



**Planning Commission Meeting
June 16, 2022 City Hall
102 Butler Street, Saugatuck, MI
7:00 PM**

1. **Call to Order/Roll Call:**
2. **Approval of Agenda:**
3. **Approval of Minutes:** April 21, 2022
4. **Public Comment on Agenda Items:** Limit 3 minutes
5. **Old Business:**
Discuss changes/corrections to the Zoning ordinance.
6. **New Business:**
Set public hearing for amendments to the Zoning Ordinance.
7. **Communications:**
Video (5 minutes)
8. **Reports of Officers and Committees:**
9. **Public Comments:** Limit 3 minutes
10. **Adjournment**

NOTICE:

This will be an in-person meeting at 102 Butler Street. Join us online by visiting:
<https://us02web.zoom.us/j/2698572603>

Join by phone by dialing:
**(312) 626-6799 -or-
(646) 518-9805**

Then enter "Meeting ID":
2698572603

Please send questions or comments regarding meeting agenda items prior to meeting to:
cindy@saugatuckcity.com

***Public Hearing Procedure**

- A. Hearing is called to order by the Chair
- B. Summary by the Zoning Administrator
- C. Presentation by the Applicant
- D. Public comment regarding the application
 - 1) Participants shall identify themselves by name and address
 - 2) Comments/Questions shall be addressed to the Chair
 - 3) Comments/Questions shall be limited to three minutes
 1. Supporting comments (audience and letters)
 2. Opposing comments (audience and letters)
 3. General comments (audience and letters)
 4. Repeat comment opportunity (Supporting, Opposing, General)
- E. Public comment portion closed by the Chair
- F. Commission deliberation
- G. Commission action



Minutes Planning Commission Meeting-*PROPOSED*

**April 21, 2022, City Hall
102 Butler Street, Saugatuck, MI
7:00 PM**

Call to Order:

The meeting was called to order by Chairperson Fox at 7:02 p.m.

Attendance:

Present: Broeker, Crawford, Fox, Gardner, Gaunt, Heriford and Manns.

Absent: None

Others Present: Zoning Administrator Osman, Attorney Patterson, and Clerk Wolters.

Approval of agenda:

A motion was made by Manns, 2nd by Gardner to approve the agenda with adding a change; add to the agenda that the Planning Commission will move into closed session for discussion with legal counsel regarding a written legal opinion. Motion carried unanimously.

Approval of Minutes:

A motion was made by Gardner, 2nd by Gaunt to approve the minutes as presented for March 17, 2022, and March 21, 2022. Motion carried unanimously.

Public Comment on Agenda Items:

1. Eric Chaitin, *Saugatuck City Business Owner*- Spoke in support of WPBG, LLC.
2. Dominic Daunter, *Saugatuck Township Resident*- Spoke in support of WPBG, LLC.
3. Catherine Simon, *Saugatuck City Business Owner*- Spoke in opposition of WPBG, LLC.
4. Jane Verplank, *Saugatuck City Business Owner*- Spoke in opposition of WPBG, LLC.
5. Christine Murphy, *WPBG, LLC Owner and applicant*- stated she is open to closing outdoor space at 10: 00 p.m if she is given more seats.
6. Patrick Drueke, *Lawyer representing WPBG, LLC*- he summarized the submitted letter to Planning Commission on 4-14-22. Asked Planning Commission to reconsider and allow what WPBG, LLC set forth in its March application.
7. Donna Daunter, *Saugatuck Township Resident*- Spoke in support of WPBG, LLC.
8. Brad Browder, *Saugatuck Township Resident*- Spoke in support of WPBG, LLC.
9. Brady Bailiff, *Saugatuck City Resident*- Spoke in support and opposition of WPBG, LLC.

10. Steven Levy, *Former Saugatuck City Resident*- Spoke in support of WPBG, LLC.

Closed Session:

Pursuant to MCL 15.268(a) of the Open Meetings Act; The Planning Commission will enter into closed session to discuss the City Attorney's confidential written legal opinion regarding imposing conditions as part of zoning approvals as well as pending amendment to a special land use request.

Motion by Gaunt, 2nd by Heriford to enter into closed session. Motion carried unanimously. Planning Commission moved into closed session at 7:30 p.m.

Motion by Manns, 2nd by Broeker to come out of closed session. Upon roll call vote, the motion carried unanimously. Planning Commission came out of closed session at 8:58 p.m.

Old Business: None

New Business:

A. Consideration of amending conditions for 449 Water Street, 121 Mary Street:

WPBG, LLC has applied for consideration to amend the conditions for the expanded bar/restaurant at 449 WATER ST. This property is located in the WSE-WATER E C2 Zone District. The purpose of this memo is to show how the ordinance relates to this application.

On March 21, 2022, the Planning Commission approved the expansion of the bar/restaurant at 449 Water Street into the existing building on the same parcel with the address of 121 Mary Street and outdoor seating with a site plan review and as a special land use permit with the following conditions:

1. Occupancy is limited to twenty-five seats total, inside and outside. The total number of seats shall be posted inside the building.
2. Hours of occupancy limited to 11:00 AM to 11:00 PM
3. Music, live or recorded, is limited to indoor only at a level that does not interfere with intimate conversation, no amplified music, no live or recorded music outside, no speakers outside, and no percussion instruments.
4. Written contracts for events including specific hours of occupancy, number of seats, and limitations on music and other information that the proprietor has indicated, shall be kept on file and copies provided to the Zoning Administrator upon request.
5. Covering other than umbrellas over the outdoor seating areas, either permanent or temporary are not permitted.
6. Fence height is limited to 8 feet above the adjacent grade.
7. Drainage is to be approved by the city engineer, and if after construction it does not drain properly the concrete will be removed and replaced.
8. Fire Department plan review and approval of the sealed plan is required.
9. Written approval from the Allegan County Health Department will be submitted to the Zoning Administrator.
10. Any changes to the site plan or the conditions shall be brought back to the Planning Commission for review.

Public Hearing was opened by the Chair at 9:00 pm:

Summary by the Zoning Administrator:

After several meetings with the Planning Commission, the applicant was approved for a special land use permit with various conditions. The applicant submitted a letter requesting that one of the conditions be adjusted, or perhaps two be adjusted. Items being capacity, hours of operation and addition of sound deadening.

Chairman Fox and Commission member Broeker explained the three options for the Planning Commission to continue:

1. Deny appeal and allow for the appeal process.
2. Amendment by mutual consent pursuant to section 154.85 of the City Code.
3. Continue with public hearing for expanded land use pursuant to section 154.087 of the City Code.

A Motion by Gardner, 2nd by Manns that the Planning Commission enter into a discussion with the landowner regarding the requested change and conditions and arrive at a mutually agreeable change.

Presentation:

Patrick Drueke, *Lawyer representing WPBG, LLC*- Stated his client will be happy to engage discussion with the Planning Commission and would like to meet with his client before entering discussions with the Planning Commission.

Christine Murphy-Pierce, *owner of Wicks Park Bar & Grill*- Noted she has a difficult time measuring and classifying what a nuisance is. She has never been a nuisance to the town and noted she has never received any fines from the City. She provides a service and wants to bring something to the town that is currently unavailable.

Deliberation:

- Gardner clarified the difference between legal occupancy and occupancy the Planning Commission is talking about for special land use for a specific space.
- The applicant and her lawyer requested to meet in private, request was granted by the Planning Commission.
- Planning Commission requested document from Zoning Administrator showing public notice of mailing to residents that are within 300 feet of the property in question.
- Zoning Administrator provided the notice along with the newspaper clipping of public notice.
- Patrick Drueke and his client proposed the following terms of the conditions and are willing to agree in writing to:
 - Occupancy limited to 50 seats total outside and 25 seats inside, posted inside the building.
 - Hours of occupancy limited to 11 a.m. to 10 p.m.
 - Outside installing an exterior noise reducing acoustic barrier and or panel on the fence at the east and south sides immediately adjacent to the outdoor event space.

- All conditions as they are written item number three to item number ten from the March 17, 2022 minutes that were approved at the beginning of the meeting, which begin at “Music, live or recorded, is limited to indoor only at a level that does not interfere with intimate conversation, no amplified music, no live or recorded music outside, no speakers outside, and no percussion instruments” and end at “Any changes to the site plan or the conditions shall be brought back to the Planning Commission for review.” The remaining conditions remain in full force and effect.
- Chairman Fox stated the Planning Commission would be willing to offer 25 outside and 25 inside.
- Gardener noted there were earlier discussions that the Planning Commission had with the applicant, and numbers attested were 25 inside and 25 outside. He stated he was open to discussion changing the condition number one to 25 inside and 25 outside, the suggested hours of occupancy and the sound changes.
- Gardner wanted to note for the record that item number seven condition; drainage is to be approved by the City Engineer, and if after construction it does not drain properly the concrete will be removed and replaced. There have been several citizens as well as Planning Commissioners that have noted the cement was poured, it will be draining on the adjoining property.

Commission Action:

A motion by Gardner, 2nd by Gaunt that the Planning Commission amend its conditions for approval for the special land use as follows;

Number one; occupancy is limited to 25 seats inside and 25 seats outside and posted inside the building.

Number two; hours of occupancy will be limited to 11 a.m. to 10 p.m. inside and outside.

Add condition number eleven; adding a sound proposal for sound deadening, using language that was given to us by applicant.

All other conditions remain unchanged.

Deliberation continued:

- Manns commented that he does not believe the inside needs to be limited to closing at 10 p.m. and believes the outdoor space can accommodate more than 25 and that 25 is too low.
- Patrick Drueke asked for clarification on direction and where the Commission is on his client’s changed request.

Upon roll call vote the motion carried 6-1,

Yeas, Broeker, Crawford, Fox, Gardner, Gaunt and Heriford.

Nays, Manns.

The public comment portion of the hearing was closed at 9:58 p.m.

Communications: Twelve letters were received and attached to the permanent record.

1. Thomas and Maureen Smith, *Saugatuck City residents*- Wrote in support of WPBG, LLC.
2. Patrick Drueke, *Attorney for WPBG, LLC*- Wrote in support of WPBG, LLC.
3. Brad and Erin Browder, *Saugatuck Township Resident*- Wrote in support of WPBG, LLC.
4. Catherine Simon, *Saugatuck Business Owner*- Wrote in opposition of WPBG, LLC.
5. Brady Bailiff, *Saugatuck City Resident*- Wrote in support and opposition of WPBG, LLC.
6. Courtney Burnham, *Saugatuck Business Owner*- Wrote in support of WPBG, LLC.
7. Gary Medler, *Saugatuck City Resident*- Wrote in opposition of WPBG, LLC.
8. Kimberly Bale, *Saugatuck City Resident*- Wrote in support of WPBG, LLC.
9. Nico Leo, *Saugatuck City Resident*- Wrote in support of WPBG, LLC.
10. Sarah Meyer, *Former employee of applicant*- Wrote in support of WPBG, LLC.
11. Elizabeth Holley, *Fennville City Resident*- Wrote in support of WPBG, LLC.
12. Jane Verplank, *Saugatuck City Business Owner*- Wrote in opposition of WPBG, LLC.

Reports of Officers and Committees: None

Public Comments: None

Adjournment: Upon motion by Crawford, 2nd by Broeker, the motion to adjourn at 10:01 p.m. carried unanimously.

