

**CITY OF BAD AXE ZONING ORDINANCE  
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## **TITLE**

An Ordinance, pursuant to the provisions of Act 207 of the Michigan Public Acts of 1921, as amended, to establish zoning districts in the City of Bad Axe, within which districts the use of land and structures for recreation, residence, industry, trade, public and quasi-public, and additional uses are encouraged, regulated or prohibited; to adopt for such districts provisions designating and/or regulating the location, height, number of stories, and size of structures which may hereafter be erected or altered; to regulate the area of yards and other open spaces; to establish a Zoning Board of Appeals; to grant authority to the Planning Commission the discretion to allow certain uses and to review site plans, to provide standards to guide actions and decisions of the Planning Commission; to provide for the enforcement of the provisions of this Ordinance and penalties and other relief for a violation of this Ordinance; to provide for amendment of this Ordinance and the Zoning Map and the repeal of other Ordinances or parts thereof in conflict herewith; and to define terms used in this Ordinance.

## **PREAMBLE**

The City desires to provide for its orderly development which is essential to the well-being of the community and which will place no undue burden upon developers, industry, commerce, residents, natural resources, or energy conservation. The City further desires to assure adequate sites for industry, commerce, recreation, and residences; to provide for the free movement of vehicles upon the streets and highways of the City; to protect industry, commerce, natural resources, energy consumption and residences against incongruous and incompatible uses of land; to promote the most appropriate use of land and natural resources for the economic well-being of the City as a whole in accordance with a master plan; to assure adequate space for the parking of vehicles of customers and employees using commercial, retail and industrial areas and reasonable access thereto; to assure that all uses of land and structures within the City are so related as to provide for economy in government and mutual support; and to promote and protect the public health, safety, comfort, convenience and general welfare of all persons and property owners within the City in accordance with its master plan.

## **ENACTING CLAUSE**

Pursuant to the authority conferred by Act 207 of the Michigan Public Acts of 1921, as amended, and the master plan of the City of Bad Axe, County of Huron, State of Michigan; hereinafter referred to as the "Future Development Plan for the City of Bad Axe, Michigan."

**THE CITY OF BAD AXE ORDAINS:**

**ARTICLE I. SHORT TITLE**

**SECTION 100.**

This Ordinance shall be known and may be cited as The City of Bad Axe Zoning Ordinance.

## **ARTICLE II. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

### **SECTION 200. CONSTRUCTION**

The following rules of construction apply to this Ordinance:

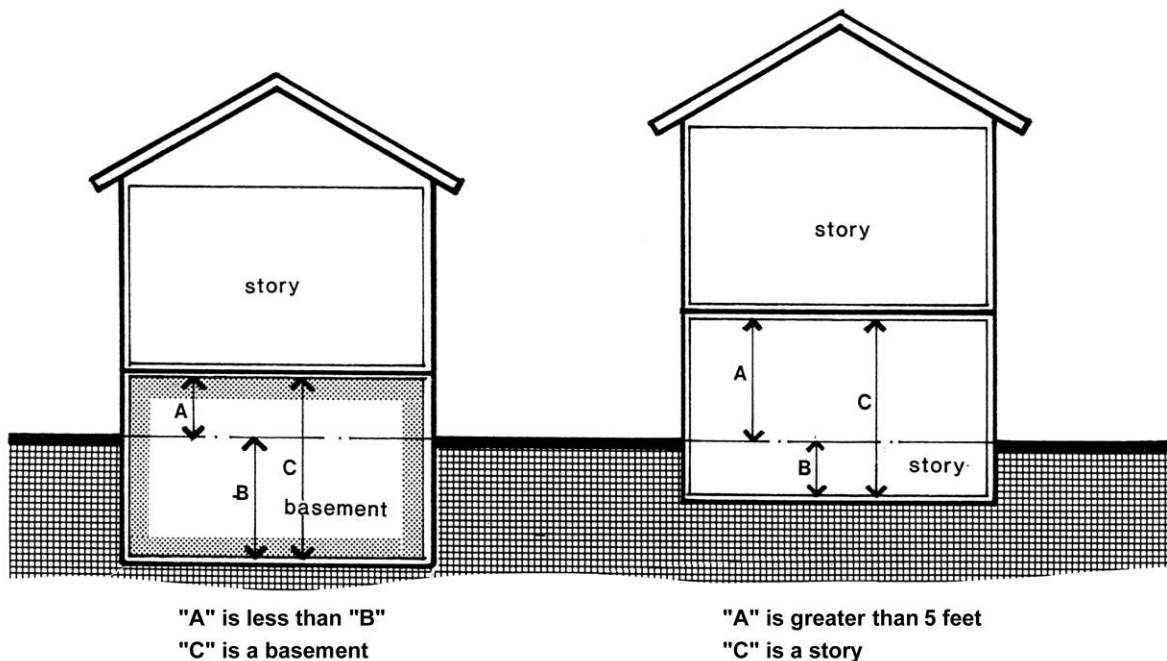
1. The particular shall control the general.
- 2 In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not directory. The word "may" is permissive, directory, and discretionary.
4. When not inconsistent with the context, words used in the present tense shall include the future tense; and words used in the singular number shall include the plural, and the plural the singular.
5. The word "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
7. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction, "and", "or", "either . . . or", the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - c. "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
9. Terms not herein specifically defined shall have the meaning customarily assigned to them.

### **SECTION 201. DEFINITIONS**

1. ACCESSORY: A use or a structure, lot or portion thereof, which is clearly incidental and subordinate to the principal use or the main structure.
2. ALLEY: Any dedicated public way other than a street affording a secondary means of access to abutting property, and not intended for general traffic circulation.

3.     **ALTERATION:** Any change, addition, or modification in construction or type of occupancy; any change in the structural members of a structure, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".
4.     **ANIMAL FEED LOT:** Any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; and any structure, pen or corral wherein cattle, horses, sheep, goats, swine or other livestock are maintained in close quarters for the purposes of fattening before final shipment to market.
5.     **APARTMENT:** A room or suite of rooms arranged and intended as a dwelling unit for a single-family or a group of individuals living together as a single housekeeping unit.
6.     **APARTMENT BUILDING:** A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more attached single dwelling Units, with a yard, compound, service, or utilities in common.
7.     **ATTACHED WIRELESS COMMUNICATIONS FACILITY:** A wireless communications facility affixed to an existing structure, such as an existing building, tower, water tank, utility pole, etc. utilized to receive and transmit federally or state licensed communications services via duly licensed segments of the radio frequency spectrum. This definition shall not include support structures.
8.     **AUTO REPAIR STATION:** A structure or use where the following services are performed: general repair; rebuilding or reconditioning of motor vehicles and/or engines; collision service of motor vehicles, such as body, frame, or fender straightening and repair; or overall painting and undercoating of motor vehicles.
9.     **BASEMENT:** That portion of a building which is partly or wholly below grade and having the vertical distance from the average grade to the floor greater than the vertical distance from the average grade to the ceiling.
10.    **BED AND BREAKFAST:** A licensed single family dwelling that offers sleeping accommodations to not more than ten (10) lodgers for not more than fourteen (14) consecutive days; is the innkeeper's residence in which the innkeeper resides while renting rooms to the lodgers; and serves breakfast at no extra cost to its lodgers.
11.    **BILLBOARD:** A sign that identifies a use or advertises products and services not available on the site or parcel on which the sign is located; a sign which directs travelers or provides a message unrelated to the site on which the sign is located.





## Basement and Story

**Figure** Error! Bookmark not defined.: Basement and Story

12. **BLOCK:** The property abutting one side of a street and lying between the nearest intersecting street (crossing or terminating) and another street or a railroad right-of-way, unsubdivided acreage, lake, river or live stream, any other barrier to the continuity of development, or City boundary line or between any of the foregoing.
13. **BOARD:** The word "Board" shall mean the City of Bad Axe Board of Zoning Appeals.
14. **BOARDING HOUSE:** A licensed single family dwelling in which lodging or meals, or both, are furnished to three or more guests for compensation.
15. **BUILDING:** Any structure, either temporary or permanent, having a roof supported by columns or walls, and used or built for the shelter or enclosure of persons, animals, or property of any kind. A tent or travel trailer is a building.
16. **BUILDING HEIGHT:** The vertical distance measured from the established finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on a terrace, the height shall be measured from the average finished ground level of the terrace at the building wall.
17. **BUILDING FRONT LINE** A line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed

porches, but does not include steps. Said line shall be parallel to the front lot line and measured as a straight line between the intersecting points with the side yard. For the purposes of this Ordinance, the front line shall be the front setback line.

18. BULK STATION: A place where crude petroleum, gasoline, naphtha, benzene, benzal, kerosene, or any other liquid, except such as will stand a test of one hundred fifty (150) degrees Fahrenheit, closed cup tester, are stored for wholesale purposes only, where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.
19. CAR WASH: An establishment being housed in a building or portion thereof, together with the necessary mechanical equipment used for washing motor vehicles.
20. CITY: City of Bad Axe, Huron County, Michigan.
21. CITY COUNCIL: City Council of Bad Axe, Huron County, Michigan.
22. CLINIC: A building where human patients who are not lodged overnight or animals are admitted for examination and treatment by a group of physicians, dentists or similar professionals.
23. CLUB: A nonprofit organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like.
24. COLLECTOR STREET: A street that provides both land access and traffic movement in the local district and is designated as a major thoroughfare on the Thoroughfare Plan.
25. COMMISSION: The word "Commission" shall mean the City of Bad Axe Planning and Zoning Commission.
26. COMMON LAND: A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.
27. CONVALESCENT OR NURSING HOME: A building wherein affirmed or incapacitated persons are furnished lodging, shelter, meals, nursing, and/or limited medical attention for compensation.
28. COUNTY: The County of Huron, Michigan.
29. DAY CARE HOME: A private residence that offers supervision for children or adults for a period of less than 24 hours.
30. DAY CARE CENTER: A non-residence, commercial facility that offers supervision for seven or more children or adults for a period of less than 24 hours.
31. DEVELOPMENT: The construction of a new structure on a lot, the relocation of an existing structure on another lot, or the use of open land for a new use.
32. DISTRICT: A portion of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

# BUILDING HEIGHT

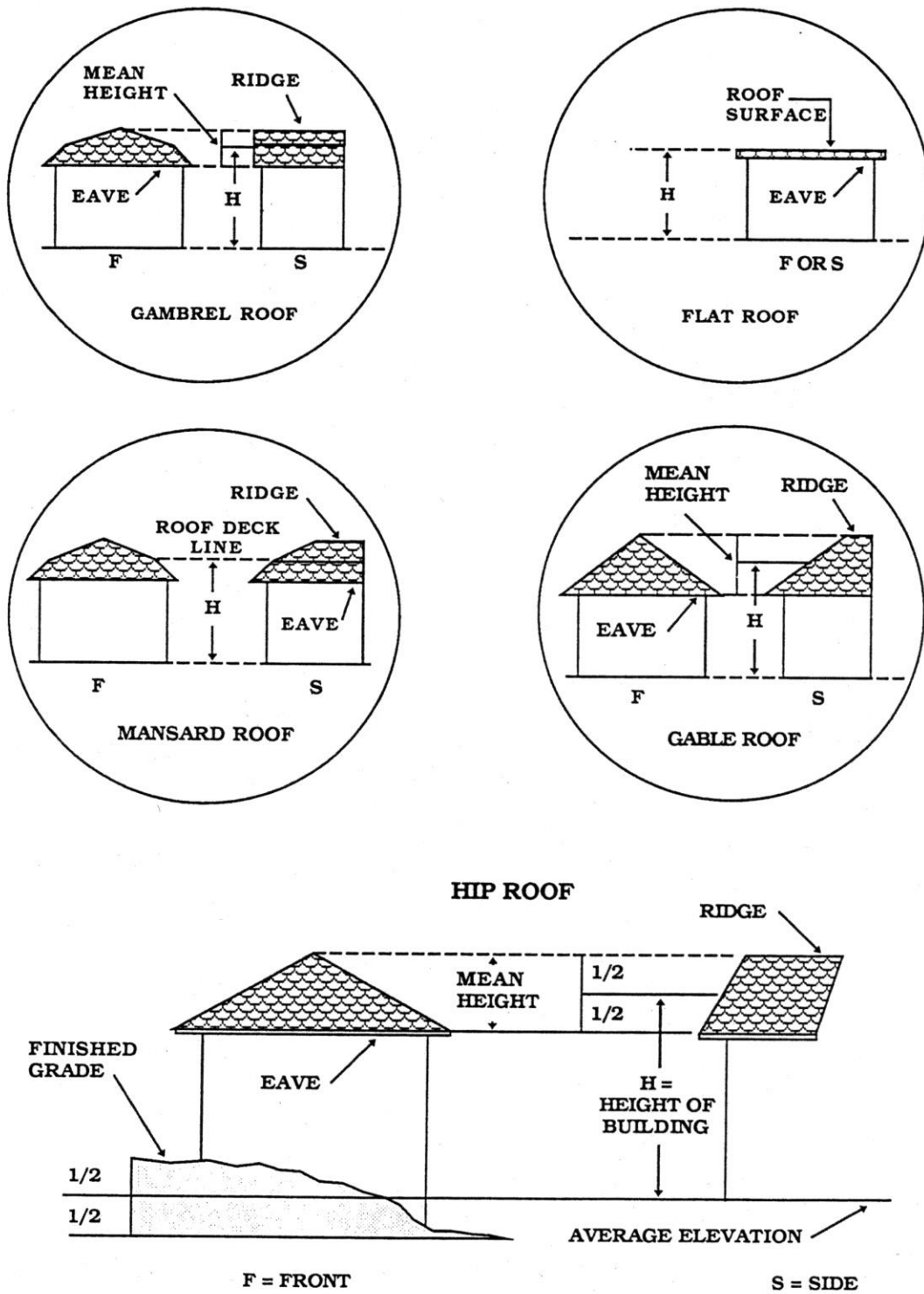


Figure Error! Bookmark not defined.: Building Height

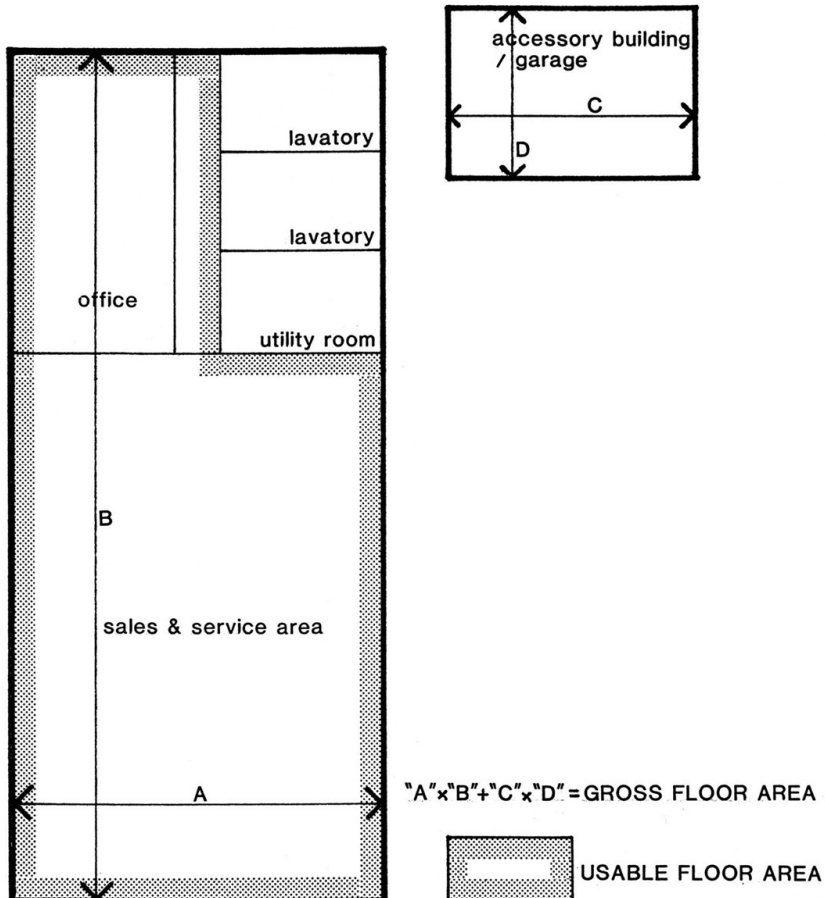
33. DRIVE-IN: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a structure, or to provide self-service for patrons and food carry-out.
34. DWELLING UNIT A building, or portion thereof, designed exclusively for occupancy for residential purposes and having cooking facilities.
35. DWELLING, SINGLE FAMILY: A building or portion thereof, containing not more than one dwelling unit.
36. DWELLING, TWO FAMILY: A building or portion thereof, containing not more than two separate and independent dwelling units.
37. DWELLING, MULTIPLE FAMILY: A building or portion thereof, containing three or more separate and independent dwelling units.
38. ENVIRONMENTAL AREA: An area determined by the Department of Natural Resources to be necessary for the preservation and maintenance of wildlife, water, soil, open space, and/or forest resources.
39. ERECTED: Built, constructed, altered, reconstructed, moved upon, or any physical operation on the premises which are required for construction, excavation, fill, drainage, and the like.
40. ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities, private companies, or governmental departments or commissions of underground or overhead gas, electrical, steam or water transmission, distribution, collection, communication, supply or disposal systems, including poles, wire, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commissions or for the public health or safety or general welfare, but not including wireless communications facilities that are solely used for private, commercial purposes.

Essential services shall also include facilities that provide counseling services, assistance, and short term (not more than fourteen (14) days) sleeping accommodations for individuals or families.

41. EXCAVATION: Any breaking of ground, except common household gardening and ground care.
42. EXCEPTION: A use or a modification of the standards of this Ordinance specifically permitted after review; such use or modification being necessary because of impracticality or because the provisions of this Ordinance covering conditions precedent or subsequent are not precise enough to all applications without

interpretation. An exception is not a variance and applies to a use or modification of the height, bulk, density, yard and area regulations of this Ordinance.

43. **FAMILY:** A group of two or more persons related by blood, marriage or adoption including foster children, together with not more than one additional person not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.



## Floor Area

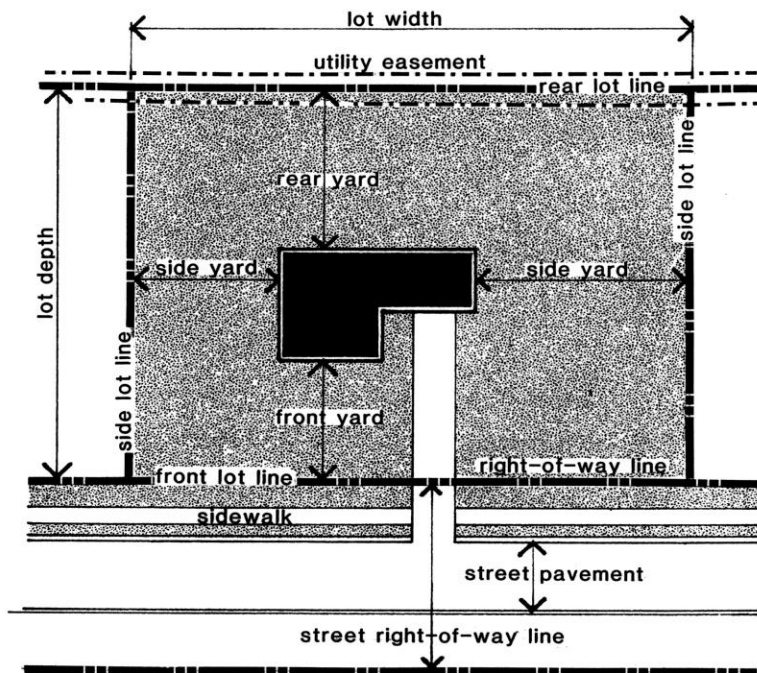
**Figure 3:** Usable Floor Area

44. **FLOOR AREA, GROSS:** The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior walls or from the centerline of walls separating two (2) buildings. In particular, gross floor area includes: basement space; elevator shafts or stairwells; floor space for mechanical equipment, penthouses, balconies, mezzanines, enclosed porches, and accessory buildings; attic floor space (whether or not floors have been laid) providing structural headroom of

seven feet six inches (7' 6"). Gross floor area shall not include: elevator or stair bulkheads, accessory water tanks, or cooling towers; uncovered steps, attic space less than seven feet six inches (7' 6") in height, and open porches, terraces or breezeways, provided that not more than fifty (50%) percent of the perimeter of such terrace, breezeway or open porch is enclosed.

45. FLOOR AREA, RESIDENTIAL: For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.
46. FLOOR AREA, USABLE: (For the purpose of computing parking) That area used for or intended to be used for the sale of merchandise or service, or for use to serve patrons, clients, or customers. Such floor area that is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area". Measurements of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.
47. GARAGE, PRIVATE: An accessory building or portion of a main building designed or used exclusively for the storage of motor vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.
48. GARAGE, SERVICE: A structure or use for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.
49. GASOLINE SERVICE STATION: A structure or use for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including auto repair services.
50. GRADE: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished ground is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.
51. HIGH RISK AREA: An area which is determined by the Water Resources Commission on the basis of studies and surveys to be subject to erosion.
52. HOME OCCUPATION: An occupation that is traditionally and customarily carried on within a dwelling unit except educational and instructional uses that may be conducted outside the dwelling unit and is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

53. **HOTEL:** A building or part of a building, with a common entrance or entrances, in which dwelling or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms as accessory uses.
54. **HOSPITAL:** An institution for the diagnosis, treatment and/or care of aged, sick or injured people. The term "hospital" shall include sanitarium, rest home, but not nursing home or convalescent home.
55. **IMPROVEMENT:** A feature or action associated with a project that is considered necessary to protect natural resources, or the health, safety, and welfare of the residents of the City and future users or inhabitants of a project or project area, including, but not limited to, roadways, lighting, utilities, sidewalks, screening, and drainage. Improvement does not include the entire project.



## Yard Terms

**Figure 4:** Yards

56. **JUNK YARD:** A structure or use for commercial handling, storage, and/or sale of paper, rags, used or second hand materials, scrap metals, other scrap or discarded materials, and the like; or for the dismantling, storage, or salvaging of automobiles or

other vehicles not in running condition, or of machinery or parts thereof, but not including a dump.

57. KENNEL: A structure or use in which three (3) or more dogs, cats or other household pets are permanently or temporarily boarded or bred for remuneration or sold.
58. LOADING SPACE: An off-street space within a building or on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials such space having direct and unobstructed access to a street or alley.
59. LOT: A parcel of land occupied or intended for occupancy by a structure together with its accessory structures and the open spaces, parking spaces and loading spaces required by this Ordinance. A lot may or may not be specifically designated as such on public records.
60. LOT AREA: The total horizontal area included within lot lines. Where the front lot line lies in part of a street, the lot area shall not include that part of the lot in use or to be used as the street.
61. LOT, CORNER: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two chords of which form an angle of 135 degrees or less as measured on the lot side. The point of intersection of the street lot lines is the corner. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.
62. LOT COVERAGE: The part or percent of the lot occupied by any structure.
63. LOT DEPTH: The horizontal straight line distance between the front and rear lot lines, measured along the median between side lot lines.
64. LOT, DOUBLE FRONTAGE Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot.
65. LOT, INTERIOR A lot other than a corner lot.
66. LOT LINES: The lines bounding a lot as defined herein:
  - a. Front Lot Line: That side of the lot abutting a public or private street right-of-way or abutting a lake; in the case of a corner lot or a double frontage lot, either street right-of-way line may be considered the front line of the lot if it contains the minimum required frontage except where there is a row of double frontage lots, one street shall be designated as the front street for all lots on the plat and any building permit.
  - b. Rear Lot Line: That lot line which is opposite and most distant from the front lot line. In the case of an irregular shaped lot, a line ten (10) feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.



- c. Side Lot Line: Any lot line not qualifying as a front or rear lot line. A side lot line separating a lot from a street right-of-way shall be known as a Side Street Lot Line. A side lot line separating a lot from another lot or lots shall be known as an Interior Side Lot Line.
- 67. LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds.
- 68. LOT WIDTH: The horizontal straight line distance between the side lot lines, measured at the two points where the building line or minimum required front setback line intersects with side lot lines.
- 69. MAJOR THOROUGHFARE: An arterial street which is intended to serve as a large volume traffic way for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare on the Thoroughfare Plan.
- 70. MEZZANINE: An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story.
- 71. MANUFACTURED HOME: A detached single-family dwelling unit with all of the following characteristics:
  - a. Designed for long-term occupancy.
  - b. Containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to an outside system.
  - c. Designed to be transported after fabrication on its own wheels or on flatbed or other trailers on detachable wheels.
  - d. Arriving at site to be occupied as a dwelling unit complete, including appliances and furniture and ready for occupancy, except for minor and incidental location operations.
- 72. MANUFACTURED HOME MODULE: A prefabricated structure to be occupied as a detached dwelling unit with all of the following characteristics:
  - a. Designed for long term occupancy.
  - b. Containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to an outside system.
  - c. Designed to be transported on a flat bed.
  - d. Designed to be incorporated at a building site into a structure on a permanent foundation.
- 73. MANUFACTURED HOME PARK: A parcel of land fifteen (15) acres or more, intended and designed to accommodate sixty (60) or more manufactured homes for residential use, which is offered to the public for that use along with any structure, facility, area or equipment permitted and incidental to the residential use, and licensed by the State of Michigan under Public Act 96 of 1987, as amended.

