transit, etc.
- (6) **Design Standards.** The applicant must provide architectural and design standards that create a district identity. This shall include specific development standards that will be applicable to development within the district including, but not limited to, minimum lot area and frontage, architectural character, building materials, building height, lighting, site features, and entry monumentation. Street lighting shall be full cut-off design and mounted to be parallel to the ground. Design standards proposed by the applicant shall incorporate and may go beyond the development requirements in Section 30.30.D.
- (7) **Stormwater.** Areas for common stormwater detention, those with the intention of serving a larger area or multiple facilities, shall be identified on the development schematic plan and turned over to the Kalamazoo County Drain Commission Office (unless otherwise agreed to by all parties involved) when constructed. Feasibility of site conditions should be considered.
- (8) **Residential Density and Density Bonus.**
 - I. **Initial Gross Density.** The overall density within the development schematic plan’s residential and mixed use areas shall match the intended character of the correlating Sub Area Plan; each density category is defined within Table 30.20.1. A comprehensive development plan that is being proposed without a correlating Sub Area Plan and is within a C: Local Business District designation shall be considered under the high-density residential category. Areas designated purely for commercial development may not be included in the overall gross density calculation.

Table 30.20.1 – Residential Density		
Residential Character/Density Category	Initial Gross Density	Maximum Gross Density with Density Bonus
Agricultural	1 unit an acre	N/A
Low	4 units an acre	N/A
Medium/Transitional	8 units and acre	16 units an acre

High	16 units an acre	32 units an acre
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II. **Density Bonus.** A density bonus, up to the maximum gross density defined within Table 30.20.1, shall be granted if the proposed development provides additional public benefits to the overall community as outlined below. The bonuses earned from each category shall be added together. Final permitted density shall be rounded to the nearest unit (up if over .5 a unit or down if under).

- a) Housing – This is intended to promote missing middle housing. A mix of housing options are desired.
 - 1. At least 50% of the dwelling units shall be in buildings with at least two (2) dwelling units. (10% density increase)
 - 2. At least 75% of the dwelling units shall be in buildings with at least two (2) dwelling units. (20% density increase)
 - 3. 100% of the dwelling units shall be in buildings with at least two (2) dwelling units. (30% density increase)
- b) Areas within the development with housing designated exclusively for senior citizens, 55 years and older, are entitled to a 20% density bonus.
- c) Dedication of land for a public park, not less than one acre, and/or land for a community/public building if acceptable to the Township Board. (30% density increase).
- d) Dedication of land, not less than one acre when combined, for the purpose of a private park that incorporates usable amenities. Acceptable amenities include playground equipment, picnic areas with grills and tables, tennis courts, baseball diamonds, etc. (10% density increase)
- e) Green Energy – If this density bonus is utilized, the applicant shall designate through their design standards the type of buildings within the development that will meet these standards.
 - 1. 50% of the buildings are constructed to LEED Silver Standards or 50% of the buildings are constructed to Energy Star certified standards (15% density increase).
 - 2. 100% of the buildings are constructed to LEED Silver Standards or 50% of the buildings are constructed to LEED Gold Standards 75% of the buildings are constructed to Energy Star certified standards. (30% density increase).
- f) Open Space
 - 1. Minimum provided open space is 20% (10% density bonus)
 - 2. Minimum provided open space is 30% (20% density bonus)

(9) **Public Sanitary Sewer and Water.** Public sanitary sewer and water shall be required. All infrastructure shall be designed to promote the logical extension of public infrastructure. The Township may require the extension of public infrastructure, if needed, to reach the development. A description of existing public infrastructure availability, current demands, downstream capacity, projected flows and increased demand feasibility needed to serve the project, and a plan for providing needed infrastructure, including community facilities.

(10) **Phasing.** A developmental procedures agreement shall describe the timing and phasing, if applicable, of the project and outline other development details as necessary.