CHAPTER 154: ZONING CODE

Section

General Provisions

- 154.001 Ordinance continued
- 154.002 Short title
- 154.003 Purposes
- 154.004 Rules of construction
- 154.005 Definitions
- 154.006 Interpretation of chapter

Zoning Districts and District Regulations

- 154.020 Effect of zoning
- 154.021 Application of regulations
- 154.022 General regulations
- 154.023 LI-1 Blue Star District (LIND)
- 154.024 C-1 City Center Commercial District (CC)
- 154.025 R-4 City Center Transitional Residential District (CER)
- 154.026 R-1 Community Residential District (CR)
- 154.027 Conservation, Recreation and Camp District (CRC)
- 154.028 Summer Resort and Park Association District (SRP)
- 154.029 Cultural/Community District
- 154.030 R-2 Lake Street District (LS)
- 154.031 R-1 Maple Street District (MS)
- 154.032 Neighborhood Marine District (NHM)
- 154.033 R-1 Peninsula North (Duneside) District (PN-A)
- 154.034 R-1 Peninsula North (Riverside) District (PN-B)
- 154.035 R-1 Peninsula South District (PS)
- 154.036 R-1 Peninsula West District (PW)
- 154.037 C-4 Resort District
- 154.038 Reserved
- 154.039 C-2 Water Street East District (WSE)
- 154.040 C-1 Water Street North District (WSN)
- 154.041 C-2 Water Street South District (WSS)
- 154.042 R-3 Multi-Family Residential District (MR)
- 154.043 Zoning map
- 154.044 Interpretation of district boundaries
- 154.045 Area not included within a city district
- 154.046 Permitted accessory structures and uses in all residential districts
- 154.047 Condominium subdivisions
- 154.048 Historic District Overlay Zone
- 154.049 Service of alcoholic beverages

Site Plan Review

- 154.060 Purpose and scope
- 154.061 Applications
- 154.062 Standards for administrative site plan review
- 154.063 Standards for formal site plan approval
- 154.064 Conditions of approval
- 154.065 Validity of site plans
- 154.066 Amendments to approved site plans
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Special Land Uses

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- 154.081 Planning Commission designated
- 154.082 Standards
- 154.083 Application procedures for special land use permits
- 154.084 Decision following public hearing
- 154.085 Conditions
- 154.086 Performance guarantees
- 154.087 Amendments to special land uses
- 154.088 Limitations on validity of permit
- 154.089 No right of appeal
- 154.090 Inspection
- 154.091 TVRO special land use permit/allowable zones
- 154.092 Design standards for selected special land uses

Planned Unit Development

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- 154.111 PUD is an Overlay Zone
- 154.112 Eligibility criteria
- 154.113 Project design standards
- 154.114 Application and data requirements
- 154.115 Procedures and requirements
- 154.116 Phasing and commencement of construction
- 154.117 Revision to approved plans
- 154.118 Required improvements prior to issuance of certificate of occupancy

Off-Street Parking

- 154.130 General off-street parking regulations
- 154.131 Exceptions to off-street parking requirements
- 154.132 Off premises parking
- 154.133 Joint use of parking facilities
- 154.134 Site development requirements

154.135 Minimum off-street parking requirements

Signs, Screening and Fences

154.140 Sign definitions

154.141 Sign requirements

154.142 Screening

154.143 Fencing

154.144 Landscaping

Board of Appeals

154.150 Provision for Zoning Board of Appeals

154.151 Membership

154.152 Alternate members

154.153 Organization and procedures

154.154 Effect of appeals proceedings

154.155 Standards for variances

154.156 Use and non-use variance requests

154.157 Application procedures for appeal

Administration and Enforcement

154.170 Enforcement by Zoning Administrator

154.171 Duties of Zoning Administrator

154.172 Application procedures for zoning permits that do not require site plan review

154.173 Performance guarantees and performance bonding for compliance

154.174 Nonconforming uses, lots and structures

154.175 Fees; escrow for professional reviews

154.176 Amendments; procedure

154.177 Violations

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154.179 Public notice

Waterfront Construction

154.200 Purpose

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154.202 Unsafe structures

154.203 Other agency permits

154.204 Limitations on use

154.205 Major construction regulations

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Appendix A: Figures and Drawings

GENERAL PROVISIONS

§ 154.001 ORDINANCE CONTINUED.

The City Council of Saugatuck City in the County of Allegan, under authority of Public Act 207 of 1921, being M.C.L.A. §§ 125.3101 et seq., as amended, having adopted this Zoning Ordinance pursuant to Ord. 80-133, as amended, the City of Saugatuck, pursuant to its Charter, hereby continues those ordinances in effect as Ch. 154 of the Saugatuck city code. The continued administration of this ordinance, amendments to this chapter, and all matters concerning the operation of this chapter, shall be done pursuant to Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-1, passed 10-8-2007)

Editor's Note:

Public Act 207 of 1921 has been rescinded by the state legislature and replaced by Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq.

§ 154.002 SHORT TITLE.

This chapter shall be commonly known as the Saugatuck City Zoning Ordinance.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.003 PURPOSES.

(A) The city zoning ordinance is hereby established in accordance with the needs of the city. The text, zoning map and schedules contained herein shall constitute this chapter.

(B) The chapter is expressly adopted for the following purposes:

(1) To protect and promote the public health, safety and welfare of the city;

(2) To promote and implement the policies, objectives and strategies of the city land use plan;

(3) To prevent land use conflicts through the appropriate location of compatible land uses;

(4) To protect sensitive natural resources, including but not limited to wetlands, sand dunes, woodlands and floodplains;

(5) To protect land values; and

(6) To promote and provide for orderly growth.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.004 RULES OF CONSTRUCTION.

(A) For the purpose of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this chapter.

(B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural include the singular; the word herein means in this chapter; and the word regulation means the regulation of this chapter; and the words this chapter shall

mean this chapter and the maps and schedules included herein as enacted or subsequently amended.

(C) A person includes an individual, a corporation, a partnership and an unincorporated association of persons such as a club; shall is always mandatory and not discretionary, may is permissive; a lot includes a plot or parcel; a building includes a structure; a building or structure includes any part thereof; used or occupied as applied to any land or building shall be construed to include the words intended, arranged maintained for or designed to be used or occupied.

(D) 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:

(1) AND indicates that all the connected items, conditions, provisions or events shall apply;

(2) OR indicates the connected items, conditions, provisions or events may apply singly or in any combination; and

(3) EITHER...OR indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

(E) The city is the City of Saugatuck in the County of Allegan, State of Michigan; the City Council or Council, Board of Appeals or Board and Planning Commission or Commission are, respectively, the City Council, Zoning Board of Appeals and Planning Commission of the city.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING (LOT OR PARCEL). A lot or parcel which shares a common border with the subject lot or parcel.

ACCESSORY USE, BUILDING OR STRUCTURE. A use, building or structure which is clearly incidental to, not attached to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is related.

ADJACENT (LOT OR PARCEL). A lot or parcel which abuts, or which is directly across a street right-of way from any lot or parcel line of the subject lot or parcel.

ALLEY. Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

ALTERATIONS. As applied to a building or a structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

AMUSEMENT AND RECREATION SERVICES. A commercial operation that offers rides, games, entertainment, or similar activities to patrons for compensation.

AMUSEMENT ARCADE. Any place of business or establishment containing four or more coin-operated amusement devices.

APARTMENT. A dwelling unit within a building containing other dwelling units or commercial tenant spaces.

ART GALLERY. A retail establishment offering the display, production and/or sale of art.

ATTIC. The unfinished space found directly between a pitched or flat roof and the ceiling of the uppermost finished section of a building.

AUTOMOTIVE SERVICES. A facility for the sale of automotive parts, tools, or accessories and the repair, sale, or rental of motorcycles, passenger vehicles, light duty trucks, or similar motor vehicles.

AVERAGE GRADE. See GRADE, AVERAGE.

BASEMENT. The portion of a building used for living space or storage that is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A BASEMENT shall not be counted as story (see Appendix, Figure 1). A cellar is a basement.

BED AND BREAKFAST ESTABLISHMENT. A residential structure occupied by the owner(s) or resident manager, which has sleeping rooms available for rent by transient people on a short-term basis.

BERM. A mound of earth graded, shaped, and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

BILLIARDS, POOL HALL. A commercial establishment containing pool tables or billiards games available for use for compensation to the establishment owner.

BOAT, COMMERCIAL. Any vessel used for the purpose of generating revenue, excepting vessels leased or chartered to others for non-revenue generating purposes. Also, any vessel, such as, but not limited to a tugboat or freighter, used for commercial purposes without regard to the carrying capacity.

BOAT, RECREATIONAL. Any vessel used by the owner or lessee thereof for a non-revenue generating purpose. Also, any vessel leased, rented, or chartered to another for the latter's non-commercial use.

BOWLING ALLEY. A commercial establishment containing one or more long, narrow lanes or alleys for the game of tenpin or similar game.

BREWERY, DISTILLERY, AND WINERY. The means of producing alcoholic beverages out of fruit, grain, or other products by the means of distillation or fermentation into a consumable product for resale.

BUFFER ZONE. A strip of land reserved for plant material, berms, walls or fencing, or combination thereof, to serve as a visual and/or sound barrier between properties.

BUILDABLE AREA. The net lot area, less areas subject to flooding, permanent water bodies, watercourses, land encumbered by easements, required setbacks and Michigan Department of Environmental Quality-Great Lakes, and Energy, (EGLE) and Michigan Department of Natural Resources regulations.

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities.

BUILDING INSPECTOR. An individual appointed by the City Council delegated to administer the Building Code.

BUILDING LINE. See SETBACK.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use(s) of the lot on which the building is located.

BULKHEAD. A wall or restraining structure constructed along a waterway to prevent the earth behind it from sliding or eroding. A BULKHEAD may constitute a pier, dock or quay for mooring watercraft.

BUSINESS, PROFESSIONAL OFFICES. A building, or portion of a building, occupied by an establishment in which a person or persons offer a professional service for a fee or charge including but not limited to: offices for finance, insurance and real estate functions, legal services, engineering, architectural and planning services, accounting, auditing and bookkeeping services, and professional medical services such as, but not limited to doctors offices, dental office or physical therapy.

CELLAR. See BASEMENT.

CERTIFICATE OF OCCUPANCY. A document signed by the Building Inspector as a condition precedent to the commencement of a use or the construction/reconstruction of a structure or building which acknowledges that the use, structure, or building complies with the provisions of this chapter.

CHARTER FISHING TOUR. A commercial establishment where individuals offer compensation to be taken by boat into nearby bodies of water to catch fish.

CHURCHES and SYNAGOGUES. See RELIGIOUS FACILITY.

CITY. The City of Saugatuck, a chartered municipal corporation.

CLUB, LODGE, CHARITABLE OR CIVIC ORGANIZATION. An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, or the like, but not for profit, and without payment of dividends to members. Activities associated with these entities include traditional civic activities such as but not limited to: meetings, community hall rental for private parties, fund raising sales, social events, educational activities, puppet shows and movies, veteran support, exhibitions, and other activities. The sale or distribution of alcohol and/or gambling or playing at any game of chance for money or other stakes is permitted only with a properly issued state licenses.

COMMON LAND and COMMON OPEN SPACE. A parcel or parcels of land with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and/or occupants of the individual dwelling units in a subdivision, site condominium, planned unit development, or comparable land development type or which is to be shared by the owners and/or occupants of a commercial or industrial project in which common land and/or common open space has been provided for. Common land and/or common open space may also be made available to the general public if designated as such by the city.

COMMON PARTY WALL. A wall shared in common between abutting dwelling units, between abutting nonresidential principal structures, or between a principal structure and a garage or similar attached structure.

COMMUNITY CENTER. A facility which provides a venue for community organizations to meet, social/entertainment events for the community, and other activities of interest to and primarily for the benefit/enjoyment of the community. Such activities may include social events sponsored by, or for the benefit of, individual members of, or groups within,

the community, provided that the latter does not become the principal function of the facility. Excluded from the activities that fall under this definition are trade shows and conventions, excepting, however, art shows, antique fairs and garden shows.

CONDOMINIUM PROJECT. A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 et seq., as amended.

CONDOMINIUM SUBDIVISION. A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act of 1967, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 et seq., as amended. Any condominium unit or portion thereof, consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of a condominium subdivision with the provisions of this chapter pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

CONDOMINIUM SUBDIVISION PLAN. The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

CONDOMINIUM UNIT. The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business or recreational use as a time-share unit, or any other type of use. A CONDOMINIUM UNIT may consist of either vacant land or space which either encloses or is enclosed by a building structure.

CONTRACTOR'S STORE. A commercial establishment that offers tools and materials to those in the trades industry, including construction, electrical and plumbing.

CREST. The line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 18 feet for a distance of at least 20 feet, if the area extent where this break occurs is greater than 0.10 acre in size.

CULTURAL/PERFORMING ARTS FACILITY. A building or group of buildings used for the enrichment and education of the community and its visitors through means such as the presentation of live performances, plays, concerts, movies, non-commercial art galleries and exhibitions, artists' studios, museum exhibitions, or other similar activities not listed here with the approval of the Planning Commission.

DECK. An above-ground, unroofed wood or wood substitute framed floor structure used for outdoor leisure living area, which may or may not be attached to a building.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

DENSITY. The number of dwelling units situated on or to be developed per net or gross acre of land.

DISTILLERY. See BREWERY, DISTILLERY, AND WINERY.

DOCK. Means the same as PIER, defined herein.

DOMESTIC AND BUSINESS REPAIR ESTABLISHMENTS. A building, or portion of a building, occupied by an establishment in which a person, or persons, repair and/or restore equipment or similar items, which are not intended for resale on the

premises. Domestic and business repair establishments shall not include the repair of automobile or motorized vehicles.