74.     **MANUFACTURED HOME SPACE:** A plot or parcel of land within a Manufactured Home Park designed to accommodate one (1) manufactured home.
75.     **MANUFACTURED HOME STAND:** That part of a Manufactured Home Space which has been reserved for the placement of a Manufactured Home, appurtenant structures, or additions.
76.     **MOTEL:** A series of attached, semi-detached or detached rental units containing a bedroom, bathroom, and closet space, which are rented for overnight lodging primarily to the public traveling by motor vehicle.
77.     **NON-CONFORMING USE:** A structure or portion thereof, or the use of a structure or land lawfully existing at the time this Ordinance, or amendments thereof, became effective, but which does not conform with the use regulations of the district in which it is located.
78.     **NUISANCE:** An offensive, annoying, unpleasant or obnoxious thing or practice; a cause or source of annoyance, especially a continuing or repeated excessive or concentrated invasion of any activity or use across a property line which can be perceived by or affects a human being, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) effluent, (m) noise from the congregation of people, particularly at night, (n) passenger traffic, (o) invasion of nonbutting street frontage by traffic, (p) dirt, or (q) fly ash.
79.     **NURSERY:** A structure or use, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping, but not including a structure or use for the sale of fruits, vegetables, or Christmas trees.
80.     **OCCUPIED:** Arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.
81.     **OFF-STREET PARKING LOT OR FACILITY:** A structure or use providing parking spaces for more than three (3) motor vehicles along with adequate drives and aisles for maneuvering.
82.     **OFFICE:** A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases, accounting, filing, recording, communication and/or stenographic equipment for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of a personal service.
83.     **OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the building, not requiring the patron to enter the building. The term "Open Front Store" shall not include auto repair stations or gasoline service stations.
84.     **OPEN SPACE:** Any unoccupied space open to the sky on the same lot with a building.
85.     **PARKING SPACE:** An area of definite length and width exclusive of drives, aisles or entrances and fully accessible for the parking of motor vehicles.

86. **PLAN:** The general development plan including the general location for streets, parks, schools, public buildings, and all physical development of the City and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan may or may not be adopted in written form by the Planning Commission and/or the City Council.
87. **PRINCIPAL USE:** The main use to which the premises are devoted and the principal purpose for which the premises exist.
88. **PUBLIC UTILITY:** A person, firm, corporation, municipal or county department, or board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, telegraph, telephone, transportation or water.
89. **RECREATION AREA:** An area designated for sport or outdoor activities only, whether natural or improved, public or private.
90. **RECREATIONAL VEHICLE:** A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers, and tent trailers; provided, however, that any such vehicle or unit which is forty (40) feet or more in overall length shall be considered a travel trailer and shall be subject to all regulations of this Ordinance applicable to travel trailers.
91. **RIGHT-OF-WAY:** A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.
92. **SETBACK:** The minimum horizontal distance a structure, or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is situated.
93. **SIGN:** Any outdoor sign, name identification, description, display, device, figure, painting, drawing, message, placard, poster, billboard or illustration which is affixed to or represented directly or indirectly upon a structure or land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or business. A "sign" shall not include any display of official court or public office notices nor shall it include the flag of a political unit or school.
94. **SIGN, ACCESSORY:** A sign which directs attention to a person, product, business or profession conducted or located upon the same premises.
95. **SIGN, NONACCESSORY:** A sign which directs attention to a business, commodity, activity, service, or entertainment conducted, sold, placed, or otherwise offered elsewhere than on the premises where the sign is located.
96. **STORY:** The part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.

97. STORY, HALF: An uppermost story lying under a sloping roof having a floor area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'6").
98. STREET: A public right-of-way, other than an alley, which affords the principal means of access to abutting property.
99. STREET LINE: The legal line of demarcation between a street right-of-way line for service, benefit or enjoyment.
100. STRUCTURE Anything constructed or erected, including a building, the use of which requires location on the ground or attachment to something having location on the ground, excluded are fences, sidewalks, paving on streets, driveways, parking areas, and patios.
101. STRUCTURE, ACCESSORY: A structure or portion thereof subordinate to and on the same lot as a main structure and devoted exclusively to an accessory use.
102. STRUCTURE, MAIN: A structure or portion thereof in which is conducted the principal use of the lot on which it is located.
103. TELEVISION SATELLITE DISH: The term Television Satellite Dish shall mean every device capable of receiving television signals from satellites.
104. TEMPORARY BUILDING AND USES: A structure or use permitted to exist during periods of construction of the main use, or for special events.
105. TERRACE: A row of four (4) or more attached, one (1) family dwellings, not more than two (2) rooms deep, and having the total dwelling space on one floor.
106. TRAVEL TRAILER: A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses or designed for a temporary office or business use.
107. USE: The purpose for which land, premises, or a structure is arranged, designed or intended, or for which land, premises or a structure is or may be occupied.
108. USE, CHANGE OF: A modification or deviation from the original purpose, occupancy, utilization or classification of a building, structure or parcel or tract of land. The term is inclusive of:
- a. a discernible increase in the intensity of use, which by Ordinance imposes more restrictive parking requirements or other more restrictive characteristics of use or
  - b. an alteration by change of use in a building heretofore existing to a new use group, as defined in the City Building Code, which imposes other special provisions of law governing building construction, equipment, or means of egress.
109. USE, INCREASE IN THE INTENSITY OF: A discernible increase in the level or volume of activity generated by a change in use or an increase in floor area or an increase in land area configurations.

110. VARIANCE A modification of the literal provisions of this Ordinance granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. A variance is not an exception.
111. WALL, OBSCURING: A structure of definite and continuous height, length, and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.
112. WIRELESS COMMUNICATIONS FACILITY: All facilities, structural, attached, accessory or otherwise, related to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, ham and amateur radio facilities, television reception antennae, satellite dishes, and government facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition. A wireless communications facility shall not be included under the existing definition of "essential services."
113. WIRELESS COMMUNICATIONS FACILITY, CO-LOCATION: The location by two (2) or more wireless communications providers, public authority or other duly authorized party of wireless communications facilities on an existing structure, tower or building, in a manner that reduces the overall need for additional or multiple freestanding single use communications facilities within the City of Bad Axe.
114. WIRELESS COMMUNICATIONS SUPPORT STRUCTURE (Tower): Any wireless communications facility erected or modified to support attached wireless communications facilities, or other antennae or facilities, including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an attached wireless communications facility or similar apparatus above grade. This includes, but are not limited to, any ground or roof-mounted pole, monopoles, lattice towers, light poles, utility support structures, wood pole, guy wired tower, spire, other similar structure or combination thereof, or other structures which appear to be something other than a mere support structure.
115. YARD: The open space on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance.
116. YARD, FRONT: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
117. YARD, REAR: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

118. YARD, SIDE: An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

## **ARTICLE III. ZONING DISTRICTS AND MAP**

### **SECTION 300. DISTRICTS ESTABLISHED**

The City is hereby divided into the following zoning districts:

- R-1 Traditional Neighborhood District
- R-2 Multiple family residential district
- R-3 Manufacture Home Community District
- CBD Central Business District
- B-1 Service business district B-2
- General business district IN
- Industrial district

### **SECTION 301. ZONING MAP**

1. The location and boundaries of the zoning districts established in the City shall be shown on the Zoning Map and said map, and any section, or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this Ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.
2. The Zoning Map may be amended from time to time to reflect changes in districts and the rezoning of a lot or lots shown thereon in the same manner as amendments may be made to the text of this Ordinance. Such changes shall be recorded to scale on duplicate copies of the Zoning Map and shall be accomplished by written legal descriptions in appropriate amendatory ordinances.

### **SECTION 302. DISTRICT BOUNDARIES INTERPRETED**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as following railroad lines shall be construed to be the midline between the main tracks.
4. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

6. Where physical or natural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Zoning Board of Appeals shall interpret the district boundaries.
7. Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

### **SECTION 303. ZONING OF VACATED AREAS**

If all or any portion of any public street, alley, right-of-way, easement or land shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of the regulations which apply within the district where located, or within the most restrictive of the immediately adjacent districts, if there be more than one.

### **SECTION 304. ZONING OF ANNEXED AREAS**

Any area annexed to the City of Bad Axe shall be immediately referred to the Planning Commission who shall recommend appropriate zoning for such area within three (3) months after the matter is referred to them. The City Council shall thereafter adopt the appropriate zoning for said area and the area and its designated zoning shall be added to the current Zoning Map.

### **SECTION 305. DISTRICT USES**

Each district provides for uses permitted by right and uses permitted by special approval. No structure or land shall be used and no structure shall be erected except in compliance with the terms and conditions of this Ordinance. Uses permitted by special approval shall not be allowed until the specific applicable conditions and limitations have been complied with, and, in addition, until approval has been obtained from the Planning Commission in accordance with ARTICLE XVII SITE PLAN AND/OR SPECIAL APPROVAL USE REVIEW.

### **SECTION 306. DISTRICT REQUIREMENTS**

In addition to any other requirement, all structures and/or uses shall also be subject to the provisions of ARTICLE XI AREA, DENSITY, BULK, HEIGHT AND YARD REQUIREMENTS and ARTICLE XII GENERAL PROVISIONS. More restrictive requirements applicable to a specific land, structure, and/or use, however, shall supersede these general requirements.



## **ARTICLE IV. R-1 TRADITIONAL NEIGHBORHOOD DISTRICT**

### **SECTION 400. STATEMENT OF PURPOSE**

This district classification is designed to recognize, maintain, and enhance the traditional neighborhood districts of the City. These areas are characterized by existing platted lots that are generally between 9,000 and 10,000 square feet and 60 to 70 feet wide. Front yard setbacks also vary within the traditional neighborhood ranging from 15 feet to 25 feet. Side yard setbacks have traditionally been determined by the minimum width for a driveway.

Homes in the traditional neighborhoods vary in architectural style, but are consistent in that high quality, natural building materials are predominant. Homes range from two story to one story and most have a detached garage located behind the home.

Although single family residential is the predominant land use in these traditional neighborhoods, there are also other, compatible uses including; churches, schools, senior facilities, day care homes, and some duplex residential units.

The intent of the R-1 Traditional Neighborhood District is to preserve the character of these neighborhoods by requiring new or in-fill development to be similar in character and quality as the existing development.

### **SECTION 401. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. One-family detached dwelling unit.
2. Church, temple or synagogue, together with accessory housing for religious personnel, subject to the following:
  - a. The lot shall be at least one (1) acre in size.
  - b. The lot shall be so located as to have at least one (1) property line on a major thoroughfare or collector street. All motor vehicle ingress and egress to the lot shall be directly onto said thoroughfare, street, or a marginal access service drive thereof.
  - c. No building shall be closer than forty (40) feet to any property or street line.
  - d. No more than thirty-five (35%) per cent of the lot area shall be covered by buildings.
3. Publicly owned and operated library, park, playground, or parkway.
4. Public, parochial, or private elementary school offering courses in general education, and not operated for profit.
5. State licensed residential facility providing services for six (6) or less people within the meaning of and in accordance with the provisions of 1976 PA 396, as amended.
6. Accessory building or use as long as not involving the conduct of business.

7. 7. Wireless Communications facilities and services subject to the provisions of Section 1218.

#### **SECTION 402. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

1. Two family dwelling unit, subject to the following:
  - a. All two family dwelling units, whether a two-flat (one unit up, one unit down) or a duplex (two units side-by-side) shall be designed to resemble a single family home similar in character with the surrounding homes within one half block in each direction.
  - b. Entrances shall be designed so that the presence of multiple entrances is minimized.
  - c. No more than two (2) accessory buildings shall be permitted on a lot with a two-family dwelling provided the area of the two accessory buildings shall not exceed the total permitted area for a single accessory building permitted on a lot with a single family home.
2. Bed and Breakfast residence.
3. Cemetery, public or private, subject to the following:
  - a. The lot shall be at least twenty (20) acres and shall be so designed as to provide motor vehicle ingress and egress directly onto or from a major thoroughfare.
  - b. No building shall be closer than fifty (50) feet to any property or street line.
  - c. A maximum of one (1) sign is permitted at the point of entrance which shall bear only the name of the cemetery and shall have a maximum area of eight (8) square feet.
4. College, university, or other institution of higher learning, public or private, offering courses in general, technical, or religious education and not operated for profit, subject to the following:
  - a. The lot shall be at least fifteen (15) acres in area.
  - b. The lot or any portion thereof shall not be part of a recorded subdivision plat.
  - c. No building shall be closer than forty (40) feet to any property or street line.
5. Essential services, subject to the following:
  - a. All buildings and equipment shall meet the minimum front and rear yard setback requirements and must be setback a minimum of 15 feet from each side property line.

- b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
  - c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
  - d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
6. Golf course, not including a miniature golf course or par-3 course, which may or may not be operated for profit, subject to the following:
- a. The site shall be at least fifty (50) acres in area.
  - b. Motor vehicle ingress and egress shall be onto a major thoroughfare.
  - c. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety. No structure shall be closer than fifty (50) feet to any property or street line.
  - d. Development features including structures shall be so located and related as to minimize the possibility of any adverse affects upon adjacent lots. This shall mean that all principal or accessory buildings shall be not less than one hundred (100) feet from any property line abutting a residential lot; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement. The lighting of a golf course so as to permit use after daylight is expressly prohibited.

7. Home occupation.

8. Hospital, public or private, providing general health care, subject to the following:
- a. The lot shall be at least five (5) acres in area.
  - b. The lot shall have at least one (1) property line abutting a major thoroughfare or collector street. All motor vehicle ingress and egress to the off-street parking area for guests, employees, and staff shall be directly from the thoroughfare or street.
  - c. All two (2) story structures shall be at least sixty (60) feet from any property or street line. Buildings less than two (2) stories shall be no closer than forty (40) feet to any property or street line. For buildings above two (2) stories, the building shall be set back from the initial sixty (60) feet set back an additional one (1) foot for each foot of additional height above two (2) stories.
  - d. No more than twenty-five (25%) percent of the lot may be covered by buildings.

- e. Ambulance and delivery areas shall be obscured from residential view by an obscuring wall, fence or planting area. Motor vehicle access to and from the delivery and ambulance area shall be directly from a major thoroughfare or collector street.
9. Nursery school, day nursery, or child care center (not including a dormitory), subject to the following:
- a. No more than one (1) dwelling unit shall be located on the lot.
  - b. No more than six (6) children, exclusive of the owner's children, shall be on the premises at one time.
  - c. In addition to the lot area requirement there shall be provided on the lot a usable outdoor play area at the rate of fifty (50) additional square feet for each child not a member of the owner's family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential lot by an obscuring wall, fence, or planting area.
10. Nursing home, convalescent home, adult foster care home, or housing for the elderly or orphans or wards of the probate court where the number of persons served thereby is six (6) or less.
11. Public or private noncommercial recreational area and/or facility; institutional or community recreation center; or nonprofit swimming pool club; all subject to the following:
- a. The lot for any of such uses which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one (1) property line abutting a major thoroughfare.
  - b. Front, side and rear yards shall be at least eighty (80) feet.
12. Public, parochial, or private intermediate and/or secondary school offering courses in general education, not operated for profit.
13. Accessory building or use.
14. Any structure or use which, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.
15. Wireless Communications support structures subject to the provisions of Section 1218.

## **ARTICLE V. R-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT**

### **SECTION 500. STATEMENT OF PURPOSE**

This district classification is designed to permit the greatest density of residential uses allowed within the City, which will generally serve as a zone of transition between nonresidential districts and any R-1 District, together with other residentially related facilities designed to service the inhabitants of the area.

### **SECTION 501. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. Multiple dwelling unit, including apartment building and town house, but excluding hotel and motel.
2. Two family dwelling units.
3. Bed and breakfast residence.
4. One-family detached dwelling unit subject to the area, density, bulk, height, and yard requirements of the R-1 district.
5. Boarding or lodging house containing not more than six (6) separate units.
6. Cemetery, public, or private, subject to the following:
  - a. The lot shall be at least twenty (20) acres and shall be so designed as to provide motor vehicle ingress and egress directly onto or from a major thoroughfare.
  - b. No building shall be closer than fifty (50) feet to any property or street line.
  - c. A maximum of one (1) sign is permitted at the point of entrance which shall bear only the name of the cemetery and shall have a maximum area of eight (8) square feet.
7. Church, temple, or synagogue, together with accessory housing for religious personnel, subject to the following:
  - a. The lot shall be at least one (1) acre in size.
  - b. The lot shall be so located as to have at least one (1) property line on a major thoroughfare, street, or collector street. All motor vehicle ingress and egress to the lot shall be directly onto said thoroughfare, street, or a marginal access service drive thereof.
  - c. No building shall be closer than forty (40) feet to any property or street line.
  - d. No more than thirty-five (35%) per cent of the lot area shall be covered by buildings.

8. College, university, or other institution of higher learning, public and private, offering courses in general, technical, or religious education and not operated for profit, subject to the following:
  - a. The lot shall be at least fifteen (15) acres in area.
  - b. The lot or any portion thereof shall not be part of a recorded subdivision plat.
  - c. No building shall be closer than forty (40) feet to any property or street line.
9. Hospital, public or private, providing general health care, subject to the following:
  - a. The lot shall be at least five (5) acres in area.
  - b. The lot shall have at least one (1) property line abutting a major thoroughfare or collector street. All motor vehicle ingress and egress to the off-street parking area for guests, employees, and staff shall be directly from the thoroughfare or street.
  - c. All two (2) story structures shall be at least sixty (60) feet from any property or street line. Buildings less than two (2) stories shall be no closer than forty (40) feet to any property or street line. For buildings above two (2) stories, the building shall be set back from the initial sixty (60) feet set back an additional one (1) foot for each foot of additional height above two (2) stories.
  - d. No more than twenty-five (25%) percent of the lot may be covered by buildings.
  - e. Ambulance and delivery areas shall be obscured from all residential view by an obscuring wall, fence or planting area. Motor vehicle access to and from the delivery and ambulance area shall be directly from a major thoroughfare or collector street.
10. Housing for the elderly when provided as a planned development having:
  - a. Cottage type and/or apartment type dwelling units.
  - b. Common services containing, but not limited to: central dining rooms, recreational rooms and central lounge.
11. Publicly owned and operated library, park, playground or parkway.
12. One model dwelling unit for each project or subdivision.
13. Nursery school, day nursery, or child care center (not including a dormitory), subject to the following:
  - a. No more than one (1) dwelling unit shall be located on the lot.

- b. No more than six (6) children, exclusive of the owner's children, shall be on the premises at one time.
  - c. In addition to the lot area requirement, there shall be provided on the lot a usable outdoor play area at the rate of fifty (50) additional square feet for each child not a member of the owner's family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential lot by an obscuring wall, fence, or planting area.
- 14. Nursing home, convalescent home, adult foster care home, or housing for the elderly or orphans or wards of the probate court where the number of persons served thereby is six (6) or less.
- 15. Private office for a doctor or dentist, or similar profession, provided such office is part of a dwelling unit occupied by such doctor or dentist, or similar profession, and not more than one such doctor or dentist, or similar professional, practices in any such office.
- 16. Public or private noncommercial recreational area and/or facility, institutional or community recreation center, nonprofit swimming pool club, all subject to the following:
  - a. The lot for any of such uses which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one (1) property line abutting a major thoroughfare.
  - b. Front, side and rear yards shall be at least eighty (80) feet wide.
- 17. State licensed residential facility providing services for six (6) or less people within the meaning of and in accordance with the provisions of 1976 PA 396, as amended.
- 18. Public, parochial, or private elementary school offering courses in general education, and not operated for profit.
- 19. Public, parochial, or private intermediate and/or secondary school offering courses in general education, not operated for profit.
- 20. Accessory building or use.
- 21. Wireless Communications facilities and services subject to the provisions of Section 1218.

## **SECTION 502. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

- 1. Private club, fraternity, or lodge except one the chief activity of which is a service customarily carried on as a business.

2. Utility and public service facilities and uses, excluding storage yards, when operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity, subject to the following:
  - a. No building shall be closer than forty (40) feet to any property or street line.
  - b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
  - c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
  - d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
3. Golf course, not including a miniature golf course or par-3 course, which may or may not be operated for profit, subject to the following:
  - a. The site shall be at least fifty (50) acres in area.
  - b. Motor vehicle ingress and egress shall be onto a major thoroughfare.
  - c. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrian and vehicular traffic safety. No structure shall be closer than (50) feet to any street line.
  - d. Development features including structures shall be so located and related as to minimize the possibility of any adverse affects upon adjacent lots. This shall mean that any principal or accessory buildings shall be not less than one hundred (100) feet from any property line abutting a residential lot; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement. The lighting of a golf course so as to permit use after daylight hours is expressly prohibited.
4. Home occupation.
5. Retail sale of any products, produce or flowers grown on the premises, subject to the following:
  - a. Sale shall be made only from the premises where the product, produce or flowers were grown.



- b. No permanent structure shall be erected in connection with such sale and all temporary structures shall be removed when such products, produce or flowers have been disposed of.

6. Accessory building or use.

- 7. Any structure or use which, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.

- 8. Wireless Communications support structures subject to the provisions of Section 1218.

9. Essential services, subject to the following:

- a. All buildings and equipment shall meet the minimum front and rear yard setback requirements and must be setback a minimum of 15 feet from each side property line.
- b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
- c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
- d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

## **ARTICLE IV. R-1 TRADITIONAL NEIGHBORHOOD DISTRICT**

### **SECTION 400. STATEMENT OF PURPOSE**

This district classification is designed to recognize, maintain, and enhance the traditional neighborhood districts of the City. These areas are characterized by existing platted lots that are generally between 9,000 and 10,000 square feet and 60 to 70 feet wide. Front yard setbacks also vary within the traditional neighborhood ranging from 15 feet to 25 feet. Side yard setbacks have traditionally been determined by the minimum width for a driveway.

Homes in the traditional neighborhoods vary in architectural style, but are consistent in that high quality, natural building materials are predominant. Homes range from two story to one story and most have a detached garage located behind the home.

Although single family residential is the predominant land use in these traditional neighborhoods, there are also other, compatible uses including; churches, schools, senior facilities, day care homes, and some duplex residential units.

The intent of the R-1 Traditional Neighborhood District is to preserve the character of these neighborhoods by requiring new or in-fill development to be similar in character and quality as the existing development.

### **SECTION 401. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. One-family detached dwelling unit.
2. Church, temple or synagogue, together with accessory housing for religious personnel, subject to the following:
  - a. The lot shall be at least one (1) acre in size.
  - b. The lot shall be so located as to have at least one (1) property line on a major thoroughfare or collector street. All motor vehicle ingress and egress to the lot shall be directly onto said thoroughfare, street, or a marginal access service drive thereof.
  - c. No building shall be closer than forty (40) feet to any property or street line.
  - d. No more than thirty-five (35%) per cent of the lot area shall be covered by buildings.
3. Publicly owned and operated library, park, playground, or parkway.
4. Public, parochial, or private elementary school offering courses in general education, and not operated for profit.
5. State licensed residential facility providing services for six (6) or less people within the meaning of and in accordance with the provisions of 1976 PA 396, as amended.
6. Accessory building or use as long as not involving the conduct of business.
7. Wireless Communications facilities and services subject to the provisions of Section 1218.

### **SECTION 402. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

1. Two family dwelling unit, subject to the following:

- a. All two family dwelling units, whether a two-flat (one unit up, one unit down) or a duplex (two units side-by-side) shall be designed to resemble a single family home similar in character with the surrounding homes within one half block in each direction.
- b. Entrances shall be designed so that the presence of multiple entrances is minimized.
- c. No more than two (2) accessory buildings shall be permitted on a lot with a two-family dwelling provided the area of the two accessory buildings shall not exceed the total permitted area for a single accessory building permitted on a lot with a single family home.

2. Bed and Breakfast residence.

3. Cemetery, public or private, subject to the following:

- a. The lot shall be at least twenty (20) acres and shall be so designed as to provide motor vehicle ingress and egress directly onto or from a major thoroughfare.
- b. No building shall be closer than fifty (50) feet to any property or street line.
- c. A maximum of one (1) sign is permitted at the point of entrance which shall bear only the name of the cemetery and shall have a maximum area of eight

(8) square feet.

4. College, university, or other institution of higher learning, public or private, offering courses in general, technical, or religious education and not operated for profit, subject to the following:

- a. The lot shall be at least fifteen (15) acres in area.
- b. The lot or any portion thereof shall not be part of a recorded subdivision plat.
- c. No building shall be closer than forty (40) feet to any property or street line.

5. Essential services, subject to the following:

- a. All buildings and equipment shall meet the minimum front and rear yard setback requirements and must be setback a minimum of 15 feet from each side property line.