- (11) **Buffer from Adjacent Residentially Zoned Districts.** A minimum buffer area consisting of open landscaped green space shall be established at the perimeter of the development site adjacent to existing residentially zoned districts. No structures, roads, or parking areas shall be permitted within said buffer area.
- I. The width of the buffer area shall be determined by the character of the area proposed within the Development Schematic Plan directly adjacent to existing residentially zoned district.
 - a) The buffer shall be fifty (50) feet where the proposed area within the Development Schematic Plan is identified for purely residential development. This width shall be increased by one foot for each foot in height in excess of 35 feet of the proposed building heights for this area, as outlined in the design standards.
 - b) The buffer shall be eighty-five (85) feet where the proposed area within the Development Schematic Plan is for mixed use or commercial development. This width shall be increased by one foot for each foot in height in excess of 35 feet of the proposed building heights for this area, as outlined in the design standards.
 - c) The buffering requirement shall be waived if traditional single-family detached and/or attached residential uses compatible in height and bulk with the abutting uses are established along the perimeter adjacent to the existing residential district.
 - II. Landscaping Plan. A Landscape Plan that is sealed by a landscape architect is required for all required buffer areas.
 - a) The landscape buffer shall contain two (2) canopy trees, two (2) evergreen trees and (2) understory trees for every 100 linear feet of required buffer length. Evergreens may be substituted for canopy and understory trees at a 1:1 ratio.
 - b) The landscape buffer must create a visual barrier at least six (6) feet in height that provides opacity to the adjacent property owners. The landscape buffer shall include a combination of one or more of the following to provide the required 6-foot opaque visual barrier:
 - i. Berms – landscaped undulating earthen berms with varying heights as measured from the grade of the abutting property.
 - ii. Walls or fences – Walls or fences may be combined with a berm and must be a minimum of six (6) feet but cannot exceed above the original grade level in height as measured on the side of the proposed wall or fence having the higher grade. A required wall or fence shall be adjusted to the lot line except where underground utilities interfere and except in instances where conformity with front yard setback is required. Upon review of the landscape plan, the reviewing body may approve an alternate location of a wall or fence. The Planning Department shall review the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, precast brick face panels, stone, or wood and submit the same to the Planning Commission for approval. Chain link fences with opaque slats are not permitted.

- iii. Plant materials – Landscape planting materials may consist of a variety of materials but must provide opacity to the adjacent property. For plant materials, the height requirement is based upon reasonably anticipated growth over a period of three (3) years.
 - c) Native plant materials – At least 75 percent of required trees shall be native to Lower Michigan. At least 50 percent of all other required landscape material within each Plant Material Type shall be native to Lower Michigan.
 - III. An alternative buffering tool may be proposed to the Planning Commission to consider; the applicant shall demonstrate that the requested alternative is just as, if not more, effective than the required buffering.
 - IV. The buffer may include a nonmotorized trail. This trail shall be public, constructed to meet ADA standards, maintain a minimum setback of fifty (50) feet from the property line, and connects to the existing network when possible.
- (12) **Natural features.** The development shall be designed to promote the preservation of natural features which shall be defined as water resources and adjacent upland buffers, steep slopes, rolling hills, and dense forests in a manner consistent with the Natural Features Protection District of Ordinance 585.
- (13) **Open Space.** 15% of the of the development schematic plan shall be designated as open space subject to the following standards:
 - I. Any required buffering or right-of-way shall not be used to meet the open space requirement.
 - II. Any significant/sensitive environmental resources (steep slopes, wetlands, woodlands, etc.) shall be included within the designated open space where possible.
 - III. Stormwater management facilities shall not be used to meet the open space requirement unless privately owned and designed as useable common open space, see below.
 - IV. Usable Open Space. A minimum of 50% of the total open space must be designated as useable common open space which incorporates usable amenities to stimulate social interaction and recreational activity:
 - a) The common useable opens space shall be easily accessible to residents, including visual and pedestrian linkages and proximity to such open spaces.
 - b) Private parks shall be subject to the conditions and limitations set forth in Section 49.100 of this Ordinance. A density bonus may be applicable; see Section 30.20.C.8 for details.
 - c) If a designated usable common open space area is eligible to become a public park to be transferred to Oshtemo Township to design, build, and maintain, subject to the review and approval of the Parks Committee, a density bonus would be applicable; see Section 30.20.C.8 for details.
 - V. Open space not designated as usable common open space shall be retained in an essentially undeveloped or unimproved state except for necessary site grading.
 - VI. All designated open space areas shall initially be under common ownership or control, such that there is a single entity having proprietary responsibility. Sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions shall be provided. Changes or transfers in ownership or control of the open space, sections thereof, shall be subject to review and approval of the Township. Open spaces shall always be under the control of a designated entity.
 - VII. All designated open space areas shall be set aside through an irrevocable conveyance approved by the Planning Commission as part of final site plan approval, such as

recorded deed restrictions, master deed, covenants that run perpetually with the land, or a conservation easement of land trusts.