DREDGED MATERIAL. That material which is excavated or dredged from a body of water.

DWELLING UNIT. A dwelling unit is any building or portion thereof having independent cooking, bathing, and sleeping, facilities, which is occupied wholly as the home, residence, or sleeping place, either permanently or transiently, with an independent entrance not located within another dwelling. In no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this section and shall comply with the provisions thereof relative to dwellings. A DWELLING UNIT shall include both manufactured units (mobile homes and modular homes) and site built units. Hotels, motels, bed and breakfasts, and inns are not included in the definition of a DWELLING UNIT.

DWELLING UNIT, ACCESSORY. A dwelling unit located on the same lot as a principal use, located either within the principal use or within a detached accessory building.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, used or designed for use, as an apartment for three or more families living independently of each other. This definition does not include mobile homes, single-family attached dwellings or two-family dwellings.

DWELLING, SINGLE-FAMILY ATTACHED. A group of two or more single-family dwelling units joined to one another by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this chapter, dwellings such as semi-detached, row-houses, patio- houses and townhouses shall be deemed single-family attached dwellings.

DWELLING, SINGLE-FAMILY DETACHED. A dwelling unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot and which meets the single family detached dwelling standards of the ordinance.

DWELLING, TWO-FAMILY. A detached building used or designed for use exclusively by two families living independently of each other, providing each family with its own cooking, sleeping and bathing facilities in separate dwelling units. It may also be termed a duplex or a two-flat.

EASEMENT. A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

EFFICIENCY (STUDIO). A dwelling unit of not more than one room in addition to a kitchen and a bathroom.

EQUIPMENT RENTAL AND LEASING. A commercial establishment that rents or leases tangible goods for offsite use.

ESSENTIAL PUBLIC SERVICES. Municipal fire stations and garages, police stations and garages, city offices, post offices, and public works buildings, and such accessory structures as may be necessary in conjunction therewith, and the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, cable television, gas, electrical, steam or water transmission, or distribution system, collection, communication, supply or disposal system (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm

boxes, police call boxes, traffic signals, hydrants, electric substations, telephone substations, gas regulator stations and other similar equipment and accessories in connection therewith) reasonably necessary for the furnishing and adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare shall be considered ESSENTIAL PUBLIC SERVICES. Cellular wireless antennas/towers are not included in the definitions of ESSENTIAL PUBLIC SERVICES.

EXHIBITION SPACE. An area used for the display of art, merchandise, or similar items.

FAMILY. A person living alone in a single dwelling unit or two or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single dwelling unit. FAMILY does not include a collective number of individuals occupying a motel or hotel, fraternity, sorority, society, club, boarding and lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature.

FARM MARKET. A public market at which farmers and or similar vendors sell fresh produce, including but not limited to fruits, vegetables, meats, and eggs, farm products including baked goods, cheese, or honey, and other products, but no more than 20% of the number of vendor spaces can be used to sell jewelry, pottery, apparel, fine arts, or similar non-farm items.

FENCE. A structure or other object or objects, including growing plants, erected to act as a boundary marker, or erected for the purpose of restricting access to or from a lot or parcel of land, whether enclosing all or part of the lot or parcel.

FENCE, BARRIER. Fences containing barbed wire, electric charges, sharp materials at the top, or other measures to prevent entry by animals or persons.

FENCE, TEMPORARY. A fence erected for a limited time to protect a construction site from vandalism and unauthorized entry.

FINGER PIER. A pier or dock (less than four feet wide) extending at right (or similar) angles from the main pier and often located parallel with the shoreline.

FLOATING HOME.

(1) Any structure or item which is waterborne or is supported by means of flotation (or suspension over a river or lake), designed to be used without a permanent foundation; used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied; or which is occupied for living purposes with facilities for living and sleeping, and often cooking and eating as well. The term FLOATING HOME shall also include a "floating house," "liveaboards," "ark," "barge," and any other boat or vessel which is designed or used primarily for living or as a house, domicile or dwelling rather than for water transport or recreational purposes. The definition of FLOATING HOME can also include a "houseboat" which exhibits any of the following traits:

- (a) Is over 25 feet long;
- (b) Is over 15 feet in height above the water when calm;
- (c) Cannot be readily propelled through the water at a speed of at least 15 miles per hour; or
- (d) Is not certified by the United States Coast Guard or other government agency as a water-worthy boat or watercraft.

(2) When determining whether a boat, vessel or float is a "floating home" for purposes of this chapter, the Zoning Administrator (or such other official as the City Council may designate) shall also consider the following:

- (a) Whether the structure or item is usually kept at a fixed mooring point;
- (b) Whether the structure or item is actually used on a regular basis for transportation or navigation;
- (c) Whether the structure or item has a permanent or continuous connection to the shore for electrical, plumbing, water, or other utility service;
- (d) Whether the structure or item has the performance characteristics of a vessel typically used for navigation or transportation on water;
- (e) Whether the structure or item can be readily removed from the water;
- (f) Whether the structure or item is used for intermittent or extended human habitation or occupancy;
- (g) Whether the structure or item clearly has a means of substantial and continuous propulsion, and appropriate power/size ratio;
- (h) Whether the structure or item is safe to navigate or use for transportation purposes;
- (i) Whether the structure or item has a factory or manufacturer installed and operable water propulsion system;
- (j) That a structure or item could occasionally move from place to place in the water, or that it qualifies under a federal or state regulatory program as a vessel or boat, are factors that would not be determinative; and
- (k) Such other factors as are relevant to determining the nature of the item or vessel at issue.

FLOOD HAZARD AREA. The area designated as a flood hazard area (100-year floodplain) on the city's Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA), as from time to time amended.

FLOOR AREA, GROSS. The sum of all horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, court yards or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

FLOOR AREA, GROSS FINISHED. The sum of all gross horizontal areas of all floors of a building or buildings measured from the inside dimensions of the inside face of the outside wall. Unenclosed and uncovered porches, court yards or patios shall not be considered as part of the GROSS FINISHED FLOOR AREA.

FLOOR AREA RATIO. A quantitative relation between the total gross floor area of a structure (minus the square footage of areas such as basements, unfinished attics, or garages) and the lot area.

FLOOR AREA, USABLE. For the purposes of computing parking requirements, building floor area shall be the usable floor area of a building. **USABLE FLOOR AREA** is that area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Floor area used for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be

excluded from this computation of usable floor area. USABLE FLOOR AREA shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

FOOD AND BEVERAGE SERVICES. The offering of food and beverages as an accessory to a primary use.

FOREDUNE. One or more low linear dune ridges that are parallel and adjacent to the shoreline of a lake or river and are rarely greater than 20 feet in height. The ~~lakeward~~lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

~~—FRONTAGE, PRIMARY ENTRY. The side of the building that houses the main entrance to the business or service.~~

GARAGE. A building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

GASOLINE SERVICE STATIONS. A premises, or portion, occupied by an establishment engaged primarily in the retail selling of gasoline and lubricating oils directly to ultimate consumers on the premises and not for resale. GASOLINE SERVICE STATIONS may include the retail selling of minor automotive accessories or the performing of minor automotive repair work in the premises for a fee or charge provided such activities are incidental and accessory to the principal retail selling of gasoline and lubricating oils.

GRADE, AVERAGE. The arithmetic average of the lowest and highest natural grade elevations in an area within five feet of the foundation line of a building or structure (see Appendix, Figure 3).

GRADE, FINISHED. The lowest point of elevation between the exterior wall of the structure and a line five feet from the exterior wall of the structure.

GRADE, NATURAL. The elevation of the ground surface in its natural state, before man-made alterations. This is also the finished grade if it is unaltered.

GREENBELT. A planting strip or buffer strip of a definite width reserved for the placement of shrubs, trees, and/or grasses to serve as an obscuring screen, aesthetic feature and/or buffer strip in carrying out the requirements of the ordinance. In addition to the above features, a GREENBELT may also consist of ~~berming-berms~~ and fencing as approved or required by the city ordinance.

GROSS SITE AREA. The total area of a site including floodplains, wetlands, and waterbodies.

HEDGE. A row of bushes or shrubs used as a fence.

HEIGHT (BUILDING OR STRUCTURE). The vertical distance measured from the average grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip and gambrel roofs.

HOME BUSINESS. A home occupation exhibiting a level of impact exceeding the home occupation standards of this chapter due to increased levels of non-resident employees, client trips, identification signage and/or other external factors. A HOME BUSINESS shall meet the home business standards of the ordinance.

HOME OCCUPATION. An occupation customarily conducted in a dwelling unit or accessory building that is a clearly incidental and secondary use of the dwelling and which meets the home occupation standards of the ordinance. Without limiting the foregoing, a

single-family residence used by an occupant of the residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

HOTEL (INN). A building comprised of attached, furnished, sleeping rooms, containing bathroom facilities, which are accessible by interior hallways, in which transient lodging or boarding are offered to the public for compensation. A hotel may contain a restaurant(s), ~~gift and specialty~~ shop(s), swimming pool, and exercise facilities, lounge(s), and conference rooms(s); provided these uses are clearly accessory to the hotel. A hotel shall not be considered or construed to be a motel, bed and breakfast establishment, multiple-family dwelling, or similar facility.

INDUSTRY (also GENERAL INDUSTRIAL). Commercial, wholesale, warehousing and manufacturing uses and facilities as permitted by this chapter whose external effects (e.g. noise, vibration, odor, fumes, smoke and/or heat and the like) are discernible by normal human senses at or beyond the property lines of the site at which the industrial use is located. The impacts shall not result in appreciable negative impact to surrounding land uses, buildings and structures, and residents.

INDUSTRY, LIGHT. Commercial, wholesale, warehousing and manufacturing uses and facilities as permitted by this chapter whose external effects (e.g. noise, vibration, odor, fumes, smoke, and/or heat and the like) are not discernible by normal human senses beyond the property lines of the site at which the light industrial use is located.

INN. See HOTEL.

~~**LAND-USE PLAN**~~ **MASTER PLAN.** A document containing the approved future development policy and future land use map for the city, together with supporting documentation, as most recently adopted or amended by the Planning Commission pursuant to Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 through 125.3885, as amended.

LANDSCAPING. Materials (trees, shrubs, flowers, hardscape and the like) when used to control erosion or improve the yards or surfaces of a parcel.

LITTORAL MATERIAL. Material existing on shore or in the water which is subject to erosion and displacement by wave forces.

LOADING SPACE. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise, materials, or passengers.

LOT. A description of land as identified on a recorded plat, a defined area of land with a legal description and parcel identification number, or a unit within a condominium subdivision.

LOT AREA. The area contained within the lot lines or property boundary including street right-of-way if so included in the property description.

LOT, CORNER. A lot or parcel that has two sides bordering two streets at their point of intersection.

LOT COVERAGE. The area of a lot, stated in terms of a percentage, that is covered by buildings and/or structures located thereon. This shall include all buildings, roofed porches, arbors, breezeways, decks 24 inches above grade or higher, roofed patios, whether open or fully roofed; but shall not include fences, walls, driveways, sidewalks, hedges used as fences, decks less than 24 inches above grade or detached stairways,

ground-floor stairways, wheelchair ramps, patios or in-ground swimming pools. Stairway landings (provided the landing does not exceed the building code minimum area requirement by more than 10%) shall not be considered in determining lot coverage. Lot coverage shall be measured from the wall or foundation of the building or structure.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured along the midpoint between the side lot lines (see Appendix, Figure 5).

LOT, FLAG. A lot or parcel whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property (see Appendix, Figure 7).

LOT FRONTAGE. The length of the front lot line.

LOT, INTERIOR. A lot or parcel other than a corner lot that, with the exception of a through lot, has only one lot line fronting on a street.

LOT LINES. The lines bounding a lot or parcel (see Appendix, Figure 7).

(1) **LOT LINE, FRONT.** The lines separating the parcel from any street right-of-way, private road or other access easement (see Appendix, Figure 7).

(2) **LOT LINE, REAR.** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line (see Appendix, Figure 7).

(3) **LOT LINE, SIDE.** Any lot line other than a front or rear lot line, as defined above (see Appendix, Figure 7).

LOT OF RECORD. A tract of land which is part of a subdivision shown on a plat or map or a condominium unit which is part of a condominium project which has been recorded in the Office of the Register of Deeds for Allegan County, Michigan; or a tract of land described by metes and bounds which is the subject of a deed or land contract which is likewise recorded in the Office of the Register of Deeds.

LOT, THROUGH. An interior lot or parcel having frontage on two more or less parallel streets.

LOT, WATERFRONT. A lot or parcel abutting a lake, pond, stream or river.