- b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
    - c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
    - d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
  - 6. Golf course, not including a miniature golf course or par-3 course, which may or may not be operated for profit, subject to the following:
    - a. The site shall be at least fifty (50) acres in area.
    - b. Motor vehicle ingress and egress shall be onto a major thoroughfare.
    - c. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety. No structure shall be closer than fifty (50) feet to any property or street line.
    - d. Development features including structures shall be so located and related as to minimize the possibility of any adverse affects upon adjacent lots. This shall mean that all principal or accessory buildings shall be not less than one hundred (100) feet from any property line abutting a residential lot; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement. The lighting of a golf course so as to permit use after daylight is expressly prohibited.
7. Home occupation.
- 8. Hospital, public or private, providing general health care, subject to the following:
    - a. The lot shall be at least five (5) acres in area.
    - b. The lot shall have at least one (1) property line abutting a major thoroughfare or collector street. All motor vehicle ingress and egress to the off-street parking area for guests, employees, and staff shall be directly from the thoroughfare or street.
    - c. All two (2) story structures shall be at least sixty (60) feet from any property or street line. Buildings less than two (2) stories shall be no closer than forty (40) feet to any property or street line. For buildings above two (2) stories, the building shall be set back from the initial sixty (60) feet set back an additional one (1) foot for each foot of additional height above two (2) stories.
    - d. No more than twenty-five (25%) percent of the lot may be covered by buildings.

- e. Ambulance and delivery areas shall be obscured from residential view by an obscuring wall, fence or planting area. Motor vehicle access to and from the delivery and ambulance area shall be directly from a major thoroughfare or collector street.
9. Nursery school, day nursery, or child care center (not including a dormitory), subject to the following:
- a. No more than one (1) dwelling unit shall be located on the lot.
  - b. No more than six (6) children, exclusive of the owner's children, shall be on the premises at one time.
  - c. In addition to the lot area requirement there shall be provided on the lot a usable outdoor play area at the rate of fifty (50) additional square feet for each child not a member of the owner's family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential lot by an obscuring wall, fence, or planting area.
10. Nursing home, convalescent home, adult foster care home, or housing for the elderly or orphans or wards of the probate court where the number of persons served thereby is six (6) or less.
11. Public or private noncommercial recreational area and/or facility; institutional or community recreation center; or nonprofit swimming pool club; all subject to the following:
- a. The lot for any of such uses which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one (1) property line abutting a major thoroughfare.
  - b. Front, side and rear yards shall be at least eighty (80) feet.
12. Public, parochial, or private intermediate and/or secondary school offering courses in general education, not operated for profit.
13. Accessory building or use.
14. Any structure or use which, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.
15. Wireless Communications support structures subject to the provisions of Section 1218.

## **ARTICLE V. R-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT**

### **SECTION 500. STATEMENT OF PURPOSE**

This district classification is designed to permit the greatest density of residential uses allowed within the City, which will generally serve as a zone of transition between nonresidential districts and any R-1 District, together with other residentially related facilities designed to service the inhabitants of the area.

### **SECTION 501. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. Multiple dwelling unit, including apartment building and town house, but excluding hotel and motel.
2. Two family dwelling units.
3. Bed and breakfast residence.
4. One-family detached dwelling unit subject to the area, density, bulk, height, and yard requirements of the R-1 district.
5. Boarding or lodging house containing not more than six (6) separate units.
6. Cemetery, public, or private, subject to the following:
  - a. The lot shall be at least twenty (20) acres and shall be so designed as to provide motor vehicle ingress and egress directly onto or from a major thoroughfare.
  - b. No building shall be closer than fifty (50) feet to any property or street line.
  - c. A maximum of one (1) sign is permitted at the point of entrance which shall bear only the name of the cemetery and shall have a maximum area of eight (8) square feet.
7. Church, temple, or synagogue, together with accessory housing for religious personnel, subject to the following:
  - a. The lot shall be at least one (1) acre in size.
  - b. The lot shall be so located as to have at least one (1) property line on a major thoroughfare, street, or collector street. All motor vehicle ingress and egress to the lot shall be directly onto said thoroughfare, street, or a marginal access service drive thereof.

- c. No building shall be closer than forty (40) feet to any property or street line.
- d. No more than thirty-five (35%) per cent of the lot area shall be covered by buildings.

8. College, university, or other institution of higher learning, public and private, offering courses in general, technical, or religious education and not operated for profit, subject to the following:
  - a. The lot shall be at least fifteen (15) acres in area.
  - b. The lot or any portion thereof shall not be part of a recorded subdivision plat.
  - c. No building shall be closer than forty (40) feet to any property or street line.
9. Hospital, public or private, providing general health care, subject to the following:
  - a. The lot shall be at least five (5) acres in area.
  - b. The lot shall have at least one (1) property line abutting a major thoroughfare or collector street. All motor vehicle ingress and egress to the off-street parking area for guests, employees, and staff shall be directly from the thoroughfare or street.
  - c. All two (2) story structures shall be at least sixty (60) feet from any property or street line. Buildings less than two (2) stories shall be no closer than forty (40) feet to any property or street line. For buildings above two (2) stories, the building shall be set back from the initial sixty (60) feet set back an additional one (1) foot for each foot of additional height above two (2) stories.
  - d. No more than twenty-five (25%) percent of the lot may be covered by buildings.
  - e. Ambulance and delivery areas shall be obscured from all residential view by an obscuring wall, fence or planting area. Motor vehicle access to and from the delivery and ambulance area shall be directly from a major thoroughfare or collector street.
10. Housing for the elderly when provided as a planned development having:
  - a. Cottage type and/or apartment type dwelling units.
  - b. Common services containing, but not limited to: central dining rooms, recreational rooms and central lounge.
11. Publicly owned and operated library, park, playground or parkway.
12. One model dwelling unit for each project or subdivision.



13. Nursery school, day nursery, or child care center (not including a dormitory), subject to the following:
  - a. No more than six (6) children, exclusive of the owner's children, shall be on the premises at one time.
  - b. In addition to the lot area requirement, there shall be provided on the lot a usable outdoor play area at the rate of fifty (50) additional square feet for each child not a member of the owner's family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential lot by an obscuring wall, fence, or planting area.
  - c. In addition to the lot area requirement, there shall be provided on the lot a usable outdoor play area at the rate of fifty (50) additional square feet for each child not a member of the owner's family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential lot by an obscuring wall, fence, or planting area.
14. Nursing home, convalescent home, adult foster care home, or housing for the elderly or orphans or wards of the probate court where the number of persons served thereby is six (6) or less.
15. Private office for a doctor or dentist, or similar profession, provided such office is part of a dwelling unit occupied by such doctor or dentist, or similar profession, and not more than one such doctor or dentist, or similar professional, practices in any such office.
16. Public or private noncommercial recreational area and/or facility, institutional or community recreation center, nonprofit swimming pool club, all subject to the following:
  - a. The lot for any of such uses which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one (1) property line abutting a major thoroughfare.
  - b. Front, side and rear yards shall be at least eighty (80) feet wide.
17. State licensed residential facility providing services for six (6) or less people within the meaning of and in accordance with the provisions of 1976 PA 396, as amended.
18. Public, parochial, or private elementary school offering courses in general education, and not operated for profit.
19. Public, parochial, or private intermediate and/or secondary school offering courses in

general education, not operated for profit.

20. Accessory building or use.

21. Wireless Communications facilities and services subject to the provisions of Section 1218.

## **SECTION 502. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

1. Private club, fraternity, or lodge except one the chief activity of which is a service customarily carried on as a business.
2. Utility and public service facilities and uses, excluding storage yards, when operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity, subject to the following:
  - a. No building shall be closer than forty (40) feet to any property or street line.
  - b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
  - c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
  - d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
3. Golf course, not including a miniature golf course or par-3 course, which may or may not be operated for profit, subject to the following:
  - a. The site shall be at least fifty (50) acres in area.
  - b. Motor vehicle ingress and egress shall be onto a major thoroughfare.
  - c. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrian and vehicular traffic safety. No structure

shall be closer than (50) feet to any street line.

- d. Development features including structures shall be so located and related as to minimize the possibility of any adverse affects upon adjacent lots. This shall mean that any principal or accessory buildings shall be not less than one hundred (100) feet from any property line abutting a residential lot; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement. The lighting of a golf course so as to permit use after daylight hours is expressly prohibited.

4. Home occupation.

- 5. Retail sale of any products, produce or flowers grown on the premises, subject to the following:

- a. Sale shall be made only from the premises where the product, produce or flowers were grown.
- b. No permanent structure shall be erected in connection with such sale and all temporary structures shall be removed when such products, produce or flowers have been disposed of.

6. Accessory building or use.

- 7. Any structure or use which, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.

- 8. Wireless Communications support structures subject to the provisions of Section 1218.

9. Essential services, subject to the following:

- a. All buildings and equipment shall meet the minimum front and rear yard setback requirements and must be setback a minimum of 15 feet from each side property line.
- b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
- c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
- d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be

landscaped and maintained to harmonize with the surrounding area.

## **ARTICLE VI. R-3 MANUFACTURED HOME COMMUNITY DISTRICT**

### **SECTION 600. STATEMENT OF PURPOSE**

The Manufactured Home Community District is intended to provide for the location and regulation of manufactured home parks. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured home parks shall be located in proximity to Multiple Family Districts and shall serve as a transition zone between residential and non-residential districts. Manufactured home parks should not be located where they would interrupt the continuity of permanent single family neighborhoods. Furthermore, the location of a manufactured home park shall not have an adverse impact on the proper functioning of community facilities and utility systems, including but not limited to the following: roads, sanitary sewers, water, storm drainage, police and fire protection, and the educational system.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Home Commission Rules govern all manufactured home parks. When regulations in this Article exceed the state law or the Manufactured Home Commission Rules they are intended to insure that manufactured home parks meet the development and site plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of the City's residents.

### **SECTION 601. USES PERMITTED BY RIGHT**

In all areas zoned R-3, Manufactured Home Community District, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal uses:

1. Manufactured home parks.
2. Multiple family and attached single family housing, subject to the requirements in Article V.
3. Residential care facilities that provide care for up to six (6) individuals.
4. Uses and structures accessory to the above, subject to the provisions in this Article.
5. Wireless Communications facilities and services subject to the provisions of Section 1218.

### **SECTION 602. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

1. Private club, fraternity, or lodge except one the chief activity of which is a service customarily carried on as a business.
2. Utility and public service facilities and uses, excluding storage yards, when operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity, subject to the following:
  - a. No building shall be closer than forty (40) feet to any property or street line.

b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.

c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.

d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

3. Golf course, not including a miniature golf course or par-3 course, which may or may not be operated for profit, subject to the following:

a. The site shall be at least fifty (50) acres in area.

b. Motor vehicle ingress and egress shall be onto a major thoroughfare.

c. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrian and vehicular traffic safety. No structure shall be closer than fifty (50) feet to any street line.

d. Development features including structures shall be so located and related as to minimize the possibility of any adverse affects upon adjacent lots. This shall mean that all principal or accessory buildings shall be not less than one hundred (100) feet from any property line abutting a residential lot; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement. The lighting of a golf course so as to permit use after daylight hours is expressly prohibited.

4. Home occupation.

5. Retail sale of any products, produce or flowers grown on the premises, subject to the following:

a. Sale shall be made only from the premises where the product, produce or flowers were grown.

b. No permanent structure shall be erected in connection with such sale and all temporary structures shall be removed when such products, produce or flowers have been disposed of.

6. Wireless Communications support structures subject to the provisions of Section 1218.

7. Essential services subject to the following:

- a. No building shall be closer than forty (40) feet to any property or street line.
- b. No more than twenty-five (25%) per cent of the lot area may be covered by buildings.
- c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
- d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area, and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

### **SECTION 603. REQUIRED CONDITIONS**

- 1. Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the City for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall generally follow the procedures and requirements in Article XVII of this Ordinance, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Home Commission Rules.

Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the City officially receives the plan.

- 2. Manufactured home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by way of example, Act 96 of 1987, as amended, and the Manufactured Home Commission Rules and, in addition, shall satisfy the following minimum requirements:
  - a. The minimum parcel size for manufactured home parks shall be fifteen (15) acres.
  - b. The manufactured home park shall be developed with sites averaging 5,500 square feet per manufactured home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R 125.1946, Rule 946, and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.
- 3. Manufactured homes shall comply with the following minimum distances and setbacks:
  - a. Twenty (20) feet from any part of an adjacent Manufactured home.

- b. Ten (10) feet from any on-site parking space of an adjacent manufactured home site.
  - c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured home.
  - d. Fifty (50) feet from any permanent building.
  - e. One hundred (100) feet from any baseball softball or similar recreational field.
  - f. Ten (10) feet from the edge of an internal road, provided that such road is not dedicated to the public. Manufactured homes and other structures in the R-3 district shall be set back at least twenty (20) feet from the right-of-way line of a dedicated public road with the manufactured home park.
  - g. Seven and one-half (7.5) feet from any parking bay.
  - h. Seven (7) feet from a common pedestrian walkway.
  - i. All manufactured homes and accessory buildings shall be set back not less than fifty (50) feet from any park boundary line, including the future right-of-way line of abutting streets and highways.
  - j. Forty (40) feet from the edge of any railroad right-of-way.
4. Buildings in the R-3 district shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
5. Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Home Commission Rules except as follows:
- a. Two-way streets shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted on one side only, and 41 feet where parallel parking is permitted on both sides of the street.
  - b. One-way streets shall have a minimum width of 13 feet where no parallel parking is permitted, 23 feet where parallel parking is permitted on one side only, and 33 feet where parallel parking is permitted on both sides of the street.
  - c. Dead-end streets shall terminate in a cul-de-sac having an adequate turnaround with paving that is a minimum of fifty (50) feet in diameter. No parking shall be permitted in the cul-de-sac turnaround.
  - d. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent



easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.

- e. All roads shall be constructed with curbs and gutters.
- f. Parking
  - (1) All manufactured home sites shall be provided with two (2) parking spaces per Manufactured Home Commission Rules 925 and 926.
  - (2) In addition, a minimum of one (1) parking space for every three (3) manufactured home sites shall be provided for visitor parking located convenient to the area served.
  - (3) No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
  - (4) Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured home park, but shall be limited to use only by residents of the manufactured home park. The location of such storage areas shall be shown on the site plan. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured home park. Such storage area shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting.
- g. Sidewalks having a minimum width of three (3) feet shall be provided along each side of the street upon which manufactured home sites front.
- h. Accessory Buildings and Facilities
  - (1) Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only.
  - (2) All buildings constructed on-site within a manufactured home park shall be constructed in compliance with the City of Bad Axe Building Codes and shall require all applicable permits. Any addition to a manufactured home unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured homes shall comply with the City of Bad Axe Building Codes. Site plan approval shall be required prior to construction of any on-site building within a manufactured home park, except for storage sheds or garages for individual manufactured homes.

- (3) Each manufactured home shall be permitted one storage shed or garage not to exceed four hundred (400) square feet in area. The installation of any such shed or garage shall comply with codes and ordinances of the City of Bad Axe and shall require a building permit. Storage underneath a manufactured home or outside on any manufactured home site is prohibited.
- i. Open space shall be provided in any manufactured home park containing eight (8) or more units. The open space shall comply with the following requirements:
  - (1) A minimum of three hundred (300) square feet of well-drained, usable open space shall be provided for each manufactured home site.
  - (2) Open space shall be located conveniently in relation to the majority of dwelling units intended to be served. Swamp areas, marshy areas, and similar limited use areas shall not be included in the required open space.
- j. Screening
  - (1) All manufactured home parks shall be screened from existing adjacent residential land use by either a six (6) foot wall or a densely planted landscaped greenbelt.
  - (2) Required screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
  - (3) If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- k. Signs
  - (1) One permanent residential entranceway sign shall be permitted at each entrance to the manufactured home park. Such signs shall not six (6) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.

(2) Management offices in the R-3 Manufactured Home Community District shall be permitted one (1) identification sign not to exceed six (6) square feet in area.

l. If proposed, trash dumpsters shall comply with the following requirements:

(1) Dumpsters shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured home park and at least fifteen (15) feet from any building in a location that is clearly accessible to the servicing vehicle.

(2) Dumpsters shall be screened on three sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.

(3) Dumpsters shall be placed on a concrete pad. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

m. Canopies and awnings may be attached to any manufactured homes and may be enclosed for use as a sunroom or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Article and shall require a building permit.

n. No manufactured home shall be permitted to be placed in a manufactured home park until a permit has been granted by the Building Official and a license has been issued by the Michigan Department of Commerce. No individual manufactured home site shall be occupied until the required improvements, including utilities and access roads which serve the site are in place and are functioning. A Certificate of Occupancy issued by the City of Bad Axe shall be required prior to use of any buildings constructed on-site.

o. The business of selling new or used manufactured homes as a commercial operation in connection with the operation of a manufactured home park shall be prohibited. New or used manufactured homes located on sites within the manufactured home park to be used and occupied on that site may be sold by a licensed dealer or broker. This section shall not prohibit the sale of a used manufactured home by a resident of the manufactured home park provided the park's regulations permit such sale.

## **ARTICLE VII. CBD CENTRAL BUSINESS DISTRICT**

### **SECTION 700. STATEMENT OF PURPOSE**

The CBD Central Business District is designed and intended to preserve, promote the continued vitality of a pedestrian oriented and accessible, central commercial service district in which a variety of retail, commercial, office, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services.

The CBD Central Business District is further designed and intended to:

1. Encourage innovative, traditional commercial and mixed use developments that are consistent with the existing, small town, character of the CBD.
2. Encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian oriented unified setting, with shared parking.
3. Extend greater opportunities for traditional community living, working, housing and recreation to all citizens and residents of the City.
4. Encourage a more efficient use of land and of public services and to reflect changes in technology of land development, by directing new development in a traditional pattern of mixed use and varied commercial styles.
5. Reduce the excessive sprawl of development and the segregation of land uses that cause unnecessary traffic congestion.
6. Discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses.
7. Prohibit uses that do not deal directly with consumers and are disruptive to pedestrian activities and have as their principal function the sale and services of motor vehicles, such as automotive service and repair stations, automotive fueling stations, automobile washes, new and used motor vehicle sales or service establishments, drive-in restaurants, restaurants with drive-through facilities.
8. Promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of compatible urban design and architectural design elements. Such elements shall relate to the design characteristics of an individual structure or development to other existing and planned structures or developments in a harmonious manner, resulting in coherent overall development patterns and streetscape for the downtown as well as surrounding areas.
9. Encourage the preservation and enhancement of Bad Axe's small town "Main Street" with mixed land uses and shared parking, and continuous frontage that serves the commercial needs of the immediate neighborhood, the City of Bad Axe and surrounding communities as a whole.

## **SECTION 701. USES PERMITTED BY RIGHT**

In the CBD Central Business District, no use shall be permitted, unless otherwise provided in this Zoning Ordinance, except for the following:

1. Apartments, provided all public utilities are available, all units shall have at least one (1) living room and one (1) bedroom, except that five percent (5%) of the units may be of an efficiency apartment type, and not more than twenty-five percent (25%) may be of one bedroom units, or fifty percent (50%) in a mixed-use building.

Business and office uses may occupy a building used for residential uses provided that no such business or office use may be located on the same floor as used for residential purposes, and no floor may be used for business or office use on a floor located above a floor used for residential purposes. Further, where there is mixed business/office and residential use in a building there shall be provided a separate, private pedestrian entranceway for the residential use.

2. Art galleries.
3. Bus or railroad passenger stations.
4. Business schools and colleges.
5. Business establishments which perform services on premises such as, but not limited to: banks, savings and loans and credit unions (excluding drive-through branches); brokerage houses; insurance, real estate, and travel agencies; pedestrian-oriented automated teller machine facilities.
6. Churches, temples, and similar places of worship, limited to a capacity of five-hundred (500) worshipers.
7. Clubs, fraternal organizations, and lodge halls.
8. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than one (1) retail outlet shall be prohibited.
9. Essential services and public utility uses conducted within an enclosed building, excluding storage yards, provided the use and building are consistent with the appearance and character of the downtown as determined by the Planning Commission and further subject to the following:
  - a. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
  - b. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area, and it

shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

10. Hotels, motels, and bed and breakfast inns.
11. Laundromats (self-service or coin-operated).
12. Medical offices including offices of doctors, dentists and similar or allied professions, with up to ten-thousand (10,000) square feet gross floor area.
13. Mixed-use buildings, with business, commercial, or service uses on the ground floor, and residential, or office, uses on upper floors.
14. Newspaper offices and publishers, and commercial printers.
15. Nursery schools, day nurseries, and child care centers, provided that:
  - a. There is provided and maintained a minimum of one-hundred-fifty (150) square feet of indoor and/or outdoor play area per child and provided that such total area shall not be less than five-thousand (5,000) square feet. The Planning Commission may waive these requirements if it determines there is adequate indoor play area, or if there is a public park or playground within the immediate area which can be safely accessed by those children attending such use.
  - b. Such use shall be fenced and screened from any adjoining lot.
  - c. Adequate ingress and egress, and parking and circulation, as determined by the Planning Commission, shall be provided.
  - d. Such use shall not be located within five-hundred (500) feet, or further if determined necessary by the Planning Commission, from those uses the Planning Commission determines to be incompatible or would present a danger to the health, safety and welfare to the children attending such use.
16. Offices of an executive, administrative or professional nature, with up to ten-thousand (10,000) square feet gross floor area.
17. Off-street parking and loading facilities in accordance with Section 1210, Parking, Storage and Loading Spaces.
18. Outdoor cafes, outdoor eating areas, carry-out, and open front restaurants, taverns (pubs) and brewpubs, subject to the following site design standards:
  - a. A minimum of five (5) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. If the sidewalk is not wide enough to allow for a five (5) foot wide clearance for circulation, the outdoor café shall not be permitted.

Planters, posts with ropes, or other removable enclosures are required and must be used to define the area occupied by the outdoor café.

b. Pedestrian circulation and access to building entrances shall not be impaired. A boundary (maximum encroachment width and length) into the public sidewalk shall be established with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of all state and federal regulations.

c. The outdoor café must be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Additional outdoor waste receptacles may be required. Written procedures for cleaning and waste containment and removal responsibilities must be included with all applications and approved by the Planning Commission.

d. Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall compliment building colors. When not in use, all tables, chairs, umbrellas, and other furniture and fixtures must be stored inside the building or elsewhere besides the public sidewalk.

e. A sign must be posted stating “No food or beverages allowed beyond the railing.” Other additional signs are not permitted beyond those permitted for the existing restaurant.

f. Such areas are permitted seasonally between April 1 and October 31. The hours of operation for the outdoor café shall be established and noted with the application.

g. Such areas must include food service in addition to the sale and service of alcoholic beverages.

h. Preparation of food and beverages may be prohibited by the Planning Commission in the outdoor café.

i. Liability issues for use of the public sidewalk shall be addressed and reviewed by the City Attorney.

19. Outdoor theaters (excluding drive-in theaters), plazas, parks, and public gathering places.

20. Personal service shops providing that each occupies a total usable floor area of not more than four thousand (4,000) square feet, including but not limited to such uses as: repair shops (watches, radio, television, shoe, etc.), tailor and dressmaking shops, beauty parlors and styling salons, barber shops, photographic studios, film processing outlets, copy centers, interior decorators, and postal centers.

21. Public, quasi-public, and institutional uses such as, but not limited to, municipal offices, court houses, public off-street parking facilities, libraries, museums, public safety facilities, parks, and civic centers, but excluding storage yards.
  22. Public utility buildings, excluding storage yards.
23. Retail businesses which supply commodities on the premise of up to twenty-thousand (20,000) square feet, such as but not limited to: groceries, meats, fruits and produce, dairy products, baked goods, candies, wine (specialty wine shops only) and other specialty food products (such products can be produced on the premises as an accessory use provided they are sold on the site at retail prices); and stores selling drugs, dry goods, flowers, clothing, notions, books and magazines, toys, sporting goods, shoes, tobacco products, musical instruments, recorded music, video rentals and sales, gifts and souvenirs, furniture, and hardware. Retail sales maybe conducted outdoors on sidewalks provided:
  - a. At least five (5) feet of the sidewalk width is unobstructed for pedestrian traffic.
  - b. All equipment and merchandise is kept indoors during non-business hours.
24. Retail sales in which both a workshop and retail outlet or showroom are required, such as plumbing, electrician, interior decorating, upholstering, printing, photographic-reproducing, radio, and home appliance and similar establishments of similar character subject to the provision that not more than eighty percent (80%) of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities and further provided that such retail outlet or showroom activities area shall be provided in that portion of the building where the customer entrance is located.
25. Restaurants (excluding drive-in restaurants and those with drive-through facilities), taverns (pubs), and brewpubs where the patrons are served while seated within the building occupied by such establishment.
26. Residential dwellings; provided the following conditions are met:
  - a. Single-family detached dwellings shall meet requirements for the R-1 Traditional Neighborhood District. The minimum distance between buildings shall be ten (10) feet. Front building setbacks shall equal the average setback line of the block. Building setback to any side property line shall be thirty (30) feet, except where adjacent to single-family residential property. Driveways, parking and walls may be within the setback as long as a ten (10) foot greenbelt area is placed between the property line and any improvement.
  - b. Multiple housing dwelling units and attached single family units (i.e. duplexes, townhouses) shall meet requirements of appropriate multiple family residential districts, as determined by the Planning Commission.

In a multiple-family development within the CBD Central Business District, the total number of rooms (not including kitchen, dining and sanitary



facilities) shall not have more than the area of the parcel in square feet, divided by a factor of one thousand two hundred (1,200). If such multiple housing is within a mixed-use building a factor of eight-hundred (800) shall apply pursuant to the following.