D. APPLICATION REVIEW

Said review shall evaluate whether the proposed comprehensive development plan conforms to the standards and recommendations of the correlating Sub Area Plan, Master Plan, rezoning principles, recognized principles of civic design, land use planning, landscape architecture, and building architectural design. Submissions shall be subject to the Township's Development Schedule of Applications and adopted fee schedule.

- 1) **Optional pre-application review(s).** Informal pre-application review(s) by Township Staff is encouraged.
- 2) **Planning Commission Concept Plan Review.** A draft Development Schematic Plan shall undergo a mandatory conceptual plan review by the Planning Commission. The application for approval of a concept plan shall be made according to the procedures for Special Uses set forth in Section 65.40. The review is intended to provide an indication of the issues and concerns that must be resolved prior to review of the rezoning request by the Planning Commission. Conceptual plan approval shall not constitute an approval of the Development Schematic Plan but rather shall be deemed an expression of approval of the general layout and as a guide to the preparation of a final plan. If the required Traffic Impact Study requires significant changes to the Development Schematic Plan a modified Development Schematic Plan will be resubmitted by the Developer. The modified Development Schematic Plan shall be submitted to the Planning Commission for review in the same manner as the original. Following recommendation from the Planning Commission, elements of the conceptual plan requiring Township Board action as outlined in the ordinance may be forwarded to the Township Board, per applicant request, for initial consideration and feedback.
- 3) **Planning Commission MU Rezoning Review.** Following concept plan review and approval, a full MU rezoning request may be submitted. The Planning Commission, after public hearing and consideration, may recommend approval, approval with recommended changes, or denial of the rezoning and Comprehensive Development Plan. The Township may consider, but shall not be limited to, the factors for rezoning set forth in this Ordinance, future land use recommendations in the Master Land Use Plan; goals and objectives of the Sub Area Plan; the availability and capacity of utilities; potential positive and negative impacts on neighboring land uses, potential impact on the natural environment; and other concerns and benefits related to the general welfare, safety, and health of area residents.
- 4) **Township Board Review.** After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Ordinance. Should the Township Board consider amendments to the proposed rezoning or comprehensive development plan advisable, then the Township Board shall, in accordance with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), refer such amendments to the Planning Commission for a report thereof within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the rezoning with or without amendments. The Township may consider, but shall not be limited to, future land use recommendations in the Master Land Use Plan; goals and objectives in the Sub Area Plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.

E. AMENDMENTS TO THE COMPREHENSIVE DEVELOPMENT PLAN

All changes, modifications, revisions, and amendments made to the comprehensive development plan shall be resubmitted and considered by the Planning Commission.

To optimize design, additional interior roads may be added to serve the development areas identified within the development schematic plan during the development of that area without an amendment to the comprehensive development plan.

SECTION III DEVELOPING WITHIN THE MIXED USE DISTRICT:

A. CONDITIONS FOR DEVELOPMENT

Unless specifically outlined in a phasing plan approved with the comprehensive development plan, all public infrastructure including, shared detention basin areas, streets, street lighting, useable common open spaces, and non-motorized facilities, shall be installed prior to any development. All private streets shall be located in a 66-foot right-of-way with an easement granted to the Township for public utilities and nonmotorized facilities. The Township shall have no obligation or liability for the private street or maintenance thereof by virtue of the easement.

In addition, prior to the submission of the first site plan application within the MU district, the development ownership of the district shall establish a Design Committee. The Design Committee shall review all site plan submissions against the adopted Design Standards and provide a letter of recommendation to the Planning Department as part of the official site plan application to the Township.

B. PERMITTED USES

- 1) One-family, two-family, three- or four-family, and multiple-family dwellings, including uses and buildings accessory thereto.
- 2) Any business primarily for the retail sale of merchandise or services in which any manufacturing, assembling or fabricating is merely incidental to and an unsubstantial part of said business.
- 3) Banks, credit unions, savings and loan offices and similar financial institutions.
- 4) Administrative, business, or professional offices.
- 5) Laundromats and dry-cleaning establishments, excluding those establishments providing cleaning services for other laundromat and dry-cleaning establishments.
- 6) Hotels, motels.
- 7) Restaurants.
- 8) Hospitals and medical clinics.
- 9) Essential services.
- 10) Indoor theatres.
- 11) Passenger bus terminals, excluding facilities for the overnight storage of buses.
- 12) Accessory buildings and uses customarily incidental to the foregoing.
- 13) Pet shops.
- 14) Houses of worship.
- 15) Commercial Center.
- 16) Proprietary schools and colleges.
- 17) Child Care Centers and Adult Care Centers.
- 18) Funeral homes.
- 19) Private clubs.
- 20) Nursing, convalescent, handicapped, or senior citizens' homes.
- 21) Drive-in service window or drive-through services for businesses.
- 22) Skating rinks, bowling alleys, indoor recreational facilities and health clubs.