LOT WIDTH. The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line (see Appendix, Figure 7).

LUMBER YARD. A commercial operation that may mill, cut and store lumber for wholesale or retail use.

MAJOR CONSTRUCTION. All waterfront construction and set forth in §§ 154.205et seq. requiring a major construction permit.

MAJOR RECREATIONAL EQUIPMENT. For the purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, recreational trailers, pick-up campers or coaches (designated to be mounted on automotive vehicles), self-propelled dwellings, tent trailers and the like, and cases ~~or~~ boxes used for transporting recreational equipment, whether occupied by the equipment or not.

MANUFACTURED HOME. A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. MANUFACTURED HOME includes mobile homes and modular housing units.

MARINA. A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a MARINA under this chapter.

MARINA, FULL SERVICE. A dock or docks, marina, waterfront area or a basin with mooring or docking services for boats and yachts. To be considered a full service marina, the marina shall provide at a minimum all of the following on-site services:

- (1) Off-street parking in accordance with § 154.130;
- (2) Electrical supply inspected and approved by a registered code official;
- (3) Potable water distribution inspected and approved by a registered code official;
- (4) Weekly pump out (or more frequently) of grey water and black water appropriately disposed of in accordance with state law;
- (5) Solid waste dumpster with screening in accordance with Chapter 50;
- (6) Working toilet (not portable toilets) and showers for users of the marina; and
- (7) Is open to the general public.

MARINE CONTRACTOR. A commercial operation that provides services commonly associated with boating, docks, and sea walls.

MASTER DEED. The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved by-laws for the condominium subdivision and the condominium subdivision plan.

MINOR CONSTRUCTION. All waterfront construction as set forth in §§ 154.206 et seq. requiring a minor construction permit.

MOBILE HOME. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A MOBILE HOME shall not include modular homes, motor homes, recreational vehicles or travel trailers. (See the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 et seq.)

MOORING BUOY. A floating device secured to the bottom of the waterway by means of a mechanical device or weight used to attach or moor a watercraft.

MOTEL. A commercial enterprise oriented to the public traveling by motor vehicle, with individual sleeping rooms typically exiting directly to the outside, with patron parking located at or near each room exit. A motel may contain an accessory restaurant, ~~gift and specialty~~ shop, lounge, swimming pool, and exercise facilities.

MOTOR COURT. A grouping of single story attached, semi-detached, or detached, furnished rental units each containing a bedroom, bathroom, and closet space, with or without a kitchen, less than 700 square feet in floor area, in which transient, overnight, lodging, or boarding are offered to the public for compensation. A motor court may contain shared amenities (for example, a swimming pool) for renters of the units and their guests but not separate commercial uses (for example, restaurants, ~~gift or~~ retail shops).

MOTOR HOME. A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

MOTEL/MOTOR COURT. A series of attached, semi-detached or detached, furnished, rental units each containing a bedroom, bathroom and closet space in which transient, overnight, lodging or boarding are offered to the public for compensation. The design of a motel is oriented to the public traveling by motor vehicle with individual sleeping rooms typically exiting directly to the outside with patron parking located at or near each room exit. A motel may contain a restaurant, ~~gift and specialty shops~~, lounge and swimming pool and exercise facilities, provided, these are uses clearly accessory to the motel.

MUSEUM. A structure or portion of a structure whose principal use is the preservation and exhibiting of artistic, historical or scientific objects. The structure and operation ~~are~~ are operated on a not-for-profit basis and the parent organization has obtained a tax exempt status from the Internal Revenue Service.

NONCONFORMING LOT OF RECORD (SUBSTANDARD LOT). A lot lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

NONCONFORMING STRUCTURE. A structure, or portion thereof, lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the requirements of the zoning district in which it is located.

NONCONFORMING USE. A use lawfully existing in a building or on land at the effective date of this chapter, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

NUISANCE. Shall be held to embrace public nuisance as known in common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the human food or drink unwholesome, are also severally in contemplation of this chapter, nuisances and all such nuisances are hereby declared illegal.

NURSERY, FLOWER, PLANT OR GARDEN SHOP. A commercial operation that sells vegetation and accessory items to the public for retail.

ORDINARY HIGH WATER MARK. The regulatory line established by the U.S. Army Corps of Engineers General Permit for construction on the Kalamazoo River, dated February 5, 1981, shall constitute the ordinary high water mark.

OVERHANG. The distance any moored or berthed watercraft extends into the water beyond an approved dock, pier, finger pier or spring piling location.

PARCEL. A defined area of land with a legal description and parcel identification number.

PARK. An open area intended to be used for passive or active recreation by the public or a private group of individuals.

PARKING AREA, OFF-STREET (PARKING LOT). A land surface or facility providing vehicular parking spaces off of a street along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of three or more automobiles or trucks.

PARKING SPACE. Any space used for the off-street parking of motor vehicles.

PATIO. An outdoor leisure living area flush with the earth or elevated with earth and finished with a hard durable surface such as, but not limited to, concrete, brick, or tiles.

PERSONAL SERVICE ESTABLISHMENTS. A building, or portion of a building, occupied by an establishment in which a person, or persons, offers a service directly to the personal needs of consumers normally served on the premises for a fee or charge. The type of specialized aid or assistance provided by a personal service establishment includes but is not limited to the following: beauty and barber services, spa services, dance and yoga classes, and tattoo parlors. PERSONAL SERVICE ESTABLISHMENTS do not include BUSINESS, PROFESSIONAL OFFICES.

PIERS. A platform extending from the shore over water and supported by piles, pillars, columns, or floatation devices used to secure and protect watercraft. The terms PIER and DOCK, as used in this chapter, shall be synonymous.

PLANNED UNIT DEVELOPMENT. A planned unit development (PUD) is designed to accomplish the objectives of this Zoning Code through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. It is a form of land development comprehensively planned as an entity via a site plan which permits flexibility in building, siting, usable open spaces and the preservation of significant natural features. The development may contain residential, nonresidential or a mixture of land uses as provided by the individual zoning district.

PLAT. A map of a subdivision of land.

PRACTICAL DIFFICULTY. A situation whereby a property owner can establish a "minimum practical" legal use of a legal lot or parcel, meeting all of the dimensional standards of the zoning district which the lot is located. Situations occurring due to the ~~owners~~owner's desire to establish a use greater than the "minimum practical" standard or to enhance economic gain greater than associated with a "minimum practical" standard or created by an owner subsequent to the adoption ~~date~~date of this chapter is not a practical difficulty.

PRINCIPAL BUILDING. The main building on a lot in which the principal use exists.

PRINCIPAL USE. The main use to which the premises are devoted and the main purpose for which the premises exist.

PRIVATE RECREATION CAMP. A non-commercial camp of charitable, institutional, or philanthropic nature, not open to use by the general public, and which is typically comprised of seasonal overnight lodging facilities and cabins. Such a camp may contain caretaker residences, conference facilities, kitchens and dining halls, meeting rooms, recreation facilities, assembly buildings, places of worship, gardens, an infirmary, and accessory uses and buildings necessary to support the above uses.

PRIVATE ROAD (PRIVATE STREET). A street or drive which provides access to two or more adjacent properties which is constructed and maintained by the owner or owners, which is not dedicated for the general public use.

RECREATION VEHICLE. A vehicle primarily designed and used as a temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. (See the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 et seq., as amended).

RECREATION VEHICLE PARK. All lands and structures which are owned and operated by private individuals, or business or corporation which are predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

RECREATIONAL TRANSPORTATION RENTAL FACILITIES. Facility offering the rental of motorized or non-motorized recreational vehicles, such as bicycles, boats, golf carts, or scooters with a maximum speed of 30 miles per hour on level surfaces or calm waters, but not including cars, trucks, motor homes, or similar traditional passenger motor vehicles.

RELIGIOUS FACILITY. A building, or buildings, the primary use of which is regular assembly of persons for religious worship or services, together with non-commercial accessory uses. RELIGIOUS FACILITY shall include churches, synagogues, mosques, and temples, and other religious institutions, when used for purposes of customary religious activities.

SHORT TERM RENTAL OCCUPANCY CERTIFICATE. A certificate from the City of Saugatuck authorizing a property owner to use a dwelling unit as a short-term rental unit.

RESEARCH LABORATORY. A facility for the conduct of scientific research.

RESTAURANT. An establishment in which food or beverages are prepared, served, and consumed either on or off the premises, directly to the public for compensation.

RETAIL STORE. A commercial operation that offers the sale of tangible goods to the general public for compensation.

RIGHT-OF-WAY. A public street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles, including undeveloped platted streets and alleys dedicated to the use of the public.

RIPARIAN RIGHTS. The rights that go with the property along a natural body of water such as a river or a lake. Only the land which abuts a natural body of water has RIPARIAN RIGHTS. A riparian property owner has the right to:

- (1) Access the water abutting the land;
- (2) Install a dock anchored to the bottomland adjacent to the property;
- (3) Anchor a boat on the bottomland adjacent to the property or secure it to the property owners' dock;
- (4) Use water from the lake or stream for domestic purpose; and
- (5) Control any temporarily or periodically exposed bottomland from the waters edge to the high water mark against trespass.

RIPARIAN RIGHTS AREA. The area over the water along a waterfront property when the parcel's side yard lines are extended out to the thread of the river as defined by the State of Michigan law.

ROAD FRONTAGE. The length of the lot line which borders a public road, street, highway, or alley.

SATELLITE DISH ANTENNA. A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrially and/or extra terrestrially-based sources. This definition includes but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (television reception only satellite antennas), and satellite microwave antennas.

SCREENING. The erection or construction of a greenbelt buffer zone, earthen berm, solid wall, or fence for the purpose of obscuring views, limiting noise or objectionable lighting between incompatible land uses or adjacent to a street or highway.

SCREENING, PRIVACY. A sight-obscuring barrier erected adjacent or around including but not limited to a patio, deck, courtyard, swimming pool or outdoor spa/hot tub, designed to screen but not enclose the area behind it or within its confines.

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SETBACK. The area between the lot line and a line of a distance determined within the ordinance in which construction of buildings or structures shall not be permitted unless otherwise permitted by this chapter. In the event a lot is traversed by a public or private road, and the location of the road has not been described by a right-of-way or other such easement description, setback shall be measured from the edge of the improved road surface. For waterfront properties the setback shall be measured to the ordinary high water mark. The setback shall be measured from the front, rear, or side property line to the nearest point of the foundation of a structure, or from the front, rear or side property line to the nearest support post or area directly below a cantilevered floor of a structure.

(1) SETBACK, REQUIRED FRONT YARD. The distance as determined within a particular zoning district between the front lot line and a parallel line **in which no structures may be constructed, excluding approved fences or signs.**

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(2) SETBACK, REQUIRED REAR YARD. The distance as determined within a particular zoning district between the rear lot line and a parallel line **in which no structures may be constructed, excluding approved fences or signs.**

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(3) SETBACK, REQUIRED SIDE YARD. The distance as determined within a particular zoning district between the side lot line and a parallel line in which no structures may be constructed, excluding approved fences or signs.

SHORT-TERM RENTAL UNIT. A dwelling unit which is rented to a person for less than 31 consecutive days, or is advertised to be rented for any period less than 31 days.

~~SIGN. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, logos or pictures, or combination thereof, intended to be used to attract attention to or convey information about a person, place, business, firm, profession, association, product or merchandise when placed out of doors in view of the general public. Also, the above when positioned inside in such a way as to be in view of the general public through a window or a door for the purpose of attracting the general public into a business. See §§ 154.140 through 154.1414.~~

SITE PLAN REVIEW. The submission of plans and scaled drawing(s) illustrating existing conditions and proposed uses and structures for review, as part of the process of securing a zoning permit.

~~SPECIALTY GIFT SHOP. A retail facility which sells goods which may be rare in quantity or availability, handmade, or express a local or regional theme, as part of its retail stock.~~

SPECIAL LAND USE. A use of land whose characteristics may create nuisance-like impacts on adjoining lands unless carefully sited according to standards established in this chapter (see §§ 154.080 through 154.092). Approval for establishing a special land use is indicated by issuance of a special land use permit.

SPRING PILES. A beam of timber, concrete, or steel beams, driven into the water bottom as a means of securing watercraft, or to facilitate the maneuvering of watercraft.

STORY. The portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it (see Appendix, Figure 1).

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURAL CHANGES OR ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or foundation.

STRUCTURE. Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services.

THEATER. A commercial operation that offers the viewing of movies or live performance to the public for compensation.