- (1) Business, commercial, office, and warehouse uses may occupy a building used for residential uses provided that no such business or office use may be located on same floor as used for residential purposes, and no floor may be used for business, commercial, office, or warehouse use on a floor located above a floor used for residential purposes. Further, where there is mixed business/office and residential use in a building there shall be provided a separate, private pedestrian entranceway for the residential use. Warehouse uses must be related to a business, commercial, or office use located elsewhere within the same building.

27. Studios for art, music, dance, or theatrical instruction.
28. Theaters, assembly halls, community centers, or similar places of assembly when conducted completely within enclosed buildings.
29. Accessory buildings and uses customarily incidental to the above Permitted Principal Uses.

## **SECTION 702. USES PERMITTED BY SPECIAL APPROVAL**

In the CBD, the following uses may be permitted subject to applicable site design standards hereinafter imposed and subject further to the special approval procedures of Article XVII, Site Plan and/or Special Use Approval:

1. Business with low intensity drive-through facilities (such as but not limited to banks and credit unions, pharmacies, party stores, etc. excluding drive-through restaurants).
2. Cocktail lounges (night clubs), provided the following conditions are met:
  - a. No outdoor café, outdoor eating area, carry-out, and open front area shall be permitted.
  - b. The Planning Commission may waive the above requirement and the thirty percent (30%) floor area limitation for existing buildings only if a full-service menu is provided for the on-site consumption of food, and the Commission determines that the use is more characteristic of a tavern (pub) than a cocktail lounge (night club).
3. Commercial parking lots and structures.
4. Indoor recreational centers, including mechanical amusement device arcades, pinball parlors and pool or billiard halls.

5. Mortuaries and funeral homes.
6. Party Stores.
7. Senior housing and housing for the elderly.
8. Supermarkets, provided the Planning Commission determines sufficient off-street parking and loading areas are provided.
9. Uses similar to the principal permitted uses provided in Section 801, Uses Permitted By Right, after the Planning Commission has determined that such uses are in harmony with the character of the District and the purpose and intent of the Master Plan of the City.
10. Wireless Communications support structures subject to the provisions of Section 1218.

### **SECTION 703. REQUIRED CONDITIONS**

Renovation of existing buildings or construction of new buildings in the CBD shall comply with the design standards contained in the “Design Standards for the Central Business District”. The Planning Commission may modify the design standards provided the resulting development is consistent with the intent of the CBD.

## **ARTICLE VIII. B-1 SERVICE BUSINESS DISTRICT**

### **SECTION 800. STATEMENT OF PURPOSE**

This district classification is designed to provide small scale convenience commercial uses serving the needs of the surrounding residential neighborhood.

### **SECTION 801. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. Except for the following, and subject to any and all conditions imposed thereon, any structure or use permitted by right in an R-2 district:
  - a. One-family detached dwelling unit.
  - b. Multiple dwelling unit of any type.
  - c. A model dwelling unit.
2. Office building for any of the following occupations: executive, management, administrative, writing, clerical, stenographic, or drafting.
3. Generally recognized retail sales business that supplies commodities on the premises for use or consumption off the premises, such as, but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
4. Personal service establishment that performs services on the premises, such as, but not limited to: repair shop (watches, radio, television, shoe, upholstery, and etc.), tailor shop, dressmaker, beauty parlor or barber shop, photography studio, interior decorator, or self-service laundry or dry cleaner.
5. Dry cleaning establishment, or pick-up station, dealing directly with the consumer. Central dry cleaning plants serving more than one (1) retail outlet shall be prohibited.
6. Business establishment that performs services on the premises, such as, but not limited to: bank, loan company, abstract and/or title company, insurance office or real estate office; including drive-in facilities as an accessory use only.
7. Professional service office including the following: lawyer, architect, engineer, doctor, dentist, osteopath, accountant, broker and similar or allied profession, including clinics.

8. Post office or publicly owned office and meeting building serving persons living in the local area.
9. Off-street parking lot or facility.

10. Private club, fraternal organization or lodge hall.
11. Restaurant or other place serving food or beverage, except those having the character of a drive-in or drive-through.
12. Assembly hall, concert hall or similar place of assembly.
13. Business school or college or private school operated for profit.
14. Mortuary or funeral home, subject to the following:
  - a. All activities shall take place within the principal building and not in an accessory building. A caretaker's dwelling unit may be provided within the principal building.
  - b. The lot shall be at least one (1) acre and a minimum width of one hundred fifty (150) feet.
  - c. The lot shall be located on a major thoroughfare or collector street with all motor vehicle ingress and egress therefrom.
  - d. Adequate assembly areas shall be provided off-street for vehicles to be used in funeral processions in addition to required off-street parking requirements.
  - e. Front, side and rear yards shall be at least forty (40) feet, except on those sides adjacent to non-residential districts which shall be twenty (20) feet. All yards shall be appropriately landscaped in trees, shrubs, and grass. No structures or parking areas shall be permitted in said yards, except that rear yards may be used for parking purposes under requirements specified, and except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.
15. Wireless Communications facilities and services subject to the provisions of Section 1218.
16. Accessory building or use.

## **SECTION 802. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

1. One-family detached dwelling unit subject to the requirements of the R-2 district.

2. Multiple dwelling unit, including apartment building, and town house,, but excluding hotel and motel.
3. One model dwelling unit for each project or subdivision.

4. Essential services, subject to the following:
  - a. No building shall be closer than forty (40) feet to any property or street line.
  - b. No more than twenty-five (25%) per cent of the lot area may be covered by buildings.
  - c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
  - d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area, and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
5. Home occupation.
6. Bowling alley, billiard hall, indoor archery range, indoor tennis court, indoor skating rink, indoor theater, or similar forms of indoor commercial recreation; provided activities are conducted within a completely enclosed main building, and, provided further, that all buildings are set back at least one hundred (100) feet from any adjacent residential lot.
7. Veterinary hospital or clinic; provided that all activities are conducted within a completely enclosed main building, and, provided further, that all buildings are set back at least two hundred (200) feet from any adjacent residential lot.
8. Accessory building or use.
9. Any structure or use which, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.
10. Wireless Communications support structures subject to the provisions of Section 1218.

### **SECTION 803. REQUIRED CONDITIONS**

1. Any single use occupying more than 15,000 gross square feet shall require special use approval and must comply with the following specific development standards:
  - a. Applicant must demonstrate that there is a public need for the proposed use by identifying any similar existing uses within the service area of the proposed use.

2. Development within the B-1, Service Business District shall be designed to be compatible with the surrounding residential development.
3. Off-street parking shall be located to the side or rear of the principal building(s)



4. Principal buildings shall be located adjacent to the existing or planned right-of-way of any adjacent public or private roads.
5. Concrete masonry units (CMU) and EIFS shall be used sparingly with no more than twenty-five percent (25%) of the street facing building elevations consisting of these materials.

## **ARTICLE IX. B-2 GENERAL BUSINESS DISTRICT**

### **SECTION 900. STATEMENT OF PURPOSE**

This district classification is designed to permit commercial uses catering to business and industrial customers as well as the general public.

### **SECTION 901. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. Except for the following, and subject to any and all conditions imposed thereon, any structure or use permitted by right in a B-1 district:
  - a. One-family detached dwelling unit.
  - b. Multiple dwelling unit of any type.
  - c. A model dwelling unit.
2. Utility and public service facilities and uses, excluding storage yards, when operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity, subject to the following:
  - a. No building shall be closer than forty (40) feet to any property or street line.
  - b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
  - c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
  - d. Where mechanical equipment is located in the open air, it shall be screened from the surrounding area by an obscuring wall, fence, or planting area and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
3. Bus, train, or air passenger station or terminal.
4. New or used car salesroom, showroom or office.
5. Kennel or pet shop when completely enclosed in a building.
6. Wholesale sale of only candy, drugs, jewelry, novelties, professional, barber, beauty, or office supplies, radio or television supplies, or tobacco products.
7. Automatic dry cleaning or laundry.

8. Greenhouse or nursery.
9. Photostat or blueprint service.
10. Radio or television station.
11. Indoor or outdoor sale or rental of new or second-hand automobiles, trucks, mobile homes, but excluding junk, all subject to the following:
  - a. The outdoor lot shall be provided with a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulated within the area.
  - b. Access to the outdoor lot shall be at least sixty (60) feet from the intersection of any two (2) streets.
  - c. No dismantling and no major repair or major refinishing shall be done on the lot.
12. Motel, subject to the following:
  - a. The minimum lot area shall be one (1) acre.
  - b. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
  - c. Each unit shall contain not less than two hundred fifty (250) square feet of floor area.
  - d. The front set back line shall be at least forty (40) feet and the side and rear set back lines shall be at least thirty (30) feet.
13. Business in the character of a drive-in or open front store, subject to the following:
  - a. A setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street must be maintained.
  - b. Access points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
14. Veterinary hospitals or clinics; provided that all activities are conducted within a completely enclosed main building, and, provided further, that all buildings are set back at least two hundred (200) feet from any adjacent residential lot.
15. Open air business as follows and when developed as follows:
  - a. Retail sale of plant material not grown on the site, or sale of lawn furniture, playground equipment or garden supplies; provided that:

- (1) The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
  - (2) The storage of any soil, fertilizer, or other loose, unpackaged material shall be contained so as to prevent any affects on adjacent lots.
- b. Recreational space for children's amusement parks or other similar recreation, but not at the intersection of two (2) major thoroughfares. Such recreation space shall be fenced on all sides with a four (4) foot chain link type fence.
- 16. Bowling alley, billiard hall, indoor archery range, indoor tennis court, indoor skating rink, indoor theater, or similar form of indoor commercial recreation; provided that all activities are conducted within a completely enclosed building, and, provided further, that all buildings are set back at least one hundred (100) feet from any adjacent residential lot.
- 17. Hotel.
- 18. Wireless Communications facilities and services subject to the provisions of Section 1218.
- 19. Accessory building or use.

## **SECTION 902. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

- 1. One-family detached dwelling unit.
- 2. Multiple dwelling unit, including apartment building, town house, and condominium, but excluding hotel and motel.
- 3. One model dwelling unit for each project or subdivision.
- 4. Drive-in theater, subject to the following:
  - a. The site shall be located on a major thoroughfare.
  - b. All motor vehicle ingress and egress shall be from said thoroughfare. Local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the major thoroughfare.
  - c. All points of entrance or exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
  - d. Vehicles exiting the site shall have a clear sight distance at least five hundred (500) feet in either direction along the thoroughfare from the exit.
  - e. Acceleration and deceleration lanes shall be provided at points of ingress and egress to the site. Left turns at entrances and exits shall be prohibited.

- f. A minimum yard of one hundred (100) feet shall separate all uses, operations, and structures, including fences, from any public street or highway used for access or exit purposes.
- g. The drive-in theater shall be enclosed for the full periphery of the site used with a solid screen fence at least eight (8) feet in height. The fence shall be of sound construction, painted or otherwise finished, attractively and inconspicuously.
- h. One (1) drive-in theater ticket gate shall be provided for each three hundred (300) car capacity or fraction thereof of the theater. Motor vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least thirty (30%) percent of the vehicular capacity of the theater.
- i. Drive-in theater picture screens shall not be permitted to face any public street and shall be so located as to be out of view of any major thoroughfare. The picture screen shall not exceed sixty-five (65) feet in length.

5. Home occupation.

6. Lumber yard or building supply or equipment rental or retail sales.

- 7. Temporary outdoor use such as a display, Christmas tree sales lot, revival tent, or other quasi-civic activity may be permitted on A temporary basis without a public hearing by the Planning Commission; provided that such permit shall not be issued for more than thirty (30) days in any one (1) year and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
- 8. Gasoline service station and/or Automobile repair station, subject to the following:
  - a. An automobile service station shall be located on a lot having frontage along the principal street of not less than one hundred fifty (150) feet, minimum lot depth of one hundred fifty (150) feet, and having a minimum area of not less than twenty-two thousand five hundred (22,500) square feet.
  - b. An automobile service station with convenience retail facilities shall be located on a lot having frontage along the principal street of not less than one hundred fifty (150) feet, a lot depth of not less than two hundred (200) feet, and having a minimum area of not less than thirty thousand (30,000) square feet.
  - c. An automobile service station with an auto wash facility and/or provides retail sale of diesel fuel shall be located on a lot having frontage along the principal street of not less than two hundred (200) feet, a lot depth of not less than two hundred fifty (250) feet, and having a minimum area of not less than fifty thousand (50,000) square feet.
  - d. An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line, and not less than twenty-five (25) feet from any side or rear lot line adjoining a residentially zoned district.

- e. All driveways providing ingress to or egress from an automobile service station shall be not more than thirty (30) feet wide at the property line. Curbs, curb cuts, driveway widths and acceleration or deceleration lanes shall meet the requirements of the City of Bad Axe or other agency having jurisdiction thereof. No driveway or curb opening shall be located closer than fifty (50) feet from any intersecting street right-of-way line or any adjacent residential use or residentially zoned property. Only one driveway from any abutting street shall be allowed unless the Planning Commission determines that additional drives would improve traffic conditions on site and any abutting streets.
- f. An automobile service station with an automobile wash on the site may have one (1) additional curb cut. The additional curb cut shall be restricted to an exit only to serve the automobile wash and shall not be located closer than fifty (50) feet from any intersecting street right-of-way line, adjacent residential use or residentially zoned property, or other curb cut serving the facility.
- g. A circulation plan must be submitted illustrating the dominant access turning movements of trucks onto and within the site.
- h. Storage of vehicles awaiting repair shall be limited to no more than five (5) such vehicles for each repair bay. In no case shall vehicles be stored for a period in excess of fifteen (15) days.
- i. In order to facilitate safe pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window.
- j. There shall be no outdoor storage or display of vehicle components, parts, supplies, equipment, or merchandise except within an area defined on the site plan approved by the Planning Commission and which extends no more than ten (10) feet beyond the building.
- k. Storage of wrecked, partially dismantled, or other derelict vehicles is prohibited, unless such storage is required under police or court order.
- l. In the event that an automobile service station use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises.
- m. A raised, concrete curb six (6) inches in height shall be erected by the applicant along all street lot lines, except for driveway openings.
- n. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier or six (6) inch concrete curb.
- o. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline

pumps shall be located not less than twenty-five (25) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.

p. p. Where an automobile service station adjoins a residential use or property located in any residential zone, a solid, decorative masonry wall six (6) feet in height shall be erected and maintained along the lot line, or if separated from the residential zone by an alley, then along the alley lot line. In addition, all outside trash areas of used tires, auto parts and other items shall be enclosed on all sides other than for an opaque access door, by a five (5) foot solid, decorative masonry wall. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall. Said masonry wall may be required by the Planning Commission where a service station adjoins a nonresidential use such as an office building, medical center, day nursery, or landscaped area of other types of nonresidential uses. Walls may be gradually reduced in height (e.g., stepped down) within twenty-five (25) feet of any street right-of-way.

q. q. All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property. All canopy lighting shall be recessed.

9. 9. Fast Food establishment with a drive through facility subject to the following:

a. a. Points of ingress and egress shall not be located less than one hundred (100) feet from the intersection of any two (2) streets.

b. b. The site will be adjacent to a major or secondary thoroughfare, and all points in ingress and egress will be directly onto said thoroughfare or onto a commercial or industrial street or service drive.

c. c. Lighting will be directed away from adjacent residential areas or to prevent direct glare onto adjacent thoroughfares.

d. d. Adequate waiting or standing areas for vehicles shall be provided on-site so that no vehicle is required to wait, stand, or be stored within a right-of-way.

e. e. Within the front or side yard adjacent to any street, there shall be a landscaped planting area of not less than fifteen (15) feet in width which shall meet the standards of Article XIII.

- f. f. A wall and/or greenbelt meeting the standards of Section 1217 and/or 1305 shall be provided along any property line which abuts any residential use.

10. 10. Car wash.

11. 11. Accessory building or use.

12. 12. Any structure or use that, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.

13. 13. Wireless Communications support structures subject to the provisions of Section 1218.

14. 14. Essential services subject to the following:

- a. a. No building shall be closer than forty (40) feet to any property or street line.
- b. b. No more than twenty-five (25%) percent of the lot area may be covered by buildings.
- c. c. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to any other buildings on the same site development.
- d. d. Where mechanical equipment is located in the open air, it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.



## **ARTICLE X. IN INDUSTRIAL DISTRICT**

### **SECTION 1000. STATEMENT OF PURPOSE**

This district classification is designed so as to accommodate wholesale activities, warehouses, and manufacturing, assembling, fabricating, processing, and compounding activities.

### **SECTION 1001. USES PERMITTED BY RIGHT**

The following structures and/or uses shall be permitted by right:

1. Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
2. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building:
  - a. Warehousing and wholesale establishment, storage or trucking facility.
  - b. Manufacturing, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, and hardware; and cutlery, tool, die, gauge and machine shops.
  - c. Manufacturing, compounding, assembling, or treatment of articles or merchandise from previously prepared materials like bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood, or yarns.
  - d. Manufacturing of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
  - e. Manufacturing of musical instruments, toys, novelties, or metal or rubber stamps, or other small molded rubber products.
  - f. Manufacturing or assembling electrical appliances, electronic instruments and devices, radios or phonographs.
  - g. Laboratories - experimental, film, or testing.
  - h. Manufacturing or repairing of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves or the like.
  - i. Central dry cleaning plant or laundry; provided that such plant shall not deal directly with the consumer at retail.

3. Storage facility for building materials, sand, gravel, stone, lumber, or storage or contractor's equipment and supplies; provided such is enclosed within a building or within an obscuring wall or fence.
4. Trade or Industrial school.
5. Machinery or equipment sales or storage.
6. Lumber or planing mill when completely enclosed.
7. Metal plating, buffing or polishing.
8. Motor freight warehouse.
9. Gasoline or petroleum storage. (All storage of flammable liquids shall comply to the Michigan Flammable Liquids Regulations, as emended, as promulgated and adopted by the Michigan State Police Fire Marshal Division. All dikes that are required shall be made of a material designed to be bquid tight and must be approved by the City Planning and Zoning Commission.) All existing facilities must comply with this section within five (5) years from the date of passage of this Ordinance.
10. Wireless Communications facilities and services subject to the provisions of Section 1218.

## **SECTION 1002. USES PERMITTED BY SPECIAL APPROVAL**

The following structures and/or uses shall be permitted, but only by special approval granted by the Planning Commission:

1. Ready-mix concrete or asphalt plant.
2. Coal, coke, or fuel yard.
3. Grain or seed elevator or sales; cold storage for cooperative or wholesale agricultural products; or similar enterprise which is directly related to agriculture.
4. Heating or electrical power generating plant.
5. Slaughter house.
6. Any of the following uses; provided that they are located not less than one thousand (1,000) feet distant from any residential lot and not less than five hundred (500) feet distant from any other lot:
  - a. Blast furnace, steel furnace, blooming or folling mill.
  - b. Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris.
  - c. Production or refining of petroleum or other inflammable liquids.
  - d. Smelting of copper, iron, or zinc ore.

7. Storage, manufacture, processing or utilization of materials or products which decompose, by detonation or otherwise, on the premises.
8. Radio or television towers or public utility microwaves and their attendant facilities; provided said use shall be located centrally on a lot of not less than one and one-half (1-1/2) times the height of the tower measured from the base of said tower to all points on each property line.
9. Mining operations and incidental mineral processing, subject to the following:
  - a. No excavation shall be permitted closer than one hundred fifty (150) feet from an interior lot line except where lateral support approved by the Planning Commission is provided in which event excavation shall be permitted no closer than fifty (50) feet from an interior lot line.
  - b. No excavation shall be permitted closer than one hundred fifty (150) feet from a right-of-way.
  - c. No excavation shall be permitted closer than one hundred (100) feet from the banks of a stream or waterway.
  - d. No permanent processing plant, digging or excavating apparatus, stock piling, or loading of materials shall be permitted closer than two hundred fifty (250) feet from an interior lot line or right-of-way.
  - e. Sight barriers and such noise and air pollution abatement measures as deemed necessary by the Planning Commission shall be provided.
  - f. Operation of the use shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m. and never on Sunday.
  - g. All pits and excavations shall be fenced and posted with signs so as to prevent injury to children.
  - h. Reclamation and rehabilitation of mineral areas shall be commenced immediately upon termination of mining or excavation of one (1) acre or more and shall be completed within one (1) year thereafter.
  - i. Prior to the issuance of any use permit for this purpose, the Planning Commission shall require the following:
    - (1) A site plan which shall include a time table of the planned mining, excavation, reclamation, and rehabilitation of the area together with a report from a qualified soil scientist, soil engineer, or geologist indicating the effect the project will have on the water shed.
    - (2) A performance bond to insure the proper reclamation and rehabilitation of the area in an amount to be set by the Planning Commission for each acre proposed to be mined or excavated in the following twelve (12) months and previously mined and not reclaimed and

rehabilitated. The bond shall be reviewed by the Planning Commission annually and adjusted, but shall never be for an amount less than three thousand (\$3,000.00) dollars. The bond shall be filed with the City Clerk.

- (3) A certificate of insurance which shall be filed annually with the City Clerk and which shows that the operator is carrying personal injury and property damage insurance in an amount not less than one hundred thousand (\$100,000.00) dollars for each person injured or property damaged and three hundred thousand (\$300,000.00) dollars for injury or damage to more than one person or person's property arising out of one occurrence.

- j. Any use permit issued for this purpose shall be valid for one (1) year and shall be automatically renewed annually unless revoked. The Zoning Inspector shall monitor the use of the premises and compliance with these provisions. A violation which continues for thirty (30) days after the Zoning Inspector has given personal or first class mail notice to the operator shall cause the permit to be automatically revoked and void.

- 10. Accessory building or use.
- 11. Any structure or use that, in the opinion of the Planning Commission, is similar to a structure or use permitted by right or by special approval of the Planning Commission in this zoning district.
- 12. Wireless Communications support structures subject to the provisions of Section 1218.

### **SECTION 1003. REQUIRED CONDITIONS**

- 1. No industrial use shall have traffic access upon any street which has the principal function of providing access to residential lots.

2. All loading areas shall be located so they are not visible from a public or private road.
3. All truck maneuvering shall take place on private property.
4. The facade of the building facing a public or private street must contain a minimum of seventy-five (75%) percent brick, stone, glass, or other comparable material. Decorative masonry blocks and EIFS shall be limited to twenty-five (25%) percent of the any facade that faces a public or private road. Metal panels shall not be permitted on any facade of the building that faces a public or private road.
5. Parking for industrial uses shall be located to the rear of the building. The Planning Commission may allow exceptions to this requirement for visitor parking provided the visitor parking area is screened from any adjacent public or private road with a landscape screen consisting of a continuous row of evergreen shrubs a minimum of thirty (30") inches in height at the time of planting.

**SECTION 1100. SCHEDULE OF AREA, DENSITY, BULK, HEIGHT, AND YARDS**

Zoning District	Minimum Lot Size		Maximum Height of Structures		Minimum Yard Setback Per Lot in Feet for Main Building			Minimum Floor Area for building	Maximum % of Lot Coverage
	Area in sq. ft.	Width in feet	Stories	Feet	Front	Each Side	Rear		
R-1	9,000	60	2	25	25	10	35	1,200sq.ft.	45%
R-2	15,000	100	2 1/2	35	25	10	35	1,500sq.ft.	45%
R-3	15 acres		2 1/2	35					
CBD			3	45			30		
B-1	15,000	100	3	40	50	15	20	1,500sq.ft.	75%
B-2	25,000	100	3	40	50	15	20	1,500sq.ft.	75%
IN	25,000	125	3 1/2	45	50	15	20	1,500sq.ft.	75%

## **SECTION 1101. GENERAL RULES**

The area, density, bulk, height, and yard requirements of the preceding schedule and the following rules shall apply in all cases except where specific provisions are otherwise provided in this Ordinance for a specific use, development, structure, or circumstance, in which event those specific provisions shall apply.

## **SECTION 1102. AREA, DENSITY AND BULK**

1. The area used for computing lot size and density shall be the total site area exclusive of any dedicated public right-of-way except where a lot abuts an alley or lane, in which event ½ of the width of the alley or lane abutting the lot shall be included.
2. There shall be no more than one (1) single family dwelling unit per lot or condominium unit.
3. There shall be no more than twelve (12) multiple dwelling units per acre except for town houses of which there shall be no more than six (6) per acre. For the purpose of computing the permitted number of dwelling units per acre, the following lot area assignments shall control:

<u>Unit Type</u>	<u>Lot Area/Unit</u>
Efficiency	1,200 sq. ft.
1 Bedroom	2,400 sq. ft.
2 Bedroom	3,600 sq. ft.
3 Bedroom	4,800 sq. ft.
4 Bedroom	6,000 sq. ft.

Where plans show one (1) or two (2) bedroom units including a den, library, or other extra room, such extra room shall be counted as a bedroom for the purpose of computing density.