- 23) Buildings and regulator stations for essential services.
- 24) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds, and other recreational areas.
- 25) Brewpub.
- 26) Microbrewery.
- 27) Wine Tasting Room.
- 28) Craft food and beverage production facility, limited to 8,000 square feet gross floor area.
- 29) Scientific or medical laboratories, engineering, testing or design facilities, or other theoretical or applied research facilities. Typical uses include electronics research laboratories, environmental research and development firms, agricultural and forestry research labs, and pharmaceutical research labs.
- 30) Printing, lithographic, blueprinting, and similar uses.
- 31) Mixed use buildings, which entail two or more different uses. Mixed use buildings shall be comprised of a mixture of first-floor commercial, retail, office and/or residential uses, with upper floor office and/or residential uses.

C. PERMITTED USES WITH CONDITIONS

Subject to administrative review applying the same standards as set forth in Article 49.

- a) Home Occupations
- b) Larger Facilities for Child and Adult Foster Care
- c) Group Day Care Home
- d) Bed and Breakfast Inns
- e) Golf Courses, Parks, and Outdoor Recreational Areas
- f) Assembly and Convention Halls.
- g) Veterinary, Small Animal Clinics

D. DEVELOPMENT REQUIREMENTS

All development within the Mixed Use District shall adhere to the approved Mixed Use District’s comprehensive development plan, including the adopted design standards, and the following standards:

1) Residential

Residential designated areas within the comprehensive development plan shall be subject to an administrative review by the Planning Department applying the standards of the Subdivision/Site Condominium Ordinance or the Residential Condominium Standards which shall be modified by the general development standards outlined below.

2) Commercial

Commercial designated areas within the comprehensive development plan shall be subject to an administrative review by the Planning Department and shall meet the requirements outlined in Article 64 Site Plan Review, which shall be modified by the general development standards outlined below.

3) Mixed-Use Development

Shall follow both the Residential and Commercial requirements set forth above.

4) General Development Standards

- i. There shall be no minimum lot area or frontage requirements unless outlined in the Mixed Use District’s comprehensive development plan.
- ii. Setbacks
 - a. Front Yard: 15 feet

- b. Side Yard: 10 feet
- c. Rear Yard: 15 feet
- d. The Planning Commission may approve reduced setbacks in a manner that is consistent with the approved comprehensive development plan, encourages a consistent street wall and provides for a usable sidewalk area and a more attractive pedestrian environment. Applicant must officially request the reduction and provide reasoning for the request.
- iii. Residential unit sizes shall be regulated by Section 50.20 of the Ordinance.
- iv. All mobility and transportation elements shall follow the regulations outlined in Article 240 Oshtemo Streets and Mobility Ordinance.
- v. Sidewalks shall connect the road frontage sidewalks to all front building entrances, parking areas, central open spaces, and any other destination that generates pedestrian traffic.
- vi. No outdoor storage shall be permitted in this district.
- vii. Residential accessory structures shall conform to the requirements as specified in Section 57.00 Accessory Buildings Serving a Primary Residence.

E. PROCESS

The Planning Department shall have the authority to administratively deny, approve, or approve with conditions all site plans submitted for review under this section per Ordinance. The Planning Department shall record its conclusions, its decisions, the basis for its decision, and any recommended conditions to be imposed in conjunction with an affirmative decision. The Planning Director shall have the discretion to forward any Site Plan submitted for administrative approval to the Planning Commission for final determination. If administrative approval is denied, the applicant may appeal the decision to the Planning Commission. With all submissions, a letter of recommendation from the corresponding MU District’s Design Committee shall be provided.

SECTION IV REPEALER:

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

SECTION V SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION VI EFFECTIVE DATE:

This Ordinance is effective on the 30th day following publication of a summary thereof, after adoption by the Township Board.