TOWNHOUSES. A row of three or more attached 1-family dwellings, in which each dwelling has its own front entrance and rear entrance.

TVRO. Television reception only satellite antennas **exceeding three feet in diameter.**

UNNECESSARY HARDSHIP. A situation whereby a property owner, due to conditions of a lot or parcel cannot use the lot or parcel for any legal use allowed by this Zoning Code, within the district in which the lot is located. Situations occurring due to the owner's desire to establish an alternate use when allowed use options are available or due to situations created by an owner subsequent to the enactment of this chapter shall not be deemed an unnecessary hardship

VARIANCE. A relaxation of certain standards of this Zoning Code by the Zoning Board of Appeals.

VARIANCE, USE. A variance allowing a use within a specific zoning district which is otherwise not allowed in that zone district.

VARIANCE, NON-USE. A variance allowing relaxation of a dimensional or area requirement as specified by the underlying zone district.

VETERINARY HOSPITAL OR CLINIC. A facility offering the medical care and treatment of animals.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. WETLANDS generally include swamps, marshes, bogs and similar areas.

YARD. The open space on a lot, with a building, as defined herein. (see Appendix, Figure 7):

(1) **FRONT YARD.** The 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 foundation.

(2) REAR YARD. The 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 foundation of the main building.

(3) SIDE YARD. The open space between any 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 of the side lot line to the nearest point of the foundation of the building.

ZONING ADMINISTRATOR. Planning Director or other individual appointed by the City Council to administer this chapter.

ZONING DISTRICT. A portion of the city within which specific regulations and requirements, or various combinations thereof apply as provided in this chapter.

(Ord. passed 6-24-1996; Am. Ord. 040927, passed - -; Am. Ord. passed 4-27-1998; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 10-14-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 070611-1, passed 6-11-2007; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 121008-1, passed 10-8-2012; Am. Ord. 130408-1, passed 4-8-2013; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 161114-1 passed 11-14-2016; Am. Ord. 170522-1, passed 5-22-2017; Am. Ord. 180529-1, passed 5-29-2018; Am. Ord. 180813-1, passed 8-13-2018; Am. Ord. 200622-1, passed 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020; Am. Ord. 210726-A, passed 7-26-2021)

§ 154.006 INTERPRETATION OF CHAPTER.

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare.

(B) Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive, or higher standard shall control.

(C) This chapter shall not abridge the provisions of a validly adopted building code, mobile home ordinance, subdivision ordinance, condominium ordinance, or other regulations.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

ZONING DISTRICTS AND DISTRICT REGULATIONS

§ 154.020 EFFECT OF ZONING.

(A) Zoning affects every structure and use.

(B) Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformance with the regulations herein specified for the zoning district in which it is located.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.021 APPLICATION OF REGULATIONS.

(A) The regulations set by this chapter throughout the city and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land, or use.

(B) All buildings, structures or land may hereafter be constructed, altered or changed in use or occupancy only when in conformity with all of the regulations herein specified for the district in which it is located.

(C) No building or other structure shall hereafter be altered:

(1) To accommodate or house a greater number of persons or families than permitted by the zoning district; or

(2) To have narrower or smaller rear yards, front yards, side yards, other than permitted.

(D) No yard or lot existing at the time of the passage of this chapter shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.022 GENERAL REGULATIONS.

(A) Zoning permit required; conformance to zoning. In accordance with other city codes, ordinances and regulations duly adopted by the City Council, and in accordance with this chapter, no building or structure shall hereafter be erected, relocated, or altered in its exterior dimension or use, and no excavation for any building shall be begun until a zoning and building permit has been issued. With respect to this Zoning Code, eligibility for a zoning permit shall be established upon conformance with the provisions contained in this chapter. This shall apply to all new construction, as well as to additions and improvements to existing structures. (See §§ 154.171 through 154.173 for application and procedures.)

(1) A zoning permit is required for detached accessory buildings or structures.

(2) Zoning permits will not be necessary for normal repairs to existing structures, or for minor improvements such as painting, new roofs and similar minor repairs and improvements or for minor landscaping.

(B) Certificate of occupancy required. No building or dwelling subject to the provisions of this chapter shall be occupied, inhabited, or used until a certificate of occupancy is issued. (See §§ 154.171 through 154.173 for application and procedures.)

(C) Structures.

(1) Restoring unsafe buildings. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or the County Health Inspector and after approval by the Zoning Administrator.

(2) Minimum floor area for dwelling units. Each new dwelling shall have a minimum gross floor area in accordance with the following standards:

(a) Single-family detached. Each new dwelling unit shall have a minimum finished gross floor area of 600 square feet of floor area;

(b) Single-family attached, including two-family and townhouses. Each new dwelling unit shall have a minimum finished gross floor area of 900 square feet with a minimum of 600 square feet on the ground floor for units of more than one story; and

(c) Multiple-family dwellings.

Gross Floor Area/Unit in Square Feet

Efficiency

375 square feet

One bedroom

600 square feet

Two bedrooms

780 square feet

Three bedrooms

940 square feet

In excess of 3 bedrooms

940 plus 80 square feet for each additional bedroom

(3) Sewage disposal facilities required. Each dwelling unit and principal structure shall be equipped with adequate water-carried sewage disposal facilities to comply with the city sanitary code in effect at the time of the erection or modification of the dwelling unit or principal structure.

(4) Structure to have access. Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking. Every easement for a private drive, street or road shall be a minimum of 15-33 feet wide.

(5) Principal building. Only one principal building and permitted accessory uses may be erected on any lot of record, except as may be permitted for planned unit development projects, special land uses, or condominium developments

(D) Height limit. In the case of a principal building, the vertical distance measured from the average grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs, shall not exceed 28 feet unless otherwise specified in this chapter. In no case shall the overall peak building height be greater than 32 feet when measured from the natural average grade.

(E) Height limit exceptions. The following may be exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

(1) Those purely ornamental in purpose such as belfries, cupolas, domes, and ornamental towers/monuments, provided they do not exceed 40 feet in height above the average grade of the lot or parcel on which the feature will be located;

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(2) Those necessary appurtenances to mechanical or structural functions, such as radio towers, masts and aerals, television antennas, wire transmission structures or other structures where the manufacturing process requires a greater height but do not exceed 100 feet in height;

(3) Public utility structures, but not including communication towers, except upon receipt of a special use permit;

(4) Wind power electrical generating towers shall not exceed 70 feet in height and the distance from the base of the tower to any lot line shall be ten feet more than the height of the tower; and

(5) Church spires and flag poles shall not exceed 50 feet in height.

(F) Lots.

(1) New lots to be buildable. All newly created lots shall have the net buildable area appropriate to the zone district in which it is located and appropriate access to a public or approved private road.

(2) Minimum lot size regulations to be met. No new lot shall be created which does not meet the minimum lot size regulations of this chapter.

(3) Corner lots. On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be required front yard. The owner shall elect, and so designate in his or her application for the zoning permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.

(4) Waterfront lots. **Notwithstanding** any other provisions of this chapter, all structures on a waterfront lot shall have a setback of 25 feet from the waterfront. The lot line which abuts the street shall be deemed to be the front lot line, and the two remaining yards shall both be required side yards.

(5) Flag lots. Where there is no other way to gain access to undeveloped land due to limited street frontage, new flag lots may be permitted to be used, provided that the flag lot has at least 20 feet of frontage on a public street, that this right-of-way serves only one lot, or 33 feet if serving more than one lot and that there is at least a distance equivalent to the lot width of a conforming lot between flag lots. The minimum front, side, and rear yard requirements of the district in which a flag lot is located must be met on the portion of the lot excluding the right-of-way. (See Appendix, Figure 7).

(6) Lot division.

(a) No lot or lots in common ownership, and no yard, court, parking area or other space, shall be divided, altered, or reduced to make such area or dimension less than the minimum required by the zone district in which it is located. No lot line adjustments shall be made which create or increase non-conformity with the minimum area or dimensions of the zone district in which it is located.

(b) After a land division is approved by the city, a document accomplishing the division must be filed by the property owner or the property owner's agent with the Allegan County Register of Deeds Office within 90 days of the approval, or the approval will lapse. ~~(See Saugatuck City Code § 153.01; land division ordinance for division of non-platted lots).~~

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(7) More than one nonconforming lot may be considered only one lot. If more than one lot of record is held in common ownership and the lots are contiguous, undeveloped, and substandard in size relative to the required minimum lot size in the zoning district, they shall for the purpose of this chapter, be held as one lot or as many lots as shall leave no lot substandard.

(G) Permitted yard encroachments. Whenever otherwise lawfully permitted the following may be permitted to encroach upon the minimum yard area and setback requirements of this chapter:

- (1) Eaves, cornices, or pilasters a maximum of two feet;
- (2) Approved fences and signs;
- (3) Flower boxes, a maximum of one foot;
- (4) Sidewalks, driveways, parking lots;
- (5) Utility meters or service points;
- (6) Detached stairways on slopes with landings, provided the landing(s) do(es) not exceed the minimum requirement of the building code by more than 10%;
- (7) Rails, cables, stairways, and motorized lifts on steep slopes, extending from ground floor doorways or detached from a structure;
- (8) Front steps less than 36 inches high and ~~wheel chair~~wheelchair ramps;
- (9) Decks not more than 30 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yards, provided they are not closer than seven feet to any side or rear property line;
- (10) Patios not higher than 12 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yard setbacks provided they are no closer than 3 feet to any side or rear property line provided there still remains adequate access in the event of an emergency;
- (11) Patios between 12 inches and 30 inches above the surrounding finished grade at any point may encroach on required side and rear yards, provided that they are not closer than seven feet to a side or rear property line provided there still remains adequate access in the event of an emergency;
- (12) Hot tubs, spas, and in ground swimming pools along with their associated or contiguous patios and decks, may encroach into ½ of the required side or rear yard setbacks, but in no case shall be closer than seven feet to any property line. No such structures shall be permitted in the front yard. Waterfront pool enclosure fencing as required by the State Construction Code shall conform with § 154.143(F)(6);
- (13) Driveways and landscaping;
- (14) Arbors, trellises, yard ornaments, statuary, flagpoles;
- (15) Plantings, shrubs, ~~landscaping~~landscaping, and indigenous vegetation;
- (16) Sandboxes, swings, picnic tables, barbecues, and similar accessory recreational equipment;
- (17) Pad-mounted air-conditioning, heating, or ventilating equipment, located in side yards or rear yards provided that they are no closer than two feet from any side yard lot line or rear yard lot line;

(18) Uses not specifically itemized, but which are similar in nature to any of the foregoing uses.

(H) Accessory buildings and structures. All new accessory buildings and structures shall conform with all of the following requirements.

(1) Accessory buildings shall not be erected within ten feet of any other building.

(2) Maximum area, maximum lot coverage and minimum setback standards for accessory buildings and structures are as listed below.

(a) Maximum area shall not exceed the ground floor area of the main building.

(b) Maximum lot coverage shall not exceed the lot coverage requirements as shown in district regulations.

(c) Minimum setback shall meet the schedule of regulations for the district.

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(3) Accessory buildings and structures shall not be erected on a lot or parcel prior to the establishment of a principal structure. Where two or more abutting lots are held under one ownership, the owner may erect an accessory building on a lot separate from that on which the principal building is located.

(4) Accessory buildings and structures shall not occupy any portion of the required setback area.

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(5) Accessory buildings and structures that are portable in nature shall comply with the regulations herein, including the minimum setback requirements for principal buildings specified in the dimension and area regulations for the zoning district in which they are located. This shall include, but not be limited to, buildings and structures constructed on skids and/or frames, and those without attachment to a foundation. All accessory buildings shall be required to obtain a zoning permit prior to installation.

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(6) Accessory buildings and structures that do not fall into any of the categories specified herein shall meet the minimum setback requirements for principal buildings specified in the dimension and area regulations for the zoning district in which they are located.

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(7) Habitation of accessory structures. No accessory building or structure, including, without limitation, a garage or cellar, whether fixed or portable, may be used or occupied as a dwelling unless permitted in accordance with the provisions of divisions (M) or (W).

(I) Parking.

(1) Off-street parking. All buildings located in the city shall provide off-street parking adequate for the use intended, as specified in § 154.135.

(2) Parking, storage or use of major recreational or commercial equipment. No major recreational or commercial equipment shall be parked or stored in any required front yard, provided, however, that the equipment may be parked for not more than 24 hours during loading or unloading. No such equipment shall be used for permanent living or housekeeping purposes when parked or stored in any location not approved for such use.