4. No dwelling unit having two or less bedrooms shall have a square foot area of less than seven hundred fifty (750) feet and each additional bedroom shall have an additional one hundred fifty (150) square feet, each being measured around the interior faces of the exterior walls. A room designated as a den, library, or extra room shall be considered a bedroom for computing square footage requirements.
5. All multiple dwelling units shall have at least one (1) living room and one (1) bedroom, except that not more than ten (10%) per cent of the units may be of an efficiency apartment type.
6. Any lot existing and of record on the effective date of this Ordinance may be used for any use permitted in the district in which such lot is located whether or not such lot complies with the lot area requirements of this Ordinance provided all other provisions hereof are complied with.
7. There shall be no minimum lot size, building area requirement for sites zoned B-1 or B-2 located on Huron Avenue between the easterly ROW of Willis Street and the westerly ROW of Scott Street or on Port Crescent, Heisterman, Hanselman, or Scott Street between the northerly ROW of South Street and the southerly ROW of Woodworth Street. In addition, buildings in this area must not be setback from the front or side property lines unless the proposed development includes an existing or proposed public plaza with an approved site plan.

### **SECTION 1103. HEIGHT**

1. A basement shall not be counted as a story unless more than half of the basement height is above the grade level, but that portion of a basement which is above grade level shall be considered in connection with height limitations.
2. The height limitations of this Ordinance shall not apply to chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided, however, that the Planning Commission may specify a height limit for any such structure designated as a use by special approval.

### **SECTION 1104. YARDS**

1. Setbacks shall be measured from the future right-of-way lines or from the center of existing and/or proposed adjacent alleys whichever is greater as set forth in the City's Thoroughfare Plan.
2. When twenty-five (25%) percent or more of all the frontage on one side of a street between two intersecting streets has, on the effective date of this Ordinance, been built up with buildings, the front set back line for that side of the street between those intersecting streets shall be the average setback of the existing homes, or that line established by the preceding schedule whichever is closest to the street line.
3. On corner lots, the side yard abutting a street shall not be less than fifteen (15) feet when there is a common rear yard line. In the ease of a rear yard line abutting a side yard line of an adjacent lot, the side yard abutting a street shall not be less than the minimum front yard of the district in which located.
4. If permanent access is provided to the rear of the property by a public alley or a driveway, the side yard requirement may be waived, except as otherwise specified in applicable Building Codes; provided that if walls of structures facing interior side lot lines contain windows, or other openings, side yards of not less than five (5) feet shall be provided.
5. Every lot on which a two family or a multiple dwelling is erected shall be provided with a side yard on each side of the lot according to Section 1100. The width of each side yard shall be increased by one (1) foot for each ten (10) feet or part thereof, by which the length of the multiple or two family dwelling exceeds forty (40) feet in overall dimension along the adjoining lot line. No two family or multiple dwelling shall exceed one hundred eighty (180) feet in length. The depth of any court shall not be greater than three (3) times the width.
6. Access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached buildings. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement serving a like function and not in excess of nine (9) inches above finished grade shall, for the purpose of this Ordinance, not be considered to be a structure and shall be permitted in any required yard.
7. Unenclosed porches, roofed or unroofed, may project into a required side, front, or rear yard area provided:



- a. The porch is no higher than one (1) story and erected on supporting piers.
  - b. The porch shall not be closer than eight (8) feet to any side or rear lot line, or fifteen (15) feet from the front lot line.
8. Enclosed porches shall be considered an integral part of the building and shall be subject to all yard requirements.
9. Special structural elements such as cornices, sills, chimneys, gutters, and similar structural features may project into any yard up to a maximum of two and one half (2½) feet.
10. Fire escapes, outside stairways and balconies, if of open construction, may project into yard areas up to a maximum of five (5) feet.
11. Paved terraces, patios, uncovered porches and decks shall not be subject to yard requirements; provided:
  - a. The paved area is unroofed and without walls or other forms of solid continuous enclosure that link the paved area to the principal building.
  - b. The highest finished elevation of the paved area is not over two (2) feet above the average surrounding finished grade.
  - c. No portion of any paved area is closer than eight (8) feet from any lot line nor projects into any front yard setback area. Such paved areas may have non-continuous windbreaks or walls not over six (6) feet high and not enclosing more than one-half (½) the perimeter of the paved area.
12. For any industrial structure or use, except for landscape improvements and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, storage, or accessory structures. Side and rear yards, except for a strip along the lot boundary ten (10) feet in width, may be used for parking and loading, but not for storage. The side or rear yard may be eliminated where a railroad service to the site is obtained at the edge of the lot.

#### **SECTION 1105. SUBDIVISION OPEN SPACE PLAN**

1. The intent of the Subdivision Open Space Plan is to promote the following objectives:
  - a. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.
  - b. Encourage developers to use a more creative approach in the development of residential areas.

- c. Encourage a more efficient, aesthetic and desirable use of an open area while recognizing a reduction in development costs and allowing the developer to bypass natural obstacles on the site.
  - d. Encourage the provision of open space within reasonable distance to all lot development of a subdivision and to further encourage the development of recreational facilities.
- 2. Modification of the preceding area, density, bulk, height and yard requirements may be made in residential districts by the Planning Commission when the following conditions are met:
  - a. The lot area in a residential district, which is served by a public sanitary sewer system, may be reduced up to twenty (20%) percent. These lot area reductions shall be permitted; provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for the district.
  - b. Rear yards may be reduced to twenty (20) feet when lots border on land dedicated for park, recreation, and/or open space purposes; provided that the width of said dedicated land shall not be less than one hundred (100) feet measured at the point at which it abuts the rear yard of the adjacent lot.
  - c. For each square foot of land gained within a residential subdivision through the reduction of lot size, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision in a manner provided by the Planning Commission.
  - d. The area to be dedicated for subdivision open space purposes shall in no instance be less than three (3) acres and shall be in a location and shape approved by the Planning Commission.
  - e. The land area necessary to meet the minimum requirements of this section shall not include bodies of water, wetlands or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a flood plain.
  - f. This plan, for reduced lot sizes, shall be permitted only if it is mutually agreeable to the Planning Commission and the subdivision or developer.
  - g. This plan, for reduced lot sizes, shall be started within six (6) months after approval of the final plat or site condominium, and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.
  - h. Under this subdivision open space approach, the developer or subdivision shall ensure that the proposed open space will be permanently preserved either through dedication to a public entity, or a private association.

## **ARTICLE XII. GENERAL PROVISIONS**

### **SECTION 1200. GENERAL**

Except to the extent as may be otherwise specifically provided and in addition to any other applicable provision of this Ordinance, all buildings, structures and/or uses in the City shall be governed by these General Provisions.

### **SECTION 1201. FRONTAGE REQUIREMENTS**

1. Every lot or parcel of record created after the effective date of this Ordinance shall front upon a public street for the required width of the lot as provided in Section 201 of this Ordinance. Lot width shall be measured as defined in the definition of lot width in Article II of this Ordinance.
2. No lot shall be used for any purpose permitted by this Ordinance unless said lot fronts upon a public street; or unless such lot fronts upon a private street which was lawfully constructed prior to the adoption of this Ordinance.
3. The Board of Zoning Appeals may grant an exemption from this requirement in cases where a lot has contained two or more dwelling units since prior to passage of this Ordinance and it is proposed that such lot be split so as to create lots containing only one house each, or in other cases where the requirement would serve no useful purpose. An exemption shall be granted only if the Board of Zoning Appeals determines that the exemption will not be detrimental to the public welfare.

### **SECTION 1202. ACCESSORY BUILDINGS**

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to main buildings.
2. Accessory buildings shall not be erected in any required yard, except a rear yard.
3. An accessory building shall not occupy more than twenty-five (25%) percent of a required rear yard, and in a residential district the accessory building shall not exceed the ground floor area of the main building.
4. No detached accessory building shall be located closer than three (3) feet to any side or rear lot line.
5. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one (1) foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
6. An accessory building may not exceed one (1) story or fifteen (15) feet in height unless approved by the Planning Commission.

7. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in the rear of such corner lot.
8. All motor homes or travel trailers owned by residents of the City and stored on individual lots in residential districts shall be stored only within the confines of the rear yard and shall further comply with the requirements of this section applicable to accessory buildings, insofar as distances from principal structures, lot lines and easements are concerned.
9. Any building erected as a garage or in which the main portion is a garage shall in no case be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the lot and unless it also complies with all the provisions of this Ordinance relating to buildings for residential purposes.
10. A Television Satellite Dish shall not be installed, placed, attached or parked, whether permanent or temporary, on any front or side yard of any residential property within the City. A Television Satellite Dish may be placed in a rear yard of a residential property so long as no part of it extends any closer than eight (8) feet from the property line.
11. No accessory building or use shall exist prior to the establishment of the principal building or use upon the lot except as a temporary building. Such temporary building use shall terminate upon completion of the principal building or buildings upon the lot.

### **SECTION 1203. BASEMENT**

No structure, the major portion of which consists of a basement, shall be occupied for living and/or sleeping purposes by human beings except under a variance permit from the Zoning Board of Appeals for a limited period to permit the construction of the above grade dwelling as shown on appropriate plans submitted by the applicant and provided said board is satisfied with the applicant's ability and intent to complete such construction within said period.

### **SECTION 1204. CONFLICTING REGULATIONS**

Whenever any provision of this Ordinance imposes more restrictive requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more restrictive requirements than are imposed or required by this Ordinance then the provisions of such other law or ordinance shall govern.

### **SECTION 1205. DRIVEWAY STANDARDS**

The intent of this section is to establish standards for driveway spacing and the number of driveways for application during the site plan review process. The standards of this section are intended to promote safe and efficient travel within the township; minimize disruptive and potentially hazardous traffic conflicts;

separate traffic conflict areas by reducing the number of driveways; provide efficient spacing standards between driveways, and between driveways and intersections; implement the Master Plan and other subarea plan recommendations; protect the substantial public investment in the street system; and to ensure reasonable access to properties, though not always the most direct access.

The standards herein apply to site plans and plats along roads which are under the jurisdiction of the Huron County Road Commission or Michigan Department of Transportation (MDOT). Both of those agencies have driveway design and permit requirements, however, those general standards may not be sufficient to meet the particular traffic issues and objectives of the City of Bad Axe. Therefore, the driveway standards herein may be more restrictive than those provided by the road agencies. Construction within the public right-of-way under the jurisdiction of Huron County or MDOT still must also meet the permit requirements of the road agency. Where any conflicts arise, the more stringent standard shall apply.

## 1. Definitions

Arterials, Major Arterials, Collectors, and Local Roads: Arterials, Major Arterials, Collectors, and Local Roads are classified in the City Master Plan. Major Arterial Roads are as follows:

M-53

M-142

Bad Axe Road

Commercial Driveway: For the purposes of this section, a commercial driveway is defined as any vehicular access except those serving one (1) or two (2) dwelling units or an essential public service use, building or structure.

Offset: The distance between the centerline of the subject driveway and the centerline of driveways on the opposite side of the street.

## 2. General Standards for Driveway Location

Driveways shall be located so as to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade.

Driveways, including the radii but not including right turn lanes, passing lanes and tapers, shall be located entirely within the right-of-way frontage. The Planning Commission may modify this requirement provided:

- a. The request will further of public objective identified in the City's Master Plan and;
- b. Approval from Huron County or the Michigan Department of Transportation and;
- c. Written certification from the adjacent property owner agreeing to such encroachment.

### 3. Standards for the Number of Commercial Driveways

The number of commercial driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway. A single means of direct or indirect access shall be provided for each separately owned parcel. Where possible, this access shall be via a shared driveway or a service drive. Where it is not possible to provide shared access, this access may be by a single driveway. Additional driveways may be permitted for a property only under one of the following:

- a. One (1) additional driveway may be allowed for properties with a continuous frontage of over five hundred (500) feet, and one (1) additional driveway for each additional five hundred (500) feet of frontage, if the Planning Commission determines there are no other reasonable access opportunities.
- b. Two (2) one-way driveways may be permitted along a frontage of at least one hundred twenty five (125) feet, provided the driveways do not interfere with operations at other driveways or along the street.
- c. The Planning Commission may determine additional driveways are justified due to the amount of traffic generated by the use without compromising traffic operations along the public street, based upon a traffic impact study submitted by the applicant.

### 4. Driveway Spacing Standards

- a. Between driveways: The minimum spacing between two commercial driveways on the same side of the road shall be determined based upon posted speed limits along the parcel frontage. The minimum spacings indicated below are measured from centerline to centerline.

<b>Posted Speed Limit (MPH)</b>	<b>Minimum Driveway Spacing (In Feet)</b>
25	125
30	155
35	185
40	225
45+	300

For sites with insufficient street frontage to meet the above criterion, the Planning Commission may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service/frontage road.

- b. Offsets: To reduce left-turn conflicts, new commercial driveways should be aligned with driveways or streets on the opposite side of the roadway where possible. If alignment is not possible, driveways should be offset a minimum of two hundred fifty (250) feet along an Arterial or Major Arterial roadway and one hundred fifty (150) feet along other roadways. Longer offsets may be required depending on the expected inbound left-turn volumes of the driveways, or sight distance limitations
- c. Spacing from intersections: Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent or on the opposite side of the street may be set on a case-by-case basis by the Planning Commission during site plan review but in no instance shall be less than the distances listed below. The following measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed sections.

<b>MINIMUM COMMERCIAL DRIVEWAY SPACING FROM STREET INTERSECTIONS</b>		
<b>Location of Driveway</b>	<b>Minimum Spacing for a Full Movement Driveway</b>	<b>Minimum Spacing for a Channelized Driveway Restricting Left Turns</b>
<b>Along Arterial from intersection with another Arterial</b>	300 feet	300 feet
<b>Along Arterial from intersection with a collector or local street</b>	250 feet	125 feet
<b>Along Collector or Local Street from an intersection with an Arterial street</b>	125 feet	75 feet
<b>Along a Collector from intersection with a non-arterial</b>	125 feet	125 feet
<b>Along a Local Street or Private Road from intersection with a non-arterial intersection</b>	75 feet	75 feet

For sites with insufficient street frontage to meet the above criterion, the Planning Commission may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service/frontage road.

## 5. Standards for Shared Driveways and Service/Frontage Roads

The use of service roads, in conjunction with driveway spacing, is intended to preserve traffic flow along major thoroughfares and minimize traffic conflicts, while retaining reasonable access to the property. Where noted above, or where the Planning Commission determines that reducing the number of access points may have a beneficial

impact on traffic operations and safety while preserving the property owner's right to reasonable access, access from a side street, a shared driveway or service road connecting two or more properties or uses may be required. In particular, service drives, frontage roads or at least a connection between uses may be required in the following cases:

- a. Where the driveway spacing standards of this section can not be met.
- b. Where recommended in the City's Master Plan and other corridor or sub-area master plans.
- c. When the driveway could potentially interfere with traffic operations at an existing or potential traffic signal location.
- d. The site is along an Arterial or Major Arterial, particularly along segments experiencing congestion or a relatively high number of accidents.
- e. The property frontage has limited sight distance.
- f. The fire department recommends a second means of emergency access.

6. Design Standards for Service Drives

Service roads, as an alternate to numerous individual driveways serving a series of uses or lots, shall be designed according to the following additional standards:

- a. Location: Service roads shall generally be parallel or perpendicular to the front property line and should be located adjacent to, or behind, principal buildings and may be placed in required yards. The Planning Commission may consider a service road located in front of a principal building provided the service drive contributes to the pedestrian accessibility to the proposed use and adjacent uses, In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.
- b. Access Easement: The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be at least forty (40) feet wide.
- c. Construction and Materials: Service roads shall have a base, pavement, and curb and gutter in accordance with City/County standards, except the width of the service road shall be twenty-six (26) feet wide, measured from curb edge-to-edge.
- d. Parking: The service road is typically intended to be used exclusively for circulation, not as a parking maneuvering aisle. The Planning Commission may require the posting of "no parking" signs along the service road. In reviewing the site plan, the Planning Commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road. The Planning Commission may approve angled or parallel parking.



- e. Access Points: The Planning Commission shall approve the location of all accesses to the service/frontage road, based on the driveway spacing standards of this Article. The throat depth of the access points shall be considered adequate to minimize conflicts with traffic on the public road, in consideration of expected traffic volumes.
- f. Temporary Access: The Planning Commission may approve temporary access points where a continuous service road is not yet available and a performance bond or escrow is created to assure elimination of temporary access when the service road is continued.
- g. Elevation: The site plan shall indicate the proposed elevation of the service/frontage road at the property line and the Township shall maintain a record of all service road elevations so that their grades can be coordinated.
- h. Maintenance: Each property owner shall be responsible for maintaining the service/frontage road.

7. Commercial Driveway Design

Commercial driveways shall be designed according to the standards of the Huron County Road Commission or MDOT, as applicable, and in accordance with the following:

- a. For high traffic generators, or for commercial driveways along roadways experiencing or expected to experience congestion, all as determined by the Planning Commission, two (2) egress lanes may be required (one being a separate left turn lane).
- b. Where a boulevard entrance is desired by the applicant or Planning Commission, a fully curbed island shall separate the ingress and egress lanes. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will normally use the driveway. The minimum area of the island shall be one hundred eighty (180) square feet. The Planning Commission may require landscaping within the curbed island. Such landscaping shall be tolerant of roadway conditions. Direct alignment of boulevard entrances is discouraged.
- c. All commercial driveways shall provide an unobstructed clear vision area between a height of three (3) feet and ten (10) feet in a triangular area measured ten (10) feet back from the point of intersection of the driveway and the street right-of-way (see graphic)

8. Standards For Shared Residential Driveways (Residential Zoning Districts)

- a. The number of residential driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway. A single means of direct or indirect access shall be provided for each separately owned parcel. Where possible along arterials and collectors, access shall be via a shared driveway. Where it is not possible to provide shared access, this access may be by an individual driveway.

- b. A lot split for a parcel that has frontage along an arterial road that will result in more than one parcel with access to said arterial, shall meet the following shared access requirements:

Road Type	One Driveway For Each
M-53/M-142	500 ft. of frontage
Other Arterials	250 ft. of frontage
Other Roads	Based on minimum lot width (frontage) of the zoning district

- c. All lots created that do not provide the above required frontage shall have shared access from the single driveway meeting the standards of subsection e below, a private road meeting the standards of the Township Private Road Ordinance or a public street.
- d. The Planning Commission may approve additional driveways where safe traffic operations will be maintained based upon vehicular speeds, traffic volumes relationship to other access points, sight distance and comments of MDOT or the Huron County Road Commission.
- e. Two (2) single-family lots may have access from a private driveway when the following conditions are met:
- (1) The driveway surface shall be a uniform minimum sixteen (16) feet wide, measured edge to edge. The width may be reduced to twelve (12) feet if the length of the shared driveway is less than three hundred (300) feet or if there are significant topographic, wetland, or other natural features on the site and sixteen (16) foot wide passing flares are provided at least every three hundred (300) feet.
  - (2) The driveway shall be constructed of materials suitable to accommodate emergency vehicles.
  - (3) There shall be a recorded shared access easement. The applicant shall provide record of the shared access agreement and documentation that shared access agreement has been recorded with the Huron County Registrar of Deeds prior to the issuance of a Land Use permit.
  - (4) The driveway shall be maintained by the landowners to ensure adequate access for emergency vehicles. (It is the land owners responsibility to maintain this access).

9. Modification of Standards for Special Situations

During site plan review the Planning Commission shall have the authority to modify the standards of this Article upon consideration of the following:

- a. The standards of this section would prevent reasonable access to the site.
- b. Access via a shared driveway or service/frontage road is not possible due to the presence of existing buildings or topographic conditions.
- c. Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
- d. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
- e. The proposed location and design is supported by the Huron County Road Commission or MDOT as an acceptable design under the conditions. The Planning Commission may also request the applicant provide a traffic impact study to support the requested access design.
- f. The modification shall be of the minimum amount necessary, but in no case shall spacing of a full-access driveway be less than sixty (60) feet, measured centerline to centerline.
- g. Where there is a change in use or expansion at a site that does not comply with standards herein, the Planning Commission shall determine the amount of upgrade needed in consideration of the existing and expected traffic pattern and the capability to meet the standards herein to the extent practical. (See also section 1209 Nonconforming Uses).

## **SECTION 1206. HOME OCCUPATIONS**

A home occupation, where permitted, shall be subject to the following limitations:

- 1. It shall occupy no more than twenty (20%) percent of the floor area of the dwelling unit.
- 2. It shall be operated in its entirety within the dwelling and not within any garage or accessory building located on the lot, except for incidental storage in or use of a residential-type garage on the lot except educational or instructional lessons.
- 3. It shall not have a separate entrance from outside the dwelling.
- 4. It shall be conducted only by the person or persons occupying the dwelling as their principal residence a major portion of each month; provided, however, the Planning Commission may permit additional subordinate workers who do not reside in the dwelling when such approval would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional workers exceed three (3) in number.
- 5. The dwelling and/or lot shall have no exterior evidence to indicate that the same is being utilized for any purpose other than that of a dwelling except for one unanimated, non-illuminated, wall sign having an area of not more than three (3) square feet.

6. No goods shall be sold from the premises that are not strictly incidental to the principal home occupation conducted therein.
7. No mechanical equipment shall be used except that which is used normally for purely domestic or household purposes.
8. No occupation shall be conducted upon or from the premises which would constitute a nuisance.
9. Any home occupation shall be subject to annual inspection by the Zoning Inspector and may be terminated by order of such inspector whenever it fails to comply with this Ordinance.
10. The Planning Commission shall have authority to determine whether or not a proposed or present home occupation complies with this Ordinance, whether or not it is compatible with the character of the zoning classification in which located, and whether or not the health, safety, and general welfare of the neighborhood will thereby be impaired.
11. Educational or instructional lessons may be permitted provided there are no more than 10 students on the premises at any given time.

#### **SECTION 1207. INTERPRETATION**

In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, and/or general welfare of the City.

#### **SECTION 1208. LIGHTING**

##### **Lighting Definitions**

1. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
  - a. **CANOPY STRUCTURE:** Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.
  - b. **FLOOD OR SPOT LIGHT:** Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.
  - c. **GLARE:** Direct light emitted by a lamp, luminous tube lighting or other light source.
  - d. **LAMP:** The component of the luminaire that produces the actual light including luminous tube lighting.
  - e. **LIGHT FIXTURE:** The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

- f. **LIGHT POLLUTION:** Artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.
- g. **LIGHT TRESPASS:** The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
- h. **LUMINAIRE:** The complete lighting system including the lamp and light fixture.
- i. **LUMINOUS TUBE LIGHTING:** Gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.
- j. **OUTDOOR LIGHT FIXTURES:** Outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement.
- k. **SHIELDED FIXTURE:** Outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, e.g. "shoebox-type" fixtures. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this Section.

2. Unless exempted under sub-section 3. Exemptions below, all lighting must comply with the following standards:

- a. **Freestanding Pole Lighting**
  - (1) Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light within a site shall not exceed ten (10) footcandles within any site or one (1) footcandle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 footcandles is permitted. The only exception is with gas station canopy and automobile dealership lighting, where a maximum of twenty (20) footcandles is permitted within the site but the above standards shall apply to intensity at the property line
  - (2) Metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the City and prevent "sky glow."
  - (3) The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.
  - (4) The maximum height of parking lot light fixtures shall be twenty (20) feet, except that the Planning Commission may permit a maximum height of thirty (30) feet in a CBD or IND District when the poles are no closer than one hundred fifty (150) feet to a residential district or use.

- (5) Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within commercial, industrial and office zoning districts shall be turned off between 11:00 p.m. and sunrise, except when used for commercial and industrial uses, such as in sales, assembly and repair areas, where such use continues after 11:00 p.m. but only for so long as such use continues.

b. Building-Mounted Lighting

Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light shall not exceed ten (10) foot candles within any site or one (1) footcandle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 foot candles is permitted at the property line.

- (1) Metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the City and prevent "sky glow".
- (2) The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.
- (3) Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g. along the roof line and eaves, around windows, etc. The Planning Commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.

c. Window Lighting

- (1) Any light fixtures visible through a window must be shielded to prevent glare at the property line.
- (2) Luminous tube and exposed bulb fluorescent lighting (visible from the property line) is prohibited unless it is part of a sign that meets the requirements of Section 1212 Signs of this Ordinance.

d. Other Lighting

- (1) The internal illumination of building-mounted canopies is prohibited.
- (2) Indirect illumination of signs, canopies and buildings is permitted provided a maximum one hundred twenty-five (125) watt bulb is utilized and there is no glare.
- (3) Lighting shall not be of a flashing, moving or intermittent type. Luminous tube and exposed bulb fluorescent lighting is permitted as part of a sign meeting the requirements of Section 1212 SIGNS of this Ordinance.

3. Exemptions

The following are exempt from the lighting requirements of this Section, except that the Building Official/Zoning Administrator may take steps to eliminate the impact of the above exempted items when deemed necessary to protect the health, safety and welfare of the public:

- a. Sports fields.
- b. Swimming pools.
- c. Holiday decorations.
- d. Window displays without glare.
- e. Shielded pedestrian walkway lighting.
- f. Soffit lighting.
- g. Residential lighting with no off-site glare.
- h. Street lights.

4. Lamp or Fixture Substitution

Should any light fixture regulated under this Article, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the Building Official/Zoning Administrator for his approval, together with adequate information to assure compliance with this Ordinance, which must be received prior to substitution.

5. Submittal Requirements

The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required by the Building Official/Zoning Administrator prior to lighting installation:

- a. Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.
- b. Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in foot candles).
- c. Specifications and details for the type of fixture being proposed including the total lumen output, type of lamp and method of shielding.
- d. Use of the fixture proposed.
- e. Any other information deemed necessary by the Building Official/Zoning Administrator to determine compliance with provisions of this Section.

