

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.

Posted Speed Limit (MPH)	Minimum Driveway Spacing (In Feet)
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.

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

3) BUSINESS AND COMMERCIAL	
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:

Parking Pattern (Degrees)	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
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:

Land Size	Total No.of Signs	Mas. Area Per Sign
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 entrances 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(1)(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.