(J) Regulations applicable to single-family dwellings located outside of manufactured home parks. Any single-family dwelling, whether constructed and erected on a lot or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

(1) If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting

the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector or his or her designee, to be in excellent condition and safe and fit for residential use;

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(2) The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the city, provided, however, that where a dwelling unit is required by ~~low-law~~ to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by city codes, then and in such event the more restrictive standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the City Building Inspector;

(3) The dwelling unit and the lot on which the unit is placed shall comply with all restrictions and requirements of this chapter including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yards, and maximum building height requirements of the underlying zone district;

(4) If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed;

(5) The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the Building Code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism;

(6) If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturers set-up instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks;

(7) Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade; and

(8) No basement, cellar, garage or damaged or incomplete structure shall be used as a dwelling.

(K) Home business; purpose. Home businesses are allowed in residential areas of the city as a means for a person or persons to work out of their home with a slightly higher level of intensity than a home occupation but still resulting in a minimal impact on the adjacent properties and the neighborhood and a moderate amount of activity on the premises. A home business may be permitted subject to all of the following.

(1) Unless otherwise provided for the by zone district, home businesses shall be subject to site plan review and approval by the Planning Commission. The adjacent property owners within 300 feet shall be notified of the home business request. The notice shall indicate the nature of the request, the time, date, and place at which the request will

be considered by the Planning Commission; and, shall indicate the opportunity and process for public comment on the application.

(2) Not more than two persons, plus members of the immediate family residing on the premises, shall use, be located, or stationed at the home for business purposes.

(3) The home business shall be operated entirely within the main building, permitted garage (attached or detached), or permitted accessory building.

(4) The use of the dwelling for the home business shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall not use on area exceeding more than 50% of the main floor area of the dwelling unit. Not more than 75% of the garage or permitted accessory structure may be used in the conduct of the home business. Pursuant to use of the garage or permitted accessory structure, the home business shall not result in the displacement and outside placement of equipment and materials (e.g. lawn mower, snow blower, garden equipment, recreation equipment and the like) normally stored in the garage or accessory structure as associated with the residential nature of the premises.

(5) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home business, other than one sign, not exceeding two square feet in area, non-illuminated, and mounted on the wall of the main building facing the street which shall comply with all provisions of the sign requirements. No over-the-counter retail sales or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home business or those goods actually produced on the premises.

(6) The home business shall not generate more than eight client trips per day to the home during the hours of 8:00 a.m. to 8:00 p.m. Clients shall not be received during other hours unless approved by the Planning Commission. Any need for parking generated by the conduct of the home business shall be provided off street.

(7) No equipment or process shall be used in such home business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal human senses at or beyond the property line of the site at which the home business is conducted. Pursuant to electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

(8) The home business shall not require any type of special construction beyond that customarily associated with a single-family dwelling.

(9) The home business shall not involve the storage or use of any significant amount of materials for which there is a high risk of flammability or explosion. For purposes of this section, SIGNIFICANT AMOUNT shall be defined as any amount and/or use and/or type of material that would be classified by the City Building Code as requiring any form of special construction beyond that customarily associated with single-family dwellings.

(10) In reviewing and approving a home business, the Planning Commission shall determine that:

(a) The request for a home business is consistent with the residential character of the neighborhood; and

(b) The proposed home business will have a minimal impact on the adjacent properties and on the neighborhood.

(11) The Planning Commission may require conditions which are considered necessary to ensure the residential integrity of the premises and the neighborhood.

(12) Approved home businesses are subject to the provisions of city code Chapter 110.

(L) Home occupation. Home occupations are allowed in residential areas of the city as a means for a person or persons to work at home with minimal visibility and impact on the adjacent properties and the neighborhood and a minimal amount of activity on the premises. The home occupation shall comply with all of the following regulations:

(1) Home occupations shall be approved by the Zoning Administrator who upon receipt of a completed application has determined that the proposed home occupation meets the provisions of the Ordinance;

(2) Only those members of the immediate family residing on the premises, plus not more than one non-resident, shall be engaged in the home occupation;

(3) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and shall not use on area exceeding more than 50% of the main floor area of the dwelling unit;

(4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation; signs advertising the home occupation are not allowed;

(5) The home occupation shall be operated entirely within the main building, permitted garage (attached or detached), or permitted accessory building;

(6) No over the counter retail sales or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises. Sales may be made if goods and services are not transferred on the premises;

(7) Home occupations shall not generate more than eight client trips per week to the home during the hours of 8:00 a.m. to 8:00 p.m. Clients shall not be received during other hours. Any need for parking generated by the conduct of the home occupation shall be met off the street;

(8) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal human senses at or beyond the property line of the site at which the home occupation is conducted. Pursuant to electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises;

(9) The home occupation shall not require any type of special construction beyond that customarily associated with a single-family dwelling;

(10) The home occupation shall not involve the storage or use of any significant amount of materials for which there is a high risk of flammability or explosion. For purposes of this section, significant amount shall be defined as any amount and/or use and/or type of material that would be classified by the City Building Code as requiring any form of special construction beyond that customarily associated with single-family dwellings;

(11) Pursuant to the use of a garage or accessory structure, the home occupation shall not result in the displacement and outside placement of equipment and materials (e.g. lawn mower, snow blower, garden equipment, recreation equipment and the like) normally stored in the garage or accessory structure as associated with the residential nature of the premises;

(12) Instruction in a craft or fine art shall be considered a home occupation, provided, however, all requirements of this section shall be complied with; and

(13) Approved home occupations are not subject to the provisions of Chapter 110.

(M) Temporary buildings, structures and uses.

(1) Generally. Temporary buildings, structures and uses are permitted in all districts unless otherwise provided. Temporary buildings and structures not greater than 300 square feet in area may be placed on a lot or parcel of record and used only under the following conditions and as authorized by a temporary zoning permit issued by the Zoning Administrator.

(a) Fire damage. During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than 180 days.

(b) Construction. Temporary buildings and structures not used for dwelling purposes, incidental to construction work shall be removed within 15 days after construction is complete, but in no case shall the building or structure be allowed more than 12 months, unless expressly authorized after petition to the Zoning Board of Appeals.

(c) Churches and schools. Temporary buildings and structures incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief, Building Inspector, and by relevant state agencies.

(d) Christmas tree sales. The display and sale of Christmas trees in the City Center Commercial (C-1), or at a school, church, campground, or nursery is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed 45 days, and any temporary building or structure shall be removed by December 31. All unsold trees must be removed from the property by December 31 of each calendar year.

(e) Auctions. The public auction of property shall be permitted for not more than five days and no sales activity shall occur within 30 feet of any street or road right-of-way.

(f) Recreational trailers. Recreational trailers, pick-up campers or coaches designed to be mounted on automotive vehicles, self-propelled dwellings, tent trailers and the like may be permitted to be occupied for dwelling purposes in a residential zone district for up to three consecutive days, three times a year on a property which is owner occupied. For purposes of this section OWNER OCCUPIED PROPERTY means that there is located on the same property a single family home that is not used as a short term rental for any part of a year.

(2) Performance guarantee. The Zoning Administrator may require a performance guarantee in the form of cash, check, savings certificate, or performance bond which will be deposited with the City Clerk in an amount equal to the estimated cost of removing any temporary structure authorized under this section should the temporary structure not be

removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the city harmless against any claim for damages if the city were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed.

(3) Applications. A written temporary zoning permit application for all temporary buildings, structures, and uses shall contain the following information:

- (a) The applicant's name;
- (b) The location and effective dates of the temporary use;
- (c) Conditions specified by which the permit is issued, such as:
 - 1. Use and placement of signs;
 - 2. Provision of security and safety measures;
 - 3. Control of nuisance factors; and
 - 4. Submission of performance guarantee;

(4) Permits. A temporary zoning permit may be approved, modified, conditioned, or denied by the Zoning Administrator consistent with the standards set forth in this section. The Zoning Administrator may refer the application to the Planning Commission where reasonably warranted.

(5) Conditions of approval.

(a) The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary building, structure, or use will be compatible with existing development.

(b) The building, structure, or use shall not be typically located within a permanent building or structure.

(c) The parcel shall be of sufficient size to adequately accommodate the temporary building, structure, or use.

(d) The location of the temporary building, structure, or use shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary building, structure, or use.

(e) Off-street parking areas are of adequate size for the particular temporary building, structure, or use and properly located, and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.

(f) Signs shall conform to the provisions of this chapter and any other city ordinance regulating signs.

(g) Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

(h) The Zoning Administrator may impose conditions with the issuance of the permit which are designed to ~~insure~~ensure compliance with the requirements of this chapter. The Zoning Administrator may revoke a permit for nonconformance with the requirements of this section and a permit issued thereunder.

(i) Permits which are renewable shall have an application filed for renewal at least 15 days prior to the expiration date of the current permit, except ~~that those~~ applications for

renewal or extension of a permit for less than 15 days may be applied for no later than three days prior to the expiration date of the current permit.

(6) Revocation. Upon expiration or revocation of a temporary zoning permit for a temporary use, the temporary building, structure, or use shall cease, and all temporary structures, dwellings, or buildings shall be removed from the parcel of land. A temporary zoning permit may be revoked or modified by the Zoning Administrator if any one of the following findings are documented by the Zoning Administrator:

- (a) That material circumstances have changed;
- (b) That the temporary zoning permit was obtained by misrepresentation or fraud;
- (c) That one or more of the conditions of the temporary zoning permit have not been met; or
- (d) That the use is in violation of any statute, ordinance, law, or regulation.

(7) Appeal. An appeal of a decision by the Zoning Administrator relative to denial or revocation of a temporary zoning permit for a temporary building, structure, or use or renewal thereof may be taken to the Zoning Board of Appeals.

(N) Surfacing of parking lots and pedestrian walks. All areas provided for use by commercial or industrial vehicles and all pedestrian walks shall be surfaced with bituminous asphalt, concrete or similar materials as approved by the city and properly drained. See § 154.130.

(O) Refuse containers. Refuse containers shall be screened. Screening shall consist of vegetation or solid fencing. Containers (including the container site and container lids) shall be properly secured and maintained to prevent unauthorized use, to avoid odors, and to prevent infestation by rodents and vermin. Refuse container screening shall be designed and constructed consistent with the character of surrounding development. See § 154.142 and Chapter 152.

(P) Ingress and egress. In all districts, provisions shall be made for safe and efficient ingress and egress to the public streets and highways serving the property without creating undue congestion or interference with normal traffic flow. Pursuant to the above requirement, the city may require an applicant to provide a traffic impact analysis demonstrating compliance with the above standard if the city determines that a proposed project has a reasonable potential of resulting in congestion and/or on unsafe traffic situation. The traffic impact analysis shall be performed by a qualified Traffic Engineer.

(Q) Infrastructure design and construction. The design and construction of all streets, sidewalks, water systems, sanitary systems, storm sewer systems, surface water retention and detention systems, fire protection/suppression systems, and other such infrastructure shall meet or exceed city standards.

(R) Bed and breakfast establishments. Bed and Breakfast Establishments (B&B), as defined by this chapter, are permitted as special land uses in certain districts. In addition to compliance with the special land use standards and provisions, all B&Bs shall meet the following criteria.

(1) Rooms utilized for guest sleeping shall not exceed two occupants per room not including children under the age of 12. Each room for guest sleeping shall contain at least 100 net square feet of room size.

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(2) The B&B facility and operation shall meet all applicable building, health, and related safety codes. All sleeping rooms shall contain a separate smoke detector in proper working order. Each floor of the dwelling shall contain a fire extinguisher in proper working order in conformance with all applicable fire codes.

(3) The guest room charge shall include the preparation and serving of breakfast to overnight guests. No additional breakfast fee shall be charged.

(4) No separate or individual cooking facilities shall be provided for the use of guests, including existing cooking facilities.

(5) The B&B operation may include a wall sign, attached flat against the front face of the dwelling, not to exceed two square feet in area. The sign shall be non-illuminated and designed and constructed consistent with the architectural and aesthetic character of the dwelling to which the sign shall be affixed. In lieu of a wall sign, the Planning Commission may permit a free-standing sign, not to exceed four square feet. (See § 154.141 and Chapter 152).

(6) No guest shall reside on the premises for more ~~that~~ than 14 consecutive days, and not more than 30 days in any one year.

(7) Off-street parking shall be provided as required by the parking regulations of this chapter. See § 154.130.

(8) The use of outdoor yard areas, open decks, pools, and the like shall not result in the production of excessive off-site noise, odor, and other external disturbances. Said determination to be based on the judgement of the Zoning Administrator. Approval of the B&B operation may be conditioned upon the installation of screening, fencing, plantings and/or other such installations and conditions to help ensure compatibility of the B&B operation with the surrounding area.