**SECTION 1209. NONCONFORMING USES**

- 1. Any building or structure for which a building permit has been issued and the actual construction of the whole or a part of which has been started, or for which a contract

or contracts have been entered into pursuant to a building permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and application on which said building permit was granted. Failure to start construction within thirty (30) days or complete construction of any such building or structure within one (1) year after the effective date of this Ordinance shall be a violation.

2. Any sign or object which lawful existed and was maintained at the time this Ordinance became effective may be continued even though such use does not conform with the provisions of this Ordinance; provided that, all such nonconforming signs and objects and their supporting members located in R-1, R-2, or B-1 districts shall be completely removed from the premises within five (5) years from the effective date of this Ordinance.
3. There may be a change of tenancy, ownership, or management of an existing nonconforming use of land or structure, or land and a structure in combination; provided there is no change in the nature or character of such nonconforming use.
4. Where a lawful structure exists on the effective date of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, density, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful; subject to the following:
  - a. A structure which is nonconforming as to use regulations, shall not be added to or enlarged in any manner unless such structure, including such additions and enlargements, is made to conform to all regulations of the district in which it is located.
  - b. A structure nonconforming as to height or density regulations, may be added to or enlarged if such addition or enlargement conforms to the regulations of the district in which it is located.
  - c. When a structure or portion thereof is moved from one district to another or to another location within the same district, it must conform or be made to conform to all of the regulations of the district to which it is moved.
  - d. A nonconforming use of a portion of a structure, which structure otherwise conforms to the provisions of this Ordinance, shall not be expanded or extended into any other portion of such conforming structure, nor changed except to a conforming use. If such nonconforming use or portion thereof is discontinued or changed to a conforming use, any future use of such structure or portion thereof shall be in conformity with the regulations of the district in which such structure is located.
  - e. Should such structure be destroyed by any means to an extent of more than fifty (50%) percent of its latest state equalized value, it shall be reconstructed only in conformity with the provisions of this Ordinance.
  - f. On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50%) percent of the latest state equalized value of the structure; provided that the cubic content of the structure as it existed on the effective date of this Ordinance shall not be increased. Nothing in this Ordinance shall be deemed to prevent the



strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

5. When, on the effective date of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance, such use may be continued, so long as it remains otherwise lawful; subject to the following:
  - a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Ordinance.
  - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of this Ordinance.
  - c. If such nonconforming use of land ceases for any reason for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations for the district in which such land is located.
  - d. No structure shall be placed on this land except in conformity with the provisions of this Ordinance.
6. If a lawful use of a structure, or of structure and land in combination, exists on the effective date of this Ordinance, that is made no longer permissible under the terms of this Ordinance, such lawful use may be continued so long as it remains otherwise lawful; subject to the following:
  - a. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except to change the use of the structure to a use permitted in the district in which it is located.
  - b. Any nonconforming use may be extended throughout any parts of a structure which were manifestly arranged or designed for such use, and which existed on the effective date of this Ordinance, but no such use shall be extended to occupy any land outside such structure.
  - c. If no structural alterations are made, any nonconforming use of a structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification; provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance. When a nonconforming use of a structure, or structure and land in combination, is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
  - d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

- e. When a nonconforming use of a structure, or structure and land in combination, is discontinued, vacated, unoccupied, or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three (3) year period, it shall be conclusively presumed that same has been legally abandoned; and the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision. Seasonal uses shall be determined by the Planning Commission in their sole discretion.
  - f. When nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
7. Whenever the owner shall fail to comply with the provisions of this Ordinance relating to removal or discontinuance of a nonconforming use, the Zoning Inspector shall serve notice in writing on such owner or his agent requiring him to comply herewith within a reasonable time after such notice. If, after such notice, the owner shall fail to comply herewith, the Zoning Inspector shall take such action as may be necessary, including civil action, to cause compliance with the provisions hereof.

#### **SECTION 1210. PARKING, STORAGE AND LOADING SPACES**

- 1. It shall be unlawful to use the off-street parking or loading areas established to meet the requirements of this Ordinance for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary and licensed service vehicles.
- 2. All planting plans shall be submitted to the Planning Commission for approval as to suitability of planting material and arrangement thereof, in accordance with the provisions of Article XIII
- 3. There shall be provided, in all districts at the time of erection or enlargement of any main building or structure, motor vehicle off-street parking space with adjacent access to all spaces in accordance with the following provisions, compliance with which shall be determined prior to the issuance of any Zoning Compliance Certificate:
  - a. Off-street parking shall be permitted in a side or rear yard.
  - b. Off-street parking for other than residential use shall be permitted to occupy a portion of a required front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of ten (10) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way one.
  - c. Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership by the applicant shall be shown of all lots or parcels intended for use as parking by the applicant.

- d. Residential off-street parking shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the lot intended to be served.
- e. Minimum required off-street parking shall not be replaced by any other use unless and until equal facilities are provided elsewhere.
- f. Off-street parking existing on the effective date of this Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- g. In a residential district, no parking shall be allowed in a front yard; and travel trailers, campers, boats, and recreational vehicles may be parked only in a rear yard; provided there is no blockage of access to a public right of way. Commercial vehicles shall not be parked in a residential district except one commercial vehicle of the light delivery type not to exceed 3/4 ton per lot or vehicles parked on school property.
- h. No parking space shall be closer than five (5) feet from a lot line.
- i. Two (2) or more buildings or uses may collectively provide required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- j. In the case of mixed uses in the same building, the total requirements of off-street parking shall be the sum of the requirements for the separate individual uses computed separately.
- k. For those uses not specifically mentioned in the following schedule, the requirements for off-street parking shall be in accord with a use which the Zoning Inspector considers to be similar in terms of parking demand.
- l. When units or measurements determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- m. For the purpose of computing the number of parking spaces required, the definition of floor area shall govern.
- n. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
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1) RESIDENTIAL	
a) Residential, One-family and Two-Family.	Two (2) for each family unit.
b) Residential, Multiple-Family	Two (2) for each family unit.
c) Housing for the elderly.	One (1) for each two (2) family units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per family unit shall be provided.
d) Mobile home park.	Two (2) for each mobile home space and one (1) for each employee of the mobile home park.
2.) INSTITUTIONAL	
a) Churches, temples or synagogues	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
b) Hospitals	One (1) for each four (4) beds and one (1) for each two (2) employees or staff members. Bassinets shall not be counted as beds.
c) Homes for the aged or convalescent homes.	One (1) for each six (6) beds and one (1) or each two (2) employees or staff members.
d) Elementary and junior high	One (1) for each school bus and one (1) schools for each two (2) teachers, employees or administrators, in addition to the requirements for the auditorium, if any.
e) Senior high schools.	One (1) for each school bus, one (1) for each two (2) teachers, employees, or administrators, and one (1) for each ten (10) students, in addition to the requirements for the auditorium, if any.
f) Private clubs or lodge halls.	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes; or one (1) for each one hundred (100) square feet of floor area; whichever is greater.
g) Private golf clubs, swimming pool clubs, tennis clubs, other similar uses.	One (1) for each two (2) member families or individuals plus spaces required for each accessory use, such as a restaurant or bar.
h) Golf courses open to the general public, except miniature or "par-3" courses.	Six (6) for equal golf hole and one (1) for each employee, plus spaces required for each accessory use, such as a restaurant or bar.
i) Stadium, sports arena or similar place of outdoor assembly.	One (1) for each three (3) seats or twelve (12) feet of benches.
j) Theaters or auditoriums.	One (1) for each three (3) seats plus one (1) for each two (2) employees.
k) Libraries, museums, post offices.	One (1) for each one hundred (100) square feet of floor area.

<b>3) BUSINESS AND COMMERCIAL</b>	
a) Planned commercial or shopping center.	One (1) for each one hundred (100) square feet of floor area.
b) Auto wash (automatic)	One (1) for each employee. In addition, reservoir parking spaces equal in number to five (5) times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by twenty (20).
c) Auto wash (self-service or coin operated).	Five (5) for each washing stall.
d) Beauty parlor or barber shop.	Three (3) for each of the first two (2) beauty or barber chairs, and one and one half (1 ½) spaces for each additional chair.
e) Bowling alley.	Five (5) for each one (1) bowling lane Plus spaces required for each accessory use.
f) Dance halls, pool or billiard parlors, roller or skating rinks,exhibition halls, or assembly halls without fixed seats.	One (1) for each two (2) persons allowed within the maximum occupancy load as established by local,county, or state fire, building, or health codes; or one (1) for each one hundred (100) square feet of floor area; whichever is greater.
g) Establishment for sale and consumption on the premises of beverages, food or refreshments.	One (1) for each one hundred (100) square feet of floor area or one (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes; whichever is greater.
h) Furniture and appliance, household equipment, repair shops,showroom of a plumber, decorator electrician, or similar trade, shoe repair or other similar uses.	One (1) for each eight hundred (800) square feet of display floor area; plus for that floor area used in processing, one (1) additional space shall be provided for other each two (2) persons employed.
i) Gasoline service stations.	Two (2) for each lubrication stall, rack or pit; and one (1) for each gasoline pump.
j) Laundromats or coin operated dry cleaners.	One (1) for each two (2) washing and/or dry cleaning machines.
k) Miniature or "Par-3" golf course.	Three (3) for each one (1) hole plus one (1) for each employee.
l) Mortuary establishments.	One (1) for each fifty (50) square feet of floor area.
m) Motel, hotel, or other commercial lodging establishments.	One (1) for each occupancy unit plus one (1) for each employee.
n) Motor vehicle sales and service establishments.	One (1) for each two hundred (200) square feet of floor area of sales room and one (1) for each auto

	service stall in the service room.
o) Nursery school, day nurseries, child care centers.	One (1) for each three hundred fifty or (350) square feet of floor area.
p) Retail stores except as otherwise specified herein.	One (1) for each one hundred fifty (150) square feet of floor area.
q) Roadside stand.	Five (5) parking spaces.
4) OFFICES.	One (1) for each two hundred (200) square feet of floor area
a) Banks.	
b) Business offices or professional offices except as indicated in the following item (c).	One (1) for each two hundred (200) square feet of floor area.
c) Professional offices of doctors, dentists or similar professions.	One (1) for each fifty (50) square feet of floor area in waiting rooms, and one (1) for each examining room, dental chair or similar use area.
5) INDUSTRIAL.	
a) Industrial or research establishments and related accessory offices.	Five (5), plus one (1) for every one and one-half (1 ½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
b) Warehouses or wholesale establishments and related accessory offices.	Five (5), plus one (1) for every employee in the largest working shift, or one (1) for every seventeen hundred (1,700) square feet of floor area; whichever is greater.

4. Whenever the off-street parking requirements of the preceding schedule require the building of an off-street parking lot or facility, it shall be laid out, constructed and maintained in accordance with the following:
  - a. No parking lot or facility shall be constructed unless approved by the Planning Commission and until a permit therefore is issued by the Zoning Inspector. Applications for a permit shall be submitted to the Zoning Inspector in such form as may be determined by the Zoning Inspector and shall be accompanied by two (2) sets of site plans for the development and construction of the parking lot or facility showing that the provisions of this section will be fully complied with.
  - b. Plans for the layout of an off-street parking lot or facility shall include a total dimension across two (2) tiers of spaces and one (1) maneuvering lane in accord with the following minimum requirements:

<b>Parking Pattern (Degrees)</b>	<b>Maneuvering Lane Width</b>	<b>Parking Space Width</b>	<b>Parking Space Length</b>	<b>Total Width of One Tier of Spaces Plus Maneuvering Lane</b>	<b>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</b>
0 deg. Parallel 12' parking	12'	8'	23'	20'	28'
30 to 53	12'	8'6"	20'	32'	52'
54 to 74	15'	8'6"	20'	32'	58'
75 to 90	22'	9'	20'	42'	62'

- c. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street is prohibited.
- d. Adequate ingress and egress to a parking lot or facility by means of clearly limited and defined drives not less than twenty-two (22) feet in width, shall be provided for all vehicles. Ingress and egress to a parking lot or facility lying in an area zoned R-1 shall not be across land zoned R-1.
- e. All maneuvering lane widths shall permit one-way traffic movement, except that the ninety (90) degree pattern may permit two-way movement.
- f. Each entrance and exit to and from a parking lot or facility located in an area zoned other than R-1 shall be at least twenty-five (25) feet distant from any adjacent residential lot line.
- g. The entire parking lot or facility for all uses except one (1) and two (2) family dwelling units shall be surfaced with a material that shall provide a concrete or asphaltic surface; shall be graded and provided with adequate drainage to dispose of all collected surface water; shall be lighted; and shall provide bumper guards or curbs to prevent yard encroachment.
- h. In all cases where a wall extends to an alley which is a means of ingress and/or egress to a parking lot or facility, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking lot or facility.

5. On the same lot with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated rights-of-way, streets and alleys. Such space shall be provided as follows:
  - a. Any storage shall be in the rear yard.
  - b. In all use districts except for an industrial district, loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet for each six thousand (6000) square feet of floor area of the structure being served which shall be computed separately from the off-street parking requirements.
  - c. Within an industrial district, all spaces shall be laid out in the dimension of at least ten by fifty (10x50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a permanent, durable and dustless surface. All spaces in an industrial district shall be provided in the following ratio of spaces to floor area of the structure being served which shall be computed separately from the off-street parking requirements:

#### LOADING AND UNLOADING

<u>FLOOR AREA OF STRUCTURE (in Square Feet)</u>	<u>SPACE REQUIRED</u>
0- 1,400	None
1,401- 20,000	One (1) space
20,001-100,000	One (1) space plus one (1) space for each twenty thousand (20,000) square feet in excess of twenty thousand and one (20,001) square feet
100,001 and over	Five (5) spaces

- d. All loading and unloading in an industrial district shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least fifty (50) feet.

#### **SECTION 1211. PERFORMANCE STANDARDS**



No use otherwise allowed, shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within said area:

1. No person shall operate or cause to be operated any use nor erect or use any structure which constitutes a nuisance.
2. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line and as not to create a nuisance or hazard along property lines. Radioactive materials and wastes shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards when measured at the property line.
3. The storage, utilization, or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the Fire Marshall is permitted; subject to compliance with all other yard requirements and performance standards and provided that the following conditions are met:
  - a. Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the applicable building code.
  - b. All such buildings or structures shall be set back at least forty (40) feet from lot lines, or in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.
  - c. The storage and handling of flammable liquids, liquified petroleum, gases, and explosives shall comply with state rules and regulations established by Public Act No. 207 of 1941, as amended.

## **SECTION 1212. SIGNS**

1. No sign shall be erected or used except in conformity with this Ordinance and only after a permit therefore is issued by the Zoning Inspector.
2. All signs shall be subject to the following general regulations:
  - a. No sign shall be permitted which:
    - (1) Contain statements, words, or pictures of an obscene, indecent or immoral character, such as will offend public morals or decency.
    - (2) Contain or are in imitation of any official traffic sign or signal or contain the words: "stop, "go slow", "caution", "danger", "warning", or similar words, except for official governmental signs.

- (3) Are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal, except for official governmental signs.
  - (4) Move in any manner or have a major moving part.
  - (5) May swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment.
- b. No ground-mounted or free-standing sign above a height of two (2) feet from the established street grade shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.
- c. Ground-mounted or free-standing signs may be located in a front yard; and except for those established by the City, County, State, or Federal government, may not be located closer than ten (10) feet from a public right of way or dedicated public easement.
- d. The base of a ground-mounted or free-standing sign shall not be more than four (4) feet above grade level and the top shall not be above eight (8) feet. No ground-mounted signs shall be permitted in the CBD.
- e. A building-mounted sign which is flush with the building may be located anywhere on the building except on the roof, and shall not project above the roofline.
- f. A building-mounted sign located in the CBD, may project from the building a maximum of two (2) feet, provided the sign has a minimum clearance of eight (8) feet above the grade level of a sidewalk, right of way, or easement and fifteen (15) feet above the grade level of an alley, parking space, driveway, street, or other area of vehicular traffic, and may not project above the roofline.
- g. Temporary signs having an area not exceeding eight (8) square feet and advertising land or buildings for rent, lease and/or sale shall be permitted in any district when located on the land or building intended to be rented, leased and/or sold.
- h. Accessory signs shall be permitted in all districts.
- i. Billboards are permitted only along limited access, interstate highways, in the IN Industrial District in accordance with the following regulations and any other applicable provisions of this Section:

- (1) No billboard shall have a total area of all faces in excess of one hundred (100) square feet or fifty (50) feet per sign face.
    - (2) No billboard shall have a maximum height greater than twenty (20) feet in height.
    - (3) No billboard shall be closer than two thousand (2,000) feet to any other billboard on either side of the right-of-way.
    - (4) The area of any billboard shall be included in the calculations for the total amount of signage permitted on any site.
    - (5) No billboard shall be constructed within two thousand (2,000) feet of any residential district, residential use, church, school, or park.
    - (6) No billboard shall be closer than five hundred (500) feet from the right-of-way of any limited access, interstate highways.
  - j. The Zoning Inspector may order the removal of any sign which is abandoned or erected or maintained in violation of this Ordinance. He shall give thirty (30) days notice in writing to the owner of such sign, and to the owner of the building, structure, or premises on which such sign is located, to remove the sign or to bring it into compliance. The Zoning inspector may cause the removal of the sign which remains in violation after such notice. The Zoning Inspector may remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public. The cost of removal shall be paid by the owner of the sign or the building, structure, or premises on which it is located.
3. In addition to the general regulations, the following restrictions shall apply in the following districts:
- a. Residential Districts. For each dwelling unit, not more than one (1) nameplate, not exceeding two (2) square feet in area and indicating the name of the occupant, shall be permitted. For structures and uses other than dwelling units and for multiple housing project rental or management offices, not more than one (1) sign not exceeding twelve (12) square feet in area and three (3) feet in height, shall be permitted.
  - b. Commercial Districts. No more than two (2) signs shall be permitted on each lot. No sign shall exceed fifty (50) square feet in area.
  - c. Industrial Districts. No sign shall exceed one hundred (100) square feet in area and shall not be located closer than three hundred (300) feet to another sign on the same side of a right of way.

4. The following signs shall be permitted under the following conditions. General regulations and/or district restrictions in conflict with these conditions shall not apply:
- a. Signs of a non-commercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, and the like shall be permitted in any district.
  - b. Political campaign signs announcing candidates seeking public political office and other data pertinent thereto, up to an area of nine (9) square feet for each premise shall be permitted in any district. These signs shall be confined within private property and shall be removed within ten (10) days after the election for which they were made.
  - c. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with construction, but not including any advertisement of any product; and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, shall be permitted in any district to a maximum area of twenty (20) square feet for each firm. The signs shall be confined to the site of the construction and shall be removed within fourteen (14) days of the beginning of the intended use of the project.
  - d. Temporary Land Development Project signs pertaining to the sale, lease, rent or development of a subdivision, planned shopping center, industrial park or similar land parcel shall be permitted for a period of two (2) years upon issuance of the building permit. The total number of signs allowed, together with maximum size, shall be controlled according to the following schedule:

<b>Land Size</b>	<b>Total No.of Signs</b>	<b>Mas. Area Per Sign</b>
Less than 4 acres	1	100 sq. ft.
Over 4, but less than 20 acres	2	100 sq. ft.
Over 20 acres	3	100 sq. ft.

Signs shall not exceed a maximum height above ground of four (4) feet for free-standing signs or twelve (12) feet for ground-mounted signs.

- e. Permanent joint sign(s) for an industrial or commercial complex pertaining to the identification of the complex or its occupants is permitted upon authorization of a permit by the Planning

Commission, after duly advertised public hearing and according to the following:

- (1) Commercial Centers and Industrial Complexes. Maximum size and number of signs shall be controlled according to the following:
  - (a) One ground mounted sign per shopping center. No sign shall exceed sixty-four (64) square feet per sign face.

### **SECTION 1213. SWIMMING POOL**

1. A private swimming pool shall be permitted as an accessory use to one-family or two-family dwelling units, but must be located only in a rear or side yard.
2. All swimming pools, public or private, are subject to the following:
  - a. The outside wall of a swimming pool shall not be closer than ten (10) feet of a side or rear yard lot line or the required setback of a rear or side yard, whichever distance is greater.
  - b. The outside wall of a swimming pool shall be no closer than thirty-five (35) feet of the front yard lot line.
  - c. The outside wall of a swimming pool shall be no closer than four (4) feet of any building on the same lot.
  - d. For the protection of the general public, a swimming pool shall be completely enclosed by a fence not less than five (5) feet in height. Gates shall be of a selfclosing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the swimming pool is not in use for extended periods.
  - e. All electrical installations or wiring in connection with swimming pools, shall conform to the provisions of the National Electrical Code.
  - f. If service drop conductors or other utility wire cross under or over a proposed swimming pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit is issued for the construction of a swimming pool
  - g. No portion of a swimming pool or associated structure shall be permitted to encroach upon any right-of-way which has been granted for public utility use or any other easement or right of way.

### **SECTION 1214. TEMPORARY BUILDINGS**

1. Tents, travel trailers, motor homes, or recreational vehicles may not be used as dwelling units except in duly licensed or government operated parks or camps. The owner of a lot, however, may use a tent, travel trailer, motor home, or recreational vehicle for a temporary dwelling unit on his lot for no more than a total of ten (10) days in any calendar year; provided it is connected to running water and sewage facilities.
2. Subject to the provisions of Article XVII, SITE PLAN AND/OR SPECIAL APPROVAL USE REVIEW, the Planning Commission may, in its discretion, permit a temporary use and/or structure in any district, whether permitted therein or not, for a period not to exceed one (1) year, subject to the following additional conditions:
  - a. The use and/or structure shall be in harmony with the general character of the district.
  - b. The granting of the temporary use and/or structure shall in no way constitute a change in the uses permitted in the district nor on the property where located.
  - c. The granting of the temporary use and/or structure shall be in writing, stipulating all conditions as to time, nature of development permitted, and arrangements for removing the use at the termination of said temporary permit.
  - d. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City shall be made at the discretion of the Planning Commission.

#### **SECTION 1215. VESTED RIGHTS**

Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation and/or protection of public health, safety and welfare.

#### **SECTION 1216. VOTING PLACE**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any public property as a voting place in connection with a public election.

#### **SECTION 1217. WALLS AND FENCES**

1. In all residential districts, entrance way structures including, but not limited to: walls, columns, and gates marking enhances to single family subdivisions or multiple housing projects, shall be permitted.
2. No fence, wall, shrubbery, or other obstruction to vision above a height of two (2) feet from the established street grade shall be permitted within the

triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

3. Land between a wall, fence, or shrubbery and front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped. The ground area and all landscaping shall be kept neat and orderly in appearance and all living materials shall be maintained in a healthy, growing condition.
4. Fences are permitted, or required; subject to the following:
  - a. Fences on all lots in residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six (6) feet in height, measured from the surface of the ground, shall be placed on the property line, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard; whichever is greater.
  - b. Fences located between the building line and the front property line may not exceed three (3) feet in height and shall be constructed of decorative material including wood, wrought iron, or similar appearing materials. No fence located between the building line and the front property line shall be more than fifty (50%) percent opaque.
  - c. Protective fences required in this Ordinance for child amusement and recreation areas and public and private pools need not be obscuring fences unless otherwise herein provided.
  - d. Fences shall not contain barbed wire, electric current or charge of electricity.
  - e. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, shall not exceed eight (8) feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than twenty-five (25%) percent of their total area.

#### **SECTION 1218. WIRELESS COMMUNICATION FACILITIES AND SERVICES**

1. In the following circumstances, a proposal to establish a new wireless communications facility shall be deemed a use permitted by right, subject to site plan review and the conditions set forth in subsection 5 below, and if approved, constructed and maintained in accordance with the standards and conditions of this Section.
  - a. Attached wireless communications facilities within all R-1, R-2, R-3, B-1, B-2, B-3, and IN districts, where the existing structure is not, in the determination of the Planning Commission, proposed to be either materially altered or materially changed in appearance.

- b. Colocation of an attached wireless communications facility which has been pre-approved for such colocation as part of an earlier approval by the Planning Commission.
  - c. Attached wireless communications facilities consisting of a utility pole located within a public right-of-way, where the existing pole is not proposed to be modified in a manner which, in the determination of the Planning Commission, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
- 2. Wireless communications support structures are uses permitted by right when located on municipally owned property located in the B-2 and IN zoning districts subject to site plan review and the conditions set forth in subsection 5 below, and if approved, constructed and maintained in accordance with the standards and conditions of this Section.
- 3. Wireless communications support structures are uses permitted by special approval in the B-2, and IN districts conditioned upon site plan and special land use review and approval. All wireless communications support structures are subject to the conditions provided in Section 1703, the application requirements specified in subsection 5 below, and the general special land use approval standards and procedures specified in Section
- 4. If it is demonstrated to the satisfaction of the City Council by an applicant that a wireless communications facility may not reasonably be established as a use permitted by right under subsections 1 or 2 above, or as a use permitted by special approval under subsection 3 above, and is required to be established outside of a district identified in subsection 3 above, in order to operate a wireless communications service, then wireless communications facilities may be permitted elsewhere in the City of Bad Axe by special land use approval only subject to the requirements of this Section, Section 1703, and the following criteria and standards:
  - a. At the time of submittal, the applicant shall demonstrate that a location within an allowable district cannot reasonably meet the coverage and/or capacity needs of the applicant.
  - b. Wireless communications facilities shall be of a design such as a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the Planning Commission.
  - c. In R-1, R-2, and R-3, districts, site locations shall be permitted on a priority basis on the following sites, subject to application of all other standards contained in this Section:
    - (1) Municipally owned site.
    - (2) Other governmentally owned sites.