(9) An existing residential structure may be converted to a bed and breakfast and exterior additions to an existing residential structure for the purpose of providing additional rental rooms shall only be allowed if all of the following conditions are met:

(a) The parcel of property must meet all of the provisions of this chapter for the particular zone in which the proposed bed and breakfast is located; and

(b) All of the special land use permit requirements of this subchapter shall be met.

(S) Reserved.

(T) Reserved.

(U) Reserved.

(V) Short-term rental unit.

(1) The owner of the dwelling unit which is to be rented for any period of less than 30 days, shall obtain a short term rental certificate from the city before the dwelling is rented or used;

(2) The property owner or applicant shall include the following information on the certificate application:

(a) Address of the subject parcel containing the dwelling unit to be rented;

(b) Name and contact information, including e-mail, of the owner of the dwelling unit;

(c) Name and contact information, including e-mail, of the required local representative or the rental agency, within 45 miles of the City of Saugatuck;

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(d) Proposed maximum occupancy of the dwelling unit;

(e) Owner's signature stating that the dwelling unit will be operated in conformance with all applicable ordinance requirements; and

(f) The property owner shall notify the city of any changes to the approved application within 30 days of the date of the change, including change of mailing address, contract information, or rental agency.

(3) The short-term rental unit shall meet all applicable building, health, fire, and related safety codes at all times and shall be inspected by the Saugatuck Township Fire District within 30 days of the submittal of the application. Violations found by the Saugatuck Township Fire District shall be corrected within 15 days of notification from the Fire Inspector. No certificate shall be issued until after the fire inspection has been completed and approved. The property owner or rental agency shall submit a completed safety checklist, designed by the Saugatuck Township Fire District, to the city for the second and third year of each certificate cycle for the certificate to remain in good standing.

(4) Signs shall be subject to the applicable provisions of § 154.141 of this chapter;

(5) The use of outdoor yard areas, open decks, pools, and the like shall not result in the production of excessive off-site noise, odor, other external disturbances, or other nuisances as regulated within the City Code of Ordinances;

(6) In no event shall the owner of the short-term rental unit or their agent rent solely an individual room in the short-term rental unit to a person, family, or other group of persons, nor shall the renter of the dwelling so sublet any room. All dwelling units rented for short term use shall be fully rented under a single contract;

(7) The use of tents, campers, or similar temporary sleeping facilities shall be prohibited;

(8) A short term rental certificate shall be valid for three seasons (~~January 1 through December 31~~) unless there is a change of ownership for the subject parcel;

(9) Occupancy of each dwelling unit shall be limited based on the calculations in the BOCA National Property Maintenance Code as approved in § 150.03; and

(10) All short term rentals shall have a local representative who resides within 45 miles of the outer boundaries of the city. This contact shall have access to the property at all times and shall have working knowledge of the house.

(W) Accessory dwelling unit. An accessory dwelling unit, as defined in § 154.005 of this chapter shall meet the following criteria:

(1) Occupancy shall be limited to invited guests;

(2) Rental of an accessory dwelling, separate from a detached single-family dwelling, shall be prohibited without receiving special land use approval from the Planning Commission as authorized in § 154.092(J);

(3) An accessory dwelling unit shall have a minimum of 375 square feet of gross floor area and shall not exceed the lesser of 30% of the gross floor area contained within the detached single-family dwelling unit or 600 square feet of gross floor area; except, in the CRC zone district when the parcel on which the accessory dwelling unit is located is two or more acres in area, the floor area of an accessory dwelling unit shall not exceed the lesser of 30% of the gross floor area of the principal residence or 1,500 square feet. For purposes

of this section, the floor area of an accessory dwelling unit is the total finished floor area intended for living, sleeping, bathing, eating, and cooking.

(4) An accessory dwelling, which is not located within the detached single-family residential dwelling, shall not be located between the front door of the detached single-family dwelling and the public right-of-way, unless located above an existing detached accessory structure;

(5) An accessory dwelling shall be subject to all applicable setback and lot coverage requirements of a detached single-family dwelling in the district in which it is located;

(6) An accessory dwelling unit shall only be permitted on a lot where the ~~principle~~principal use is an existing detached single-family dwelling unit;

(7) No more than one accessory dwelling unit is permitted on any lot;

(8) Accessory dwellings shall not be permitted to have independent electric, gas, or water meters from the detached single-family dwelling unit;

(9) An accessory dwelling unit located within a detached single-family dwelling unit shall have a separate entrance from the exterior of the structure and shall not have interior access to the detached single-family dwelling unit;

(10) A lot with an accessory dwelling unit shall provide one additional parking space on a fully improved surface of concrete, asphalt, or brick, gravel, stone, or other surface approved by the city; -and

(11) Accessory dwelling units may be included with the rental of a detached single-family dwelling on the same property if it is done so under a single contract.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 5-10-2004; Am. Ord. 070611-1, passed 6-11-2007; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-2, passed 4-27-2015; Am. Ord. 161114-1 passed 11-14-2016; Am. Ord. 161128-2, passed 11-28-2016; Am. Ord. 170213-2, passed 2-13-2017; Am. Ord. 170522-1, passed 5-22-2017; Am. Ord. 181112-1, passed 11-12-2018; Am. Ord. 181226-2, passed 12-26-2018) Penalty, see § 154.999

§ 154.023 LI-1 BLUE STAR DISTRICT (LIND).

(A) Generally.

(1) It is the intent of this district to serve as a transitional zone between the adjacent residential districts and the commercial district in the abutting township.

(2) Properties which abut a residential zone shall utilize adequate screening, green belts, or buffers to minimize the impacts on the residential zone.

(3) This district will allow uses which traditionally do not cause excessive noise, vibration, odors, visual blight, pollution, use hazardous processes, and are not manufacturing or fabricating base industries.

(4) The district will provide business and industry a location in the city which is consistent with the density and area needs which cannot be found in central business district or industrial district.

(B) Permitted uses:

(1) Equipment rental and leasing;

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(2) Nursery, flower, plant, or garden shops, provided all incidental equipment and supplies, including fertilizer, tools, and containers, are kept within a completely enclosed structure;

(3) Amusement and recreation services;

(4) Contractor's stores (plumbing, heating, electrical and the like), provided all operations and storage are conducted within an enclosed structure;

(5) Lumber yards;

(6) Marine contractors;

(7) Veterinary hospitals or clinics;

(8) Off-street parking;

(9) Storage buildings; and

(10) Art gallery.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Automobile parts stores, enclosed structures only;

(2) Lodge hall, private clubs, veterans clubs;

(3) Research laboratory;

(4) Bowling alleys;

(5) Billiards, pool halls;

(6) Automotive services;

(7) Recreational transportation rental facilities; and

(8) Gas stations.

(D) Dimensions and area regulations:

| | |
|----------------------|----------|
| Front setback | 50 feet |
| Side setbacks | 15 feet |
| Rear setback | 25 feet |
| Minimum lot area | one acre |
| Maximum lot coverage | 25% |
| Minimum lot width | 150 |

(E) Parking. Parking shall be provided in paved and lighted lots. Parking lots shall be provided in rear and side yards only.

(F) Landscaping. Front yards shall utilize existing vegetation wherever possible. Landscaping plans for front yards shall be submitted to the Planning Commission for review and approval. Berms may be substituted for some landscaping.

(G) Driveways and curb cuts. The location of a driveway curb cut to any street shall be:

(1) Fifty feet from an intersection of any two streets;

(2) Fifty feet from another driveway, regardless of which side of the street the drive is located on, as measured along a line drawn parallel to the center line of the street;

(3) The width of a driveway shall be a minimum of 20 feet and not greater than 35 feet; and

(4) There shall be one driveway curb cut per property.

(H) Outside storage. Storage or warehousing of materials, goods, display cases and any related items shall not be permitted outside of any building in the LI-1 district.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 12-9-2002; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.024 C-1 CITY CENTER COMMERCIAL DISTRICT (CC).

(A) Generally.

(1) This district is designed to promote and preserve the Central Business District character of the city.

(2) The district permits intense retail and commercial uses.

(3) Residential uses and business and professional offices are encouraged on the second and third floors of buildings in the district.

(4) Utilization of existing undeveloped land in the district is encouraged when done in a manner consistent with the character of the district.

(B) Permitted uses:

(1) Essential public services;

(2) Retail stores;

(3) Personal service establishments;

(4) Art galleries;

(5) Single-family, two-family, and multiple-family dwelling units on second or third floors;

(6) Home occupations;

(7) Short-term rental units on second or third floors; and,

(8) Business, professional offices on second and third floors only.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Bed and breakfast;

(2) Hotel/inn;

(3) Motel/motor court;

(4) Theater;

(5) Parking facility;

(6) Restaurants;

(7) Rental of accessory dwellings;

(8) Recreational transportation rental facilities; and

(9) Brewery, distillery, and winery.

(D) Dimension and area regulations.

(1) Permitted uses and special uses: 4. Theater, 5. Parking facility, 6. Restaurants, 8. Recreational transportation rental facilities, and 9. Brewery, distillery, and winery.

Front setback

0 feet

Side setback

0 feet*

Rear setback

0 feet*

Minimum lot area

4,356 square feet

Minimum lot width

33 feet of street frontage

Maximum lot coverage

100%*

* Subject to Fire Code Regulations

(2) Special uses: 1. Bed and breakfast, 2. Hotel/inn, 3. Motel/motor court, and 7. Rental of accessory dwellings.

Front setback

0 feet

Side setback

0 feet*

Rear setback

0 feet*

Minimum lot area

8,712 square feet

Minimum lot width

66 feet

Maximum lot coverage

100%*

* Subject to Fire Code Regulations

(Ord. passed 6-24-1996; Am. Ord. 050711, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 200622-1, passed 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.025 R-4 CITY CENTER TRANSITIONAL RESIDENTIAL DISTRICT (CER).

(A) Generally.

(1) The purpose of the Transitional Residential Zone is to create a buffer zone from the high intensity City Center Commercial Zone to the low intensity Community Residential Zone.

(2) This zone will permit a limited number of mixed uses, but intentions are to promote residential land uses.

(3) As a transitional zone its character shall be reviewed more frequently to assess the needs of the adjoining zones.

(4) This zone is not intended to be static but rather to adjust with the development needs of the community.

(B) Permitted uses:

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Dwelling, two-family;

(3) Essential public services;

(4) Bed and breakfasts;

(5) Home occupations; and

(6) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092 :

(1) Home businesses;

(2) Rented accessory dwelling units in accordance with § 154.092(J); and

(3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) Dimension and area regulations.

Front setback

20 feet

Side setback

7 feet

Rear setback

10 feet

Minimum lot area

8,712 square feet

Minimum lot width

66 feet

Maximum lot coverage

25%*

* Maximum lot coverage in this district may be increased to a maximum of 35% for properties that are below, the required minimum lot area following a hearing and approval by the Zoning Board of Appeals at which time consideration of factors affecting adjoining properties will be reviewed. All other dimension and area regulations shall be met. The following formula shall be used in calculating the allowable lot coverage and shall be

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rounded to the nearest whole percentage: minimum lot area divided by actual lot area multiplied by 25%.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 6-24-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 161114-1, passed 11-14-2016; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.026 R-1 COMMUNITY RESIDENTIAL DISTRICT (CR).

(A) Generally.

(1) This district is designed to protect and promote low density single-family residential uses and development in the city.

(2) The purpose of this district is to preserve the residential character of the district and to provide a mechanism for orderly development in undeveloped areas.

(3) Residential land use is the only use that will be permitted or encouraged in this district.

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(B) Permitted uses:

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;
- (2) Essential public services;
- (3) Home occupations; and
- (4) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Home businesses;
- (2) Religious facilities;
- (3) Rented accessory dwelling units in accordance with § 154.092(J); and
- (4) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) Dimension and area regulations.

| | |
|----------------------|-------------------|
| Front setback | 20 feet |
| Side setback | 7 feet |
| Rear setback | 10 feet |
| Minimum lot area | 8,712 square feet |
| Minimum lot width | 66 feet |
| Maximum lot coverage | 30% |

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100628-1, passed 6-28-2010; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014 ; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.027 CONSERVATION, RECREATION AND CAMP DISTRICT (CRC).

(A) Generally.

(1) This district is designed to maximize preservation of the existing environment by providing for a private recreation camp and low density residential uses.