- (3) Religious or other institutional sites.
  - (4) Public parks and other large permanent open space areas when compatible.
  - (5) Public or private school sites.
- 5. All applications to construct or modify any part or component of a wireless communications facility shall include the following:
  - a. A site plan prepared in accordance with Section 1703, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping, and as-built drawings for all proposed attached wireless communications facilities and/or wireless communications support structures.
  - b. A disclosure of what is proposed, demonstrating the need for the proposed wireless communications support structure to be located as proposed based upon the presence of one or more of the following factors:
    - (1) Proximity to an interstate highway or major thoroughfare.
    - (2) Areas of population concentration.
    - (3) Concentration of commercial, industrial, and/or other business centers.
    - (4) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstruction.
    - (5) Topography of the proposed facility location in relation to other facilities within which the proposed facility is to operate.
  - c. The reason or purpose for the placement, construction or modification with specific reference to the provider's coverage, capacity and/or quality needs, goals and objectives.
  - d. The existing form of technology being used and any changes proposed to that technology.
  - e. As applicable, the planned or proposed and existing service area of the facility and the attached wireless communications facility, and wireless communications support structure height and type, and signal power expressed in ERP upon which the service area has been

planned. A propagation map should also be provided to illustrate this information.

- f. The nature and extent of the provider/applicant's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
- g. The identity and address of all owners and other persons with a real property interest in the property, buildings, or structure upon which facilities are proposed for placement, construction or modification.
- h. A map showing existing and known proposed wireless communications facilities within the City of Bad Axe, and further showing existing and known proposed wireless communications facilities within areas surrounding the borders of the City in the location, and in the area, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. The map shall also show existing buildings and/or other structures of the same approximate height within a one-half (1/2) mile radius of the proposed site which could accommodate a feasible colocation of the applicant's proposed attached wireless communications facility.

If and to the extent the information in question is on file with the City, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. MCL 15.243(l)(f)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the City.

- i. For each location identified on the applicant/provider's survey maps and drawings, the application shall include the following information, if known, with the applicant/provider expected to exercise reasonable due diligence in attempting to obtain information through lawful means prior to application:
  - (1) The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
  - (2) Whether property owner approvals exist or have been requested and obtained.
  - (3) Whether the location could be used by the applicant/provider for placement of its attached wireless communications facility, or if not, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing wireless communications services.

- j. A certification by a State of Michigan licensed and registered professional engineer regarding the manner in which the proposed structure will fall. The certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining appropriate setbacks to be required for the structure and other facilities.
  - k. A description of the security to be posted at the time of receiving a building permit for the wireless communications support structure to ensure removal of the structure when it has been abandoned or is no longer needed, as provided in subsection 6 below. The security shall, at the election of the applicant, be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the City Attorney and recordable at the office of the Huron County Register of Deeds, a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this Section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the City in securing removal.
  - l. The site plan shall include a landscape plan illustrating that the wireless communications support structure is being placed at a location which is not otherwise part of another site plan with landscaping requirements. The purpose of landscaping is to provide screening for the wireless communications support structure base, accessory buildings and enclosure. In all cases there shall be fencing of at least eight (8) feet in height which is required for the protection of the tower.
  - m. The applicant must provide a visual simulation of the proposed support structure that illustrates the relationship between the height and the visual appearance of the structure. The visual simulation must be provided from two (2) different perspectives and accurately depict the scale of the proposed structure in the context of the surrounding area.
6. When a wireless communications facility has not been used for one hundred eighty (180) days or more, or six (6) months after new technology is available which permits the operation of a wireless communications facility without the requirement of a wireless communications support structure, all and/or part of the wireless communications facility shall be removed by the users and/or owners of the wireless communications facility. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.
- a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the wireless communications facility.



## **ARTICLE XIII. LANDSCAPE REQUIREMENTS**

### **SECTION 1300. PURPOSE**

The purpose of this section is to promote the public health, safety and welfare by establishing minimum standards for the design installation and maintenance of landscaping. Landscaping enhances the visual image of the City, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other negative impacts of more intensive, nonresidential uses. Accordingly, these provisions are intended to set minimum standards for design and use of landscaping, greenbelts, and screening, and the protection and enhancement of the City's environment. More specifically, the intent of these provision is to:

1. Improve the appearance of off-street parking area, vehicular use areas, and property abutting public rights-of-way;
2. Protect and preserve the appearance, character, and value of the neighborhoods which abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public, health, safety and general welfare;
3. Integrate the various elements of a site;
4. Integrate and link a development with the surrounding environment;
5. Reduce soil erosion and depletion;
6. Increase soil water retention, thereby helping to prevent flooding;
7. Remove air pollutants, and control glare and reflection;
8. Assist in directing safe and efficient traffic flow and prevent vehicular and pedestrian circulation conflicts; and,
9. Create a more desirable microclimate.

### **SECTION 1301. SCOPE OF APPLICATION.**

1. No site plan, condominium, or subdivision plat shall be approved unless it shows landscaping consistent with the requirements of this section. A land use permit shall not be issued for any use that requires site plan approval or any division of land that requires condominium, or subdivision plat approval until the required landscape plan is submitted and approved.
2. No land use permit for construction of a new single family or two (2) family dwelling shall be issued unless the required greenbelt along the street frontage is provided consistent with the requirements of Section 1306. Lots

with an existing principle single family or two (2) family residential structure shall be specifically exempted, provided said structure is retained.

**SECTION 1302. GENERAL LANDSCAPE PROVISIONS.** Whenever a landscape buffer strip, greenbelt, or planting screen is required by this Ordinance, the provisions of this Section shall be met.

1. Minimum Requirements. The requirements in this Section are minimum requirements. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of property.
2. Design Creativity. Creativity in landscape design is encouraged. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and the intent of the City to coordinate landscaping on adjacent properties.
3. Plant Quality. Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Huron County, in conformance with the standards of the American Association of Nurserymen, and shall have passed inspections required under state regulations.

Plastic and other non-living materials shall not be considered acceptable to meet the landscaping requirements of this Ordinance.

4. Installation.
  - a. The required landscaping shall be planted with permanent living plant materials prior to the date of occupancy and shall be continuously maintained in a sound, healthy, and vigorous growing condition.
  - b. If the development is completed, at such time that the requirements of this article, can not be complied with, the owner shall provide a performance guarantee, satisfactory to the City, to ensure installation of required landscaping in the next planting season, in accordance with this article.
5. Maintenance. Landscaping required by this Ordinance, shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the Zoning Administrator, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning for the next planting season.

All constructed or manufactured landscape elements, such as, but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

**SECTION 1303. DEFINITIONS.** For the purpose of this Section, the following definitions shall apply:

1. **BERM.** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height, width, and slope that complies with the requirements of this Ordinance.
2. **BUFFER ZONE.** A strip of land often required between certain zoning districts reserved for plant material, berms, walls or fencing to serve as a visual barrier.
3. **BUSH.** A woody plant of one (1) to thirteen (13) feet in height with several erect, spreading or prostrate stems and a general bushy appearance.
4. **COMMON OPEN SPACE.** Designated areas unoccupied and unobstructed from the ground upward except for living plant material, recreational or grounds maintenance facilities, sidewalks, bikepaths, necessary drives and other improvements shown on the approved site plan within a PUD, Open Space Community, subdivision or condominium projects designed and intended for the use and enjoyment of the public or residents of the development and/or for the protection of natural features.
5. **CRITICAL ROOT ZONE.** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. Critical root zone is one foot of radial distance for every inch of tree caliper, with a minimum of eight (8) feet.
6. **GRASS, TURF.** Any family of plants with narrow leaves normally grown as permanent lawns in southern Michigan.
7. **GRASS, Ornamental.** Members of Gramineae, six inches (6") to fifteen (15') in height, with individual spreads of nine inches (9") to seven feet (7') which are used for enhancement and screening purposes in commercial strips to provide summer to fall interest and winter effects.
8. **GREENBELT.** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance. In some cases a wall or fence may be permitted as part of the greenbelt.
9. **GROUND COVER.** Low-growing plants (including turf and ornamental grass, perennials and annuals) that form a dense, extensive growth, and tend to prevent weeds and soil erosion.
10. **SHRUB.** A woody plant with one, erect spreading stem and less than fifteen (15) feet in mature height with flowers conspicuous or not.
11. **TREE.** A woody plant with an erect perennial trunk, which at maturity is fifteen (15) feet or more in height, which has a more or less definite crown of foliage. For purposes of this Ordinance the following definitions of types of trees shall apply:
  - a. **Deciduous Tree.** A tree which has foliage that is shed at the end of the growing season.
  - b. **Evergreen Tree.** A tree which has foliage that is lost throughout the year and may or may not show winter color effects.

- c. Ornamental Tree. A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty five (25) feet or less.
- d. Canopy Tree. A deciduous tree which has a mature crown spread of greater than fifteen (15) feet and a mature height of forty (40) or more feet in southern Michigan, and which has a trunk with at least five (5) feet of clear stem at maturity.

#### **SECTION 1304. EXISTING PLANT MATERIAL.**

1. Consideration of Existing Elements in the Landscape Design. In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such plant material in place of the requirements set forth in this Section.
2. Preservation of Existing Plant Material. Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are six (6) inches or greater in caliper, measured twelve (12) inches above grade.

Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of a tree guard at the dripline around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree or other plant material intended to be saved.

In the event that healthy plant materials which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree or approved substitute, in accordance with the following schedule, unless otherwise approved by the Zoning Administrator based on consideration of the site and building configuration, available planting space, and similar considerations:

<b>Damaged Tree*</b>	<b>Replacement Tree</b>	<b>Replacement Ratio</b>
Less than 6 inches	2 ½ to 3 inches	1 for 1
More than 6 inches	2 ½ to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree
*CALIPER MEASURED 12 INCHES ABOVE GRADE		

#### **SECTION 1305. GREENBELTS AND BUFFER ZONES.**

1. General Site Requirements. All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berms, or screening are required:



- a. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street pavement edge.
  - b. Open or natural areas should be maintained in their natural condition.
- 2. Required Greenbelt along Street Frontage.
  - a. Within all multiple family residential, mobile home park, commercial and industrial districts, a twenty (20) foot wide greenbelt shall be planted along the public right-of-way including the equivalent of one (1) canopy tree and four (4) shrubs, rounded upward, for every forty (40) linear feet of frontage, planted within the greenbelt. The width of this greenbelt may be reduced by the Planning Commission in the Central Business District zoning district.
  - b. The Planning Commission may require the provision of a planting berm at least three (3) feet in height in addition to the plant materials required along the public right-of-way parallel to a major arterial.
  - c. The Planning Commission may approve substitution of evergreen trees for up to fifty percent (50%) of the required trees.
  - d. The Planning Commission may require the preservation of existing trees and vegetation within the twenty (20) foot wide greenbelt along any arterial street right-of-way.

## LANDSCAPE AREAS

3. All single or two family residential lots shall provide the following street tree plantings within two feet of the street:
  - a. Along any residential street:
    - Along any residential street: three (3) canopy trees per lot.
  - b. Along any collector or local street: two (2) canopy trees per lot.
  - c. Substitution for preserving existing trees within the required front yard setback may be allowed in accordance with Section 1305.
4. Landscaping in Cul-De-Sacs, at Entrances and Within Medians. Cul-de-sacs, site entrances and boulevard medians shall be landscaped with species tolerant of roadside conditions. The landscape plan shall be approved by the Planning Commission in consideration of sight distance, size of planting area, location of sidewalks, maintenance of adequate overhead clearance, accessibility to fire hydrants, visibility to approved signs and compatibility with the visual character of the surrounding area.
5. Berms. Where required, berms shall conform to the following standards:
  - a. Dimensions. Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal (33 percent slope), with at least a two (2) foot flat area on top. Berms may undulate in height, subject to review and approval of berm

design as shown on the site plan. Unless otherwise indicated, the minimum height of required berms shall be three (3) feet.

- b. Protection for Erosion. Any required berm shall be planted with sod, ground cover, adequately mulched plant bed areas or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be reviewed and approved by the Planning Commission.

c. Required Plantings.

- (1) Berms located in the front yard of non-residential parcels shall be landscaped in accordance with the requirements for Required Greenbelt along Street Frontage Section 1305, sub-section 2.
- (2) Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for Required Buffer Zones Section 1305, sub-section 6, below.

- 6. Required Buffer Zones. In order to provide protective screening and buffers between land uses, the Planning Commission shall require a greenbelt, and wall or berm to be provided by the applicant in accordance with the following:

<b>REQUIRED BUFFER ZONES</b>				
<b>Proposed Use:</b>	<b>Adjacent to Single Family District</b>	<b>Adjacent to Multiple Family or Mobile Home Park</b>	<b>Adjacent to Commercial District</b>	<b>Adjacent to Industrial District</b>
Single Family Residential	None	None	None	C <sup>1</sup>
Multiple Family Residential	B	B	C	C
Mobile Home Park	B	B	C	C
Commercial	B	B	C	None
Industrial	A	A	B	None

Footnote:

- 1. Buffer zone may be included in lot area. Buffer zone requirement applies to applications for subdivision plat or condominium site plan approval. Single family residential lots of record existing prior to the effective date of this ordinance are exempt from this requirement.

**DESCRIPTION OF REQUIRED BUFFER ZONES**

Buffer Zone	Minimum Width	Minimum Wall/Berm	Minimum Plant Materials
A	50 feet	6 foot high continuous wall <sup>1</sup> or required berm	1 canopy tree, 2 evergreen trees and 4 shrubs per each twenty (20) linear feet along the property line, rounded upward.
B	20 feet	6 foot high continuous wall <sup>1</sup> or required berm	1 canopy tree, 1 evergreen tree and 4 shrubs per each thirty (30) linear feet along the property line, rounded upward.
C	10 feet	None required	1 canopy or evergreen tree or 4 shrubs per each twenty (20) linear feet along the property line, rounded upward.
Note: The Planning Commission may waive or reduce the above requirement if equivalent screening is provided by existing or planned parks, parkways, recreation areas, or by existing woodlands on the lot, and topographic or other natural conditions. Existing quality trees (hickory, oak, maple, ash) with a caliper at least eight (8) inches shall count as two (2) trees toward the above requirements.			

Footnote: 1. Where a six (6) foot high continuous wall is required, such wall shall be a masonry wall, except that the Planning Commission may allow the substitution of a six (6) foot high pressure-treated wood fence.

7. **Waivers and Modifications.** The Planning Commission may waive or modify the fencing or landscape buffering requirements upon a determination that a solid fence or landscaping buffer will not be necessary or effective for screening. In making such a determination, the following shall be considered.
  - a. Need for security;
  - b. Abutting district or existing use;
  - c. Extent that existing natural vegetation provides the desired screening;
  - d. Topography which would eliminate the benefits of required landscaping;
  - e. Building heights and views in relation to existing topography and vegetation as well as views from adjacent uses;
  - f. Similar conditions existing such that no good purpose would be served by providing the required landscaping plan.

## **SECTION 1306. NATURAL OPEN SPACE.**

1. Notwithstanding required open space preservation/design as part of the site plan review process, the Planning Commission may additionally require that portions of a site not included within a proposed development area be protected from damage during construction and maintained in a natural condition until such time as required for use. Said preservation measures may be required by the Planning Commission in areas which are important for one or more of the following:
  - a. Preservation of the City's rural character
  - b. Maintenance of wildlife habitat or migration routes.
  - c. Protection of fragile ecosystems such as wetlands, streams and wildlife habitats.
  - d. Maintenance of air quality by filtering out airborne particulate matter.
  - e. Minimization of stormwater runoff and preservation of areas for ground water recharge.
  - f. Buffering between potentially incompatible land uses.
2. For areas of a site not proposed for immediate use, the Planning Commission may require that any combination of the following methods of natural area preservation be employed by an applicant as a condition of site plan approval.
  - a. Provide a silt fence to prevent any construction related debris from impacting natural areas not included within the development area during construction;
  - b. Provide adequate protective barricading outside the critical root zone for individual trees and woodland areas not included within the development area during construction;
  - c. Avoid storage of any equipment, debris, refuse or materials within natural areas not included within the development area during construction and operation of the site;
  - d. Avoid alteration, blockage or removal of any on-site natural watercourse passing through any natural area not included within the development area during construction and operation of the site; and
  - e. Avoid alteration, blockage or removal of any on-site wildlife habitat area within natural areas not included within the development area during construction and operation of the site.

**SECTION 1307. PARKING LOT LANDSCAPING.**

1. All of the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending eighteen (18) feet from the edge of the parking lot, as illustrated. Where a parking lot contains fifty (50) or more parking spaces, a minimum of one-third ( $1/3$ ) of the trees shall be placed in landscape islands within the interior of the parking area.
  - a. In an Industrial District one canopy tree shall be required for each three thousand (3,000) square feet of the total of the paved driveway and parking lot surface. In all commercial and multiple family districts, one canopy tree shall be required for each two thousand (2,000) square feet of paved driveway and parking lot surface, provided that in no case less than two (2) trees provided.
  - b. Each tree shall be surrounded by an open land area a minimum of one hundred fifty (150) square feet to provide for adequate infiltration of water and air, and surrounded by a minimum unobstructed area of six (6) feet around the diameter of the trunk for protection. If irrigation is provided, the open land area can be reduced to a minimum of seventy five (75) square feet. Tree plantings shall also be protected from automobiles with curbing or other suitable device.
2. In no case shall the required parking area landscaping be credited toward required greenbelts, or buffers.
3. Landscaping shall be installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, interfere with adequate sign distance for motorists, nor disrupt drainage patterns on the site or adjacent properties



4. Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of pavement and help direct smooth traffic flow within the lot.
5. Landscaped areas shall be covered by grass or other living ground cover. Woodchips or similar material is permitted for planting beds immediately surrounding plant material. Such material should be identified on the landscape plan. Mulches shall be three (3) inches depth around woody plants and one half (½) inch depth around herbaceous plants, and in both cases shall not be placed within two and one half (2½) inches of mainstem or clump crown.

#### **SECTION 1308. LANDSCAPE STANDARDS.**

The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this Ordinance.

1. Size. The following table specifies the minimum required plant sizes at planting.

<b>MINIMUM PLANT MATERIAL SIZE</b>			
<b>Plant Type</b>	<b>Minimum Caliper<sup>1</sup></b>	<b>Minimum Height</b>	<b>Minimum Spread</b>
Deciduous Canopy Trees	2 ½ inches	4 feet <sup>2</sup> first branch	--
Deciduous Ornamental Trees	2 inches	4 feet <sup>3</sup>	--
Evergreen Trees	--	6 feet	2 ½ feet
Shrubs	--	2 feet	2 feet

Footnotes:

1. Measured twelve (12) inches above grade.
2. Trees planted along pedestrian routes (i.e. sidewalks, plazas, etc.) shall not have branches lower than six (6) feet. Trees planted within streetline and sidewalk or along bikeways shall maintain a vertical clearance to obstructions of a minimum of ten (10) feet.
3. Clumped trees (i.e. birch) shall have a minimum height of six (6) feet above grade.



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2. Spacing. Planting in informal groupings to create a naturalistic appearance is desirable. Wherever possible, plant materials shall not be placed closer than four (4) feet from the fence line or property line. The following guidelines are for on-center spacing of plant materials used together in informal groupings:

Plant Material Types	Evergreen	Narrow Evergreen Trees	Large Deciduous Trees	Deciduous Ornamental Trees	Large Shrubs	Small Shrubs
Evergreen Trees	Min. 10' Max. 20'	Min. 12'	Min. 20'	Min. 12'	Min. 12'	Min. 5'
Narrow Evergreen Trees	Min. 12'	Min. 5' Max. 10'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Deciduous Canopy Trees	Min. 20'	Min. 15'	Min. 20' Max. 30'	Min. 15'	Min. 5'	Min. 3'
Deciduous Ornamental Trees	Min. 12'	Min. 10'	Min. 15'	Min. 8' Max. 15'	Min. 6'	Min. 3'
Large Shrubs	Min. 12'	Min. 5'	Min. 5'	Min. 6'	Min. 4' Max. 6'	Min. 5'
Small Shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3' Max. 4'

3. Mixing of Species. The overall landscape plan shall not contain more than thirty three (33%) percent of any one plant species. The use of trees native to the area and Southeast Michigan, and mixture of trees from the same species associates, is encouraged. Botanical genera containing trees native to southeast Michigan are identified with an asterisk (\*) in the table of recommended Plant Materials.
4. Suggested Plant Materials. The following table lists recommended plant materials for required landscaping. Plant materials of equal or better quality may be substituted for suggested plant materials.

RECOMMENDED PLANT MATERIALS	
COMMON NAME	GENUS
<b>Deciduous Canopy Trees</b>	
1. Oaks*	Quercus
2. Hard Maples (Except Japanese)*	Acer
3. Hackberry*	Celtis
4. Planetree (Sycamore)*	Platanus
5. Birch*	Betula
6. Beech*	Fagus

7.	Ginkgo (male)	Ginkgo
8.	Honeylocust (Thornless Cultivars only)*	Gleditsia
9.	Sweetgum	Liquidambar
10.	Hophornbeam (Ironwood)*	Ostrya
11.	Linden	Tilia
12.	Ashes*	Faxinus
13.	Hickory*	Carya
14.	Hornbeam (Blue Beech)*	Carpinus
Please note: Although the use of ashes is suggested, due to recent disease and pest problems associated with ashes in the area, it is recommended that more disease resistant ash cultivars be used and that no one cultivar be planted as the dominant tree type.		
<b>Deciduous Ornamental Trees</b>		
1.	Amelanchier*	Amelanchier
2.	Redbud*	Cercis
3.	Dogwood (Tree Form)*	Cornus
4.	Hawthorn*	Crataegus
5.	Flowering Crabapple (Disease Resistant Cultivars)	Malus
6.	Flowering Plum (Tree Form)	Prunus
7.	Flowering Pear	Pyrus
8.	Magnolia	Magnolia
9.	Hornbeam*	Carpinus
10.	Rose of Sharon	Hibiscus

<b>Evergreen Trees</b>		
1.	Fir	Abies
2.	Hemlock	Tsuga
3.	Spruce	Picea
4.	Pine*	Pinus
5.	Douglas Fir	Pseudotsuga
Please note: Dwarf, Globe, Pendulous species/Cultivars are not permitted.		
<b>Narrow Evergreens</b>		
1.	Juniper*	Juniperus
2.	Arborvitae	Thuja
Please note: Dwarf, Globe, Spreading Species/Cultivars are not permitted.		
<b>Large Shrubs</b>		
<b>1.</b>	<b>Deciduous</b>	
a.	Dogwood (Shrub Form)*	Cornus
b.	Cotoneaster	Cotoneaster
c.	Forsythia	Forsythia
d.	Mock-Orange	Philadelphus
e.	Sumac*	Rhus
f.	Lilac	Syringa
g.	Viburnum*	Viburnum
h.	Witchhazel*	Hamamelis
I.	Euonymus	Euonymus
j.	Privet	Ligustrum
k.	Ninebark*	Physocarpus
<b>2.</b>	<b>Evergreens</b>	
a.	Juniper (Hetz, Pfitzer, Savin)	Juniperus
b.	Yew (Pyramidal Japanese)	Taxus
<b>Small Shrubs</b>		
<b>1.</b>	<b>Deciduous</b>	
a.	Barberry	Berberis
b.	Boxwood	Buxus
c.	Quince	Chaenomeles
d.	Cotoneaster	Cotoneaster
e.	Euonymus*	Euonymus
f.	Forsythia	Forsythia
g.	Hydrangea	Hydrangea
h.	Holly*	Ilex
I.	Privet	Ligustrum
j.	Potentilla*	Potentilla

k.	Currant*	Ribes
l.	Lilac	Syringa
m.	Viburnum*	Viburnum
n.	Weigela	Weigela
<b>2.</b>	<b>Evergreens</b>	
a.	Fir	Abies
b.	False Cypress	Chamaecyparis
c.	Juniper (Low Spreading)*	Juniperus
d.	Spruce	Picea
e.	Pine	Pinus
f.	Yew (Globe, Spreading, Upright)*	Taxus
g.	Arborvitae (Globe/Dwarf)	Thuja

5. Undesirable Plant Material. Use of the following plant materials (or their clones or cultivars) is not encouraged because of susceptibility to storm damage, drainage conflicts, disease, and other undesirable characteristics.

1. Box Elder
2. Soft Maples (Silver)
3. Elms (American, Siberian, Slippery, Red, and Chinese)
4. Poplars
5. Willows
6. Horse Chestnut (nut bearing)
7. Tree of Heaven
8. Catalpa
9. Ginkgo (female)
10. Cottonwood
11. Black Locust
12. Mulberry
13. Honey Locust (with thorns)

The Planning Commission, however, may allow trees from this list when associated with an appropriate ecosystem, such as a wetland area.

6. Ground Cover/Grass.

- a. Ground Cover. Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after three (3) complete growing seasons.
- b. Grass. Grass area shall be planted using species normally grown as permanent lawns in Huron County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas.

- c. Mulch: Mulch used around trees, shrubs, and vines shall be three (3) inches depth around woody plants and not be placed within two and one half (2½) inches of mainstem or clump crown, and installed in a manner as to present a finished appearance.

## **ARTICLE XIV. DISMANTLED OR NON-OPERATING MOTOR VEHICLES**

### **SECTION 1400. STORAGE OF INOPERABLE VEHICLE**

No person shall store, place or permit to be stored or placed, or allowed to remain on any lot for a period of more than ten (10) days in any one (1) year a dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed structure, is located in an approved junkyard, or unless a variance therefor is first obtained from the Chief of Police to be granted only in special hardship cases beyond the control of the applicant, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.

### **SECTION 1401. STORAGE OF OPERABLE VEHICLE**

No person shall park or store upon any lot within the City a motor vehicle in operating condition which is not regularly used for the purpose for which it was manufactured or designed unless the same is kept within an enclosed building, approved junkyard, or unless a variance is first obtained therefor from the Chief of Police, to be granted only in special hardship cases beyond the control of the applicant, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.

### **SECTION 1402. PURPOSE OF PROVISIONS**

The purpose of these regulations is to limit and restrict the outdoor storage or unreasonable accumulation of junk cars, unused cars, stock cars, and dilapidated nonoperating motor vehicles upon any lot in the City except within an area where a junk dealer is permitted to operate or the area is zoned for such purposes.

### **SECTION 1403. PROVISIONS SUPPLEMENTARY TO OTHER LAWS**

These provisions shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse, trash or junk, but shall be construed as supplementary to any such ordinances, as well as any statutes of the State of Michigan relating thereto.



## **ARTICLE XV. ADMINISTRATION AND ENFORCEMENT**

### **SECTION 1500. ENFORCEMENT**

Except as herein otherwise provided, the provisions of this Ordinance shall be administered and enforced by the Zoning Inspector or his lawfully constituted delegate.

### **SECTION 1501. DUTIES OF ZONING INSPECTOR**

The Zoning Inspector, appointed by the City Council, shall issue Building Permits and Zoning Compliance Certificates and make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. The Zoning Inspector, is under no circumstances, permitted to make changes in this Ordinance nor to vary the terms of this Ordinance. The Zoning Inspector shall not refuse to issue a Building Permit or Zoning Compliance Certificate when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of same.

### **SECTION 1502. BUILDING PERMITS**

1. No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a Building Permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in exterior structural parts, light, ventilation, or means of egress and ingress, or other changes affecting or regulated by the applicable Building Code, Housing Law of Michigan, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.
2. No lot shall be excavated or the use thereof changed, modified, or altered hereafter unless a Building Permit shall have been first issued for such work.
3. No Building Permit shall be issued for the excavation, alteration, movement, or repair of any building or structure or part thereof, nor for the excavation or the change, modification or alteration of the use of any lot which is not in accordance with all provisions of this Ordinance.
4. All Building Permits shall expire twelve (12) months from the date of issuance, but may be renewed for an additional twelve (12) months.
5. All new construction shall have the outside shell completed in a workmanlike manner within one hundred twenty (120) days from the date of issuance of the Building Permit.

### **SECTION 1503. ZONING COMPLIANCE CERTIFICATES**

1. No land, building, structure, or part thereof, shall be occupied or put to any use for which a Building Permit is required by this Ordinance unless and until a Zoning Compliance Certificate has been issued.
2. No Zoning Compliance Certificate shall be issued for any building, structure or part thereof, or for the use of any land, which is not in compliance with the previously issued Building Permit or which is otherwise not in accordance with all the provisions of this Ordinance.

3. Nothing in this Ordinance shall prevent the issuance of a temporary Zoning Compliance Certificate for a portion of a building or structure in the process of erection or alteration; provided that such temporary certificate shall not be effective for a period of time in excess of six (6) months; and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance.

4. A record of all Zoning Compliance Certificates issued shall be kept on file in the office of the Zoning Inspector and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

5. Accessory buildings shall not require separate Zoning Compliance Certificates, but may be included in the certificate for the main building when shown on the site plan and when completed at the same time as such main building

6. Application for a Zoning Compliance Certificate shall be made in writing to the Zoning Inspector on forms furnished by the Zoning Inspector; and such certificate shall be issued by the Zoning Inspector within ten (10) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in compliance with the provisions of this Ordinance.

7. If such certificate is refused for cause, the applicant, shall be notified of such refusal and the cause thereof, within the aforesaid ten (10) day period.

#### **SECTION 1504. FINAL INSPECTION**

The holder of every Building Permit shall notify the Building Inspector immediately upon the completion of the work authorized by such permit for a final inspection and application for a Zoning Compliance Certificate.

#### **SECTION 1505. FEES**

An application or request for a Building Permit, a Zoning Compliance Certificate, copies thereof, Site Plan and/or Special Approval Use Review, Planned Unit Development, amendment, supplement, or change of this Ordinance, the Zoning Map, district boundaries or land use classification, or appeal to the Zoning Board of Appeals shall be accompanied by a fee to defray the actual costs thereof to the City. The Building Inspector shall collect fees for Building Permits, Zoning Compliance Certificates, and copies thereof in advance of issuance and shall collect the fee for an appeal to the Zoning Board of Appeals with the application therefor. The City Manager or their designee shall collect the fee for Site Plan and/or Special Approval Use Review, Planned Unit Development, and any amendment, supplement or change of this Ordinance, the Zoning Map, district boundaries or land use classification upon application therefor. All fees shall be payable to the City Treasurer to the credit of the general fund of the City. The City Council shall, by resolution, from time to time, establish the amount of such fees. In the case of Site Plan and/or Special Approval Use Review, Planned Unit Development, and any amendment, supplement, or change of this Ordinance, the Zoning Map, district boundaries or land use classification and appeals to the Zoning Board of Appeals, the fee shall be not less than three hundred (\$300.00) dollars in the absence of such resolution. Any amount of said fee not actually expended by the City shall be returned to the payer upon final action by the applicable City body or official. Only one (1) fee shall be required where an applicant's proposed use requires more than one action by the City, its boards or officials.

## **ARTICLE XVI. SITE PLAN**

### **SECTION 1600. GENERAL**

No Building Permit or Zoning Compliance Certificate shall be issued for the use or development of or the construction upon any lot in the City unless and until these Site Plan provisions are complied with.

### **SECTION 1601. ZONING INSPECTOR SITE PLAN**

1. The Zoning Inspector, alone and without the need for prior approval of the Planning Commission, shall issue a Building Permit or Zoning Compliance Certificate for the use or development of or the construction upon a lot for the following, if the provisions of this Ordinance are complied with and a Site Plan has been provided to him:
  - a. Single or two-family dwellings under separate ownership on an individual and separate lot for each such dwelling.
  - b. Accessory buildings requiring no new or additional means of access thereto from adjoining public roads or highways.
  - c. Projects involving the expansion, remodeling or enlargement of an existing building of less than ten (10%) percent of the existing building.
2. A Site Plan for a Building Permit or Zoning Compliance Certificate issuable by the Zoning Inspector alone shall contain the following:
  - a. The name, address and telephone number of the owner of the lot.
  - b. The name, address and telephone number of the developer of the lot.
  - c. The legal description of the lot. A surveyed description shall be required unless the applicant can show that the parcel is a lot of record.
  - d. A scale drawing which shows the actual shape, location, and dimensions of the lot and the shape, size, and location with measurements to the lot lines of all buildings and structures and roads or drives presently on the property and to be erected, altered or moved.
  - e. A statement indicating the existing and intended use of the lot and of such structures upon it, including, but not limiting to, in residential districts, the number of dwelling units the building is intended to accommodate.
  - f. Such other information concerning the lot or adjacent lots as may be reasonably necessary, in the discretion of the Zoning Inspector, to determine whether the provisions of this Ordinance are being complied with.

### **SECTION 1602. REVIEWABLE SITE PLANS**

1. The Zoning Inspector shall issue a Building Permit or Zoning Compliance Certificate for any other use or development of or construction upon a lot, including

any Special Approval Use, only after compliance with ARTICLE XVII - SITE PLAN AND/OR SPECIAL APPROVAL USE REVIEW.

2. The Site Plan required for Site Plan and/or Special Approval Use Review shall contain the following:
  - a. The name, address and telephone number of the owner of the lot.
  - b. The name, address and telephone number of the developer of the lot.
  - c. The legal description of the lot. A surveyed description shall be required unless the applicant can show that the parcel is a lot of record.
  - d. The area of the lot stated in acres or, if less than an acre, in square feet.
  - e. The present zoning classification of the lot.
  - f. A scale drawing of the lot and proposed development thereon, including the date, name and address of the preparer; the topography, dimensions and lot lines of the lot and its relationship to adjoining land; existing man-made features; dimensions of setbacks, locations, heights and size of structures and other important features; percentage of land covered by buildings and that reserved for open space; dwelling unit density; location and widths of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the lot; curb-cuts, driving lanes, parking and loading areas; location and type of drainage, sanitary sewers, storm sewers, and other facilities; fences; landscaping; screening; proposed earth changes; and signs and on-site illuminations.
  - g. A statement indicating the existing and intended use of the lot and of such structures upon it, including, but not limited to, in residential districts, the number of dwelling units the building is intended to accommodate.
  - h. Such other information concerning the lot or adjacent lots as may be reasonably necessary, in the discretion of the Planning Commission, to determine whether the provisions of this Ordinance are being complied with.

## **ARTICLE XVII. SITE PLAN AND/OR SPECIAL APPROVAL USE REVIEW**

### **SECTION 1700. PLANNING COMMISSION AUTHORITY**

To make this Ordinance more flexible while providing for the protection of property values and the orderly and compatible development of property within the City, the Planning Commission, in addition to its other functions, is hereby empowered to approve certain uses designated as Special Approval Uses in the various zoning district classifications, to review site plans within its jurisdiction, and to direct the issuance of A Building Permit and/or Zoning Compliance Certificate.

### **SECTION 1701. PROCEDURE**

1. Preliminary sketches of a proposed Site Plan may be submitted to the Planning Commission for discussion prior to formal submission of a request for Site Plan and/or Special Approval Use Review. The Planning Commission shall not be bound by any tentative approval given to preliminary sketches. Such preliminary sketches shall include, as a minimum, the following:

- a. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.
  - b. A legal description of the property. A surveyed description shall be required unless the applicant can show that the parcel is a lot of record.
  - c. Sketch plans showing tentative site and development plans.
2. To initiate the procedure for Site Plan and/or a Special Approval Use Review, a person shall file with the Chairman of the Planning Commission ten (10) copies of a written request for same, ten (10) copies of the Site Plan, ten (10) copies of any other data upon which he intends to rely for approval of his request, and the applicable fee.
3. Upon receipt of the fee and the copies of the written request, Site Plan, and other data, the Chairman of the Planning Commission shall record the date of receipt thereof and transmit the fee to the City Treasurer.
4. A hearing shall be scheduled by the Chairman of the Planning Commission for a Site Plan and Special Approval Use Review and one (1) copy of all documents shall be sent to each member of the Planning Commission prior to the hearing for preliminary study.
5. The hearing shall be scheduled within not more than forty-five (45) days following the date of the receipt of the fee and documents by the Chairman of the Planning Commission.
6. Notice of the hearing shall be given to the applicant, the owner of the lot for which review is being conducted, and the owners and occupants of all property within three hundred (300) feet of the lot for which review is being conducted as shown on the latest assessment roll. If the name of an occupant is not known, the term "occupant" may be used in the notice. Notice by publication and by mailing or personal delivery shall be made between five (5) and fifteen (15) days prior to the hearing. 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. The notice shall describe the owner and address of the property involved, the nature of the request, and state when and where the request will be considered.
7. After the hearing and within one hundred (100) days of the receipt of the request by the Chairman of the Planning Commission, the Planning Commission shall transmit one (1) copy to the City Clerk and one (1) copy to the applicant of its written decision approving, disapproving, or approving with limitations, conditions, modifications, or alterations the Site Plan and Special Approval Use. The written decision of the Planning Commission shall indicate the facts and reasons upon which it is based. A decision shall be final and no appeal therefore may be taken to the Zoning Board of Appeals, but a decision approving the Site Plan and Special Approval Use with limitations, conditions, modifications, or alterations may require a further review after inclusion in the Site Plan and Special Approval Use.
8. Two (2) copies of the approved final Site Plan and Special Approval Use with any limitations, conditions, modifications, or alterations thereon shall be maintained as part of the City records for future enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Chairman of the Planning Commission. If any variances, exceptions, or

amendments of this Ordinance have been obtained, the minutes concerning the same, duly signed, shall also be filed with the City records as a part of the approved Site Plan and Special Approval Use and delivered to the applicant for his information and direction.

9. A proposed amendment, alteration, or modification of the Site Plan and Special Approval Use as approved by the Planning Commission shall be submitted to the Planning Commission and shall be reviewed by it in the same manner as the original request.

#### **SECTION 1702. LIMITATIONS, CONDITIONS, MODIFICATIONS, AND ALTERATIONS**

1. Prior to its final approval of any Special Approval Use, the Planning Commission shall determine that any applicable special limitation or condition imposed thereon has been complied with; and in addition prior to its final approval of any Site Plan and/or Special Approval Use, the Planning Commission may impose any other limitation, condition, modification, or alteration thereon, which in its opinion, is consistent with the provisions of this Ordinance.
2. The Planning Commission shall have the power to limit the duration of a Special Approval Use where the same is of a temporary nature and may approve a Site Plan and/or Special Approval Use with limitations, conditions, modifications, or alterations. It may also reserve the right of annual review of compliance with the limitations and conditions imposed upon same. Any use failing to comply with such limitations and conditions may be terminated by action of the Planning Commission after a hearing upon application of any aggrieved party.
3. To insure compliance with this Ordinance and any limitations, conditions, modifications, or alterations for improvements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the lot, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such limitations, conditions, modifications, or alterations for improvements conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the City Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six (6) months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

#### **SECTION 1703. SITE PLAN AND SPECIAL APPROVAL USE REVIEW STANDARDS**

1. The approval, denial, or approval with limitations, conditions, modifications, or alterations of a Site Plan and/or Special Approval Use by the Planning Commission shall be based upon the following standards, the proof of facts of noncompliance with which shall be upon an aggrieved party:
  - a. That such approval, denial, or approval with limitations, conditions, modifications, or alterations is consistent with the intent and purpose of zoning to promote public health, safety, morals, and general welfare; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land, resources and properties; to conserve property values, natural resources and energy; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building and population development.

- b. That there is a proper relationship between the existing streets, highways and walkways within the vicinity to provide for vehicular traffic access and circulation, including intersections, road widths, traffic controls, deceleration lanes, service drives, entrance and exit driveways, and parking areas, and to assure the safety and convenience of pedestrian and vehicular traffic.
- c. That the use and/or structure(s) are consistent with the intent and purpose of the zoning district in which located; are designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and will not change the essential character of the area in which located.
- d. That the use and/or structure(s) are not hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole.
- e. That the use and/or structure(s) are served, adequately and without excessive expenditure of public funds, by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.
- f. That all provisions of this Ordinance are complied with unless an appropriate variance or exception therefrom has been granted by the Zoning Board of Appeals.
- g. That all buildings and structures are accessible by emergency vehicles.

#### **SECTION 1704. BUILDING PERMITS AND ZONING COMPLIANCE CERTIFICATES**

- 1. Upon approval of the Site Plan and/or Special Approval Use, the Chairman of the Planning Commission shall direct the Zoning Inspector to issue Building Permits and/or Zoning Compliance Certificates which shall incorporate all terms, limitations, and conditions of such approval.
- 2. Violation of any term, limitation, or condition of a Building Permit and/or Zoning Compliance Certificate issued by the Zoning Inspector after Site Plan and/or Special Approval Use approval shall cause a revocation of same.
- 3. Any lot which is the subject of a Special Approval Use Building Permit and/or Zoning Compliance Certificate which has not been used for a period of six (6) months without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission for the purposes for which such Special Approval Use was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification district and the Building Permit or Zoning Compliance certificate for such Special Approval Use shall thereupon terminate.
- 4. A lot which is the subject of a Site Plan Review approval must be developed in strict compliance with the approved Site Plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the Zoning Inspector by written notice to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.

## **ARTICLE XVII. SITE PLAN AND/OR SPECIAL APPROVAL USE REVIEW**

### **SECTION 1700. PLANNING COMMISSION AUTHORITY**

To make this Ordinance more flexible while providing for the protection of property values and the orderly and compatible development of property within the City, the Planning Commission, in addition to its other functions, is hereby empowered to approve certain uses designated as Special Approval Uses in the various zoning district classifications, to review site plans within its jurisdiction, and to direct the issuance of A Building Permit and/or Zoning Compliance Certificate.

### **SECTION 1701. PROCEDURE**

Preliminary sketches of a proposed Site Plan may be submitted to the Planning Commission for discussion prior to formal submission of a request for Site Plan and/or Special Approval Use Review. The Planning Commission shall not be bound by any tentative approval given to preliminary sketches. Such preliminary sketches shall include, as a minimum, the following:



## **ARTICLE XVIII. PLANNED UNIT DEVELOPMENT**

### **SECTION 1800. PURPOSE AND APPLICABILITY**

1. The purpose of these regulations is to permit greater flexibility and consequently, more creative and imaginative design in the development of residential areas than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, the integration of necessary commercial and community facilities, and the preservation of open space for park and recreational use.
2. A Planned Unit Development is a distinctive use of property. A Planned Unit Development shall, therefore, be governed only by the provisions of this Article and not by any other provision of this Ordinance anything in this Ordinance to the contrary notwithstanding.

### **SECTION 1801. GENERAL REQUIREMENTS**

A request for a Building Permit and for a Zoning Compliance Certificate for a Planned Unit Development must meet the following requirements to qualify for consideration:

1. A Planned Unit Development site shall be not less than ten (10) contiguous acres of land.
2. The tract of land for a project must be either in one ownership or the subject of a request filed jointly by the owners of an properties included. The holder of a written option to purchase land or the holder of an executory land contract shall for the purposes of such request be deemed to be an owner of such land.
3. A Planned Unit Development shall be allowed only within an R-1, R-2, B-1, or B-2 District and providing the applicant can demonstrate that the proposed character of development will meet the objectives of Planned Unit Development.
4. Land use need not be uniform in all respects.
5. Public water, sanitary sewer and storm drainage facilities shall be provided as part of the site development. All electric and phone transmission wires shall be placed underground.
6. Approval by the Planning Commission of a sketch plan and detailed site plan is required.

### **SECTION 1802. PERMITTED USES**

No structure or part thereof shall be erected, altered or used and no land shall be used except for one or more of the following regardless of the zoning district in which the same is located:

1. Residential Uses.

- a. Single-family detached dwellings, excluding mobile homes.
  - b. Two-family dwellings.
  - c. Apartments.
  - d. Town houses.
  - e. Condominiums.
  - f. Other multi-family dwellings.
2. Commercial uses designed and intended to serve the convenience needs of the people residing in the planned unit development.
- a. Food stores.
  - b. Bakeries (retail only).
  - c. Barber or beauty shops.
  - d. Banks and financial institutions.
  - e. Shoe sales and repair stores.
  - f. Florist and garden shops.
  - g. Hardware stores.
  - h. Variety stores.
  - i. Book and stationary stores.
  - j. Dry cleaning (pick up or coin operated only).
  - k. Wearing apparel shops.
  - l. Offices.
  - m. Drug stores.
  - n. Post office.
  - o. Full course menu, table top, indoor restaurants conforming in appearance to a residence which provide no "drive-in", "short-order", or "car service" food or drink facility. Alcoholic beverages may be served incidental to the sale of food.
  - p. Private clubs, excepting those of which the chief activity is a service customarily carried on as a business.
3. Accessory and associated uses designed and intended to serve the convenience needs of the people residing in the Planned Unit Development, like:

- a. Private garages.
- b. Storage sheds.
- c. Recreational play areas.
- d. Churches.
- e. Elementary and secondary schools.

### **SECTION 1803. DESIGN REQUIREMENTS**

Within the Planned Unit Development approved under this Article, the requirements hereinafter set forth shall apply in lieu of any conflicting regulations applicable to the district in which the development is located:

- 1. The maximum number of dwelling units permitted within the project shall be determined by dividing the net Planned Unit Development area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately.
- 2. The minimum lot area shall not be reduced by any permitted use more than twenty (20%) per cent below that required in the district in which the project is located.
- 3. The minimum setback and yard or open space requirements for buildings and structures may be reduced or increased in the discretion of the Planning Commission to avoid unnecessary disruption of the environment where reasonable equivalent open space is provided elsewhere upon the site.
- 4. The minimum lot frontage and width for any lot designated for a single-family dwelling may be reduced twenty (20%) per cent below the requirements of the district in which the Planned Unit Development is located.
- 5. A screening area may be required by the Planning Commission along the perimeter of the development if deemed necessary to protect the values of adjoining property under separate ownership.
- 6. Within every Planned Unit Development there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this provision, the Planning Commission must find the land thus designated to be:
  - a. Sufficient in size, suitably located, with adequate access, and
  - b. That evidence is given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of future maintenance thereof.

7. All required open space within a Planned Unit Development shall be arranged so as to provide access and benefit to the maximum number of lots and/or dwelling units. Separate tracts of open space shall have adequate access from at least one point along a public street.

#### **SECTION 1804. PROCEDURE**

Whenever any Planned Unit Development is proposed, before any Building Permit is granted, the developer shall apply for and secure approval therefor from the Planning Commission in accordance with the following procedure.

1. In order to allow the Planning Commission and the developer to reach an understanding of basic design requirements prior to detailed site design investment, the developer shall submit a sketch plan of his proposal to the Planning Commission with the applicable fee. The sketch plan shall be drawn to approximate scale and clearly show the following information:
  - a. Boundaries of the property.
  - b. Location and height of all buildings and structures.
  - c. Interior roadway system, parking facilities and all existing rights-of-way and easements, whether public or private.
  - d. Delineation of the various residential and/or commercial areas indicating for each such area its size, number of buildings, structures and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type, plus a calculation of the net residential density and commercial density.
  - e. The interior open space system.
  - f. The overall storm water drainage system.
  - g. If grades exceed thirty (30%) percent on portions of the site, have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be provided.
  - h. Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal.
  - i. General description of the provision of other community facilities, such as schools, recreational facilities, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
  - j. A location map showing uses and ownership of abutting lands.
2. In addition, the following documentation shall accompany the Sketch Plan:
  - a. Evidence that the proposal is compatible with the objectives of the City's zoning plan.
  - b. A general statement as to how common open space is to be owned and maintained.

- c. The intended total project. If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified.
3. The Planning Commission shall hold a public hearing or hearings on the application for a Planned Unit Development in accordance with the procedure of ARTICLE XVII, SITE PLAN AND/OR SPECIAL APPROVAL USE REVIEW.
4. Following the public hearing, the Planning Commission shall, within sixty (60) days, approve or disapprove the Sketch Plan or make modifications thereto and so notify the applicant of its decision.
5. Approval of a Sketch Plan shall not constitute approval of the detailed Site Plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan.
6. If it becomes apparent that certain elements of the Sketch Plan, as it has been approved by the Planning Commission, become unfeasible and in need of modification, the applicant shall then resubmit his entire Sketch Plan, as amended, to the Planning Commission pursuant to the above procedure.
7. After receiving approval from the Planning Commission of a Sketch Plan, the applicant may prepare his detailed Site Plan and submit it to the Planning Commission for approval. However, if more than six (6) months have elapsed since the time of Sketch Plan approval, the Planning Commission may require a resubmission of the Sketch Plan for further review and possible revision.
8. The detailed Site Plan shall conform to the Sketch Plan that has been given approval. It shall incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
9. The detailed Site Plan shall include the following information:
  - a. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets, utilities, and easements within three hundred (300) feet of the applicant's property.
  - b. A topographic map showing contour intervals of not more than four (4) feet of elevation.
  - c. A plan showing location, proposed use, number, and height of all buildings or structures, location of all parking areas, with access and egress drives thereto, location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.
  - d. A tracing overlay showing all soil types, their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation.

## **SECTION 1805. STANDARDS FOR APPROVAL**

The Planning Commission's review of the detailed Site Plan shall include, but shall not be limited to, the following:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movement.
2. Location, arrangement, appearance, and sufficiency of off-street parking.
3. Location, arrangement, size and entrances of buildings, walkways and lighting.
4. Relationship of the various uses to one another.
5. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise deterring screen between adjacent uses and adjoining lands.

## **SECTION 1806. BUILDING PERMITS AND ZONING COMPLIANCE CERTIFICATES**

1. Upon approval of the Planned Unit Development, the Chairman of the Planning Commission shall direct the Zoning Inspector to issue Building Permits and/or Zoning Compliance Certificates.
2. In any case where the construction on the Planned Unit Development has not commenced within one (1) year from the date of approval, the Building Permits and/or Zoning Compliance Certificates shall be null and void.
3. After a Planned Unit Development has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.
4. If construction and development does not conform to the approval of the Planning Commission, any Building Permit and/or Zoning Compliance Certificate shall be forthwith revoked by the Zoning Inspector by written notice of such revocation posted upon the site and mailed to the developer at his last known address. Upon revocation, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.