(2) It is a restrictive zone, intended to permit development only after an in-depth review and zoning approval. This is in order to help protect and enhance natural resources, amenities, and natural wildlife habitats, to ensure the availability of adequate utilities and public services, and to protect public health, safety, and welfare.

(3) The purpose of this district is to accommodate private recreation camps and residential uses so that they generally relate to one another and the surrounding uses in terms of site design, architectural compatibility, and access, and so that potential conflicts are minimized.

(4) The zone is also regulated by critical dunes legislation, M.C.L.A. §§ 324.35301 et seq., as amended, and the Shorelands Protection Act, M.C.L.A. §§ 324.32301 et seq., as amended, and any other applicable state and/or federal regulations.

(B) Permitted uses:

(1) Essential public services;

(2) Private recreation camps that existed prior to July 10, 2006, provided that the Planning Commission has certified a site plan and supporting documentation indicating existing land uses, and building locations, heights, and their capacity; and

(3) Park or preserve.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092 or as defined in the section under special requirements.

(1) Single-family homes;

(2) Expansion and/or restoration of private recreation camps subject to §§ 154.060 through 154.068 and §§ 154.080 through 154.092, or § 154.043(F)(6); and

(3) Rented accessory dwelling units in accordance with § 154.092(J).

(D) Regulations for single-family dwelling use.

| | |
|----------------------|----------|
| Front setback | 100 feet |
| Side setback | 50 feet |
| Rear setback | 50 feet |
| Minimum lot area | 2 acres |
| Minimum lot width | 200 feet |
| Maximum lot coverage | 5% |

(E) Private recreation camp dimension and area regulations:

(1) Setback to a property line or a public street right-of-way not constructed as part of the development: 200 feet; and

(2) Minimum lot area: 40 acres.

(F) Special requirements. (Also see § 154.092 for selected special land uses).

(1) Purpose. Pursuant to the City Land Use Plan and the intent of the Conservation, Recreation and Camp District (CRC), every building and structure shall conform not only to the following regulations, but also to those of the Sand Dune Protection and Management Act, Public Act 222 of 1976, being M.C.L.A. §§ 324.63701 et seq., updated Part 353 of NREPA, Act 451 of 1994 as amended; and Part 323 of NREPA, Act 451 of 1994 (collectively, the "Act"), if the land in question is within a designated critical dune or high risk erosion area. Where a standard in the Act is more restrictive than this chapter, or vice versa, the more restrictive standard shall apply.

(2) Application. The restrictions of this division (F) shall apply to all lands in the Conservation, Recreation and Camp District (CRC).

(3) Restrictions and obligations.

(a) Fore-dune ridges and all crests shall not be disturbed. In no case shall the natural topography of the dune crest be altered.

(b) Roadways and pathways shall be located in troughs between dune crests and other natural gaps.

(c) Alternation of dune vegetation shall be minimal.

(d) No structure shall be placed within an area that will be affected by the shifting of a dune within 30 years unless the structure has a lesser life. Barring substantial evidence to the contrary, a rate of change of one foot per year shall be used.

(e) Areas with little vegetation may be required to use raised construction piers. Where sand is of indeterminate depth or solid ground is too deep for piling, spread footings shall be used.

(f) Roadways shall have beach grass planted on areas of open sand on the shoulders.

(g) Utilities shall be underground (except for private recreation camps).

(h) No construction shall be permitted lakeward of the fore-dune ridge.

(i) Raised boardwalks may be required for pedestrian access ways.

(j) Recreational use of all-terrain, off-road vehicles is prohibited.

(4) Setbacks from water bodies. Any structure or any part of the septic system shall not be located closer than 40 feet to a water body, or from the edge of perennial vegetation moving lakeward. VEGETATION shall mean any type of stabilizing ground cover from beach grass through successive stages of vegetation. Where two or more principal structures abutting each side of a proposed principal structure are closer to the water than permitted by these requirements, the new principal structure may be set back in line with the average setback of the existing structures.

(5) Restoration review. Where vegetation must be removed, the Planning Commission may require a plan indicating what is to be removed and the reasons why it is to be removed. The plan shall be presented for Commission approval. The Commission may require amendments or impose conditions. The Commission may also require that cleared areas be replanted in dune grass or other suitable natural materials. Restoration must take place within 60 days of the normal planting season after final building inspection.

(6) Private recreation camp development review for building restoration or replacement.

(a) The Zoning Administrator may authorize the restoration or replacement of an existing structure for the same use, subject to applicable local and state code requirements. The Zoning Administrator may also authorize an expansion that does not exceed 350 square feet for an individual building if the proposed change is for the express purpose of expanding or upgrading bathrooms or a shower area; complying with handicap access, or meeting Americans with Disabilities Act (ADA) requirements; and does not result in an increase in camp user capacity or intensity. Any such expansion greater than 350 square feet shall be subject to site plan review and special use approval, in accordance with the requirements of §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(b) The Zoning Administrator may authorize building renovations, expansions or replacements that result in an increase of no more than 50 square feet, or 5% of the area of the original structure, whichever is greater, or a change of not more than ten feet in building location, measured in any direction; based on a plan previously certified by the Planning Commission.

(c) An increase greater than 5% of the area of the original structure, but less than 250 square feet, or a change in location that is greater than ten feet, shall be subject to site plan review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068. An expansion of 250 square feet or greater, or any change in use, traffic patterns, parking or similar elements, shall be subject to site plan review and special use approval in accordance with the requirements of §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(G) Park or preserve regulations.

(1) Structures shall not be constructed within 25 feet of any property line or right-of-way;

(2) Minimum lot area: 2 acres; and

(3) Structures shall receive site plan review by the Planning Commission prior to construction.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.028 SUMMER RESORT AND PARK ASSOCIATION DISTRICT (SRP).

(A) Generally.

(1) The Summer Resort and Park Association District is intended to provide for summer resort and park associations established under Michigan Act No. 230 of 1897 ("Act 230"), as amended, which existed prior to September 21, 1902. This district is designed to maximize preservation of the existing environment. It is a doubly restrictive zone in that these types of developments are not only regulated by this chapter but also by Act 230 and the particular summer resort and park association's articles and by-laws.

(a) The district regulations are intended to permit further development only after an in-depth environmental review and site plan review and approval process.

(b) However, the intent is to allow for reasonable use, reconstruction, accessory structures and additions to existing uses and structures with minimal administrative review by the city.

(c) Because of the unique nature of this type of ownership, definitions specific only to this district (SRP) are found in division (G) below.

(2) As of the date that this district was initiated in 2006, the entire district is located within a designated critical dunes area as well as a high risk erosion area as defined and regulated by the state of Michigan, ~~Department of Environmental Quality ("DEQ")~~ Environment, Great Lakes, and Energy (EGLE), under Public Act 451 of 1994, as amended, Parts 323, Shorelands Protection and Management and 353, Sand Dune Protection and Management. Permits from ~~the DEQ~~ EGLE are likely required for any activity that might disturb the delicate dunes and shorelands environments.

(B) Permitted uses:

(1) Dwelling, single-family detached: existing, according to the city assessor's records, as of December 31, 2005, together with existing or new accessory buildings within the same share area, subject to § 154.027(A), (D), (E), (F) and (G) below; and

(2) Essential public services.

(C) Special land uses. Special land uses subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Summer Resort and Park Associations, subject to § 154.092(I).

(a) New summer resort and park associations.

(b) Expansion of an existing summer resort and park association, established under Michigan Public Act 230 of 1897, or any of the related Michigan public acts.

(c) New dwelling, single-family detached: on a "share area" within an existing summer resort and park association, that was vacant, according to the city assessor's records, as of December 31, 2005.

(2) Conversion of an existing summer resort & park association to any other type of ownership, subject to either the platting or condominium requirements of this chapter, and/or the state's Land Division Act.

(3) Religious facilities, including Sunday schools, subject to § 154.092(I).

(4) Swimming pools, tennis courts, or other recreational facilities oriented to the membership of a summer resort and park association and subject to § 154.092(I).

(5) Rented accessory dwelling units in accordance with §154.092(J).

(D) Dimension and area regulations. Recognizing that shareholders in a summer resort and park association do not own "lots" but rather "shares" of the association which correspond to the right to occupy a designated portion of the association's property, the following regulations shall apply:

(1) Street front setback, 25 feet (from the centerline of an existing road/street);

(2) Minimum distance between structures, ten feet;

(3) Water body setback, structures that exceed 676 square feet in area must be located landward of the 50-year high-risk erosion setback line. All other structures must be located at least 40 feet landward from the edge of perennial vegetation (as defined in the CRC district);

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(4) Outer boundary setback: 25 feet from the outer boundary of the summer resort and park association boundary or any common area or dedicated park, beach or similar area within the summer resort and park association;

(5) Maximum building height, as required in § 154.022(D); and

(6) Maximum share area coverage*: 25% of the calculated share area, (see definitions: shares; share area coverage). * Maximum share area coverage in this district may be increased to a maximum of 35% for share areas with areas calculated to be below the average share area as platted, provided all other dimension and area regulations shall be met. The following formula shall be used in calculating the allowable share area coverage and shall be rounded to the nearest whole percentage: Average platted lot for all occupied share areas divided by the individual platted lot area multiplied by 25%.

(E) Special requirements. Any approved construction, uses and activities shall conform to the most restrictive requirements of:

(1) State environmental review. Pursuant to the city's land use plan and the intent of the Peninsula Area Plan, all structures and additions shall conform not only to the regulations of this ordinance, but also to those of Public Act 451 of 1994, Parts 323 and 353 as amended;

(2) Fire safety review. Additions to existing structures shall provide for adequate fire and emergency access as determined by the city's Fire Chief. A formal review and approval by the Fire Chief, in writing, is required for all additions or alterations within ten feet of any unit (platted lot) line or existing structure; and

(3) Design Review Committee. All building and/or zoning permits shall be reviewed and approved by the particular summer resort and park association's design review committee (or its equivalent). The summer resort and park association shall be the applicant for all permits and all applications shall have the signatures of the design review committee of the summer resort and park association.

(F) Procedure. Because of the unusual statutory nature of a summer resort and park association, the fact that the association is the owner of record of all of the properties within such an association, and due to past practice, any proposal shall:

(1) Be submitted only by the association's design review committee and be compared to this Zoning Ordinance;

(2) Be submitted to ~~the DEQEGLE~~. Once approvals have been obtained from ~~the DEQEGLE~~, the summer resort and park association involved (as the applicant) shall; and

(3) File all zoning and building permit applications with the City Zoning Administrator for final approval. If a site plan submitted to any of the reviewing bodies differs from that approved by another reviewing body, any permit issued in reliance on that submittal shall be null and void.

(G) SRP District definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SHARE(S) and SHARE AREA. A summer resort and park association member's (owner's) "share(s)" or "share area" shall be considered to be similar, for calculations of maximum building size, to a standard subdivision "lot". The recorded summer resort and park association plat shall be used to calculate the share area that corresponds to a

member's share(s) area. The share areas shall be the areas of the platted lots as shown on the recorded plat.

SHARE AREA COVERAGE. The area of a share, stated in terms of percentage, which is covered by all buildings and structures as defined in LOT COVERAGE (see also definitions for: PATIO, and DECK). For the purpose of using these two definitions together in this chapter, the word SHARE shall be equivalent to the word LOT.

(H) If the applicable regulations of act 230 are ever invalidated. Public Act 230 gives a properly-established summer resort and park association quasi-municipal powers, which are in addition to, but do not displace, the police powers and ordinance powers of the city. Should Michigan Public Act 230 of 1897, as amended, or should this chapter of this ordinance ever be declared to be unconstitutional or invalid by a court of competent jurisdiction or appellate court and the court decision is binding within Allegan County, then all of the restrictions and requirements of the Conservation, Recreation and Camp (CRC) zoning district pursuant to this Ordinance shall apply and any summer resort and park association in existence at that time shall for the purposes of this chapter be considered to be a planned unit development special use as regulated in § 154.174(G). (Ord. 070108-1, passed 1-8-2007; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.029 CULTURAL/COMMUNITY DISTRICT.

(A) Generally.

(1) The purpose of this district is to provide for development of cultural and community facilities. The range of uses provided for by this district is intended to further enhance the social, cultural, and economic synergy of the city's downtown area.

(2) Any development in this district must include community center and cultural/performing arts components.

(B) Permitted uses:

(1) Essential public services.

(C) Special land uses:

(1) Planned unit development (PUD);

(2) Community center;

(3) Cultural/performing arts facility;

(4) Business, professional offices;

(5) Conference meeting room;

(6) Food and beverage services;

(7) Off-street parking;

(8) Exhibition space; and

(9) Farm market.

(D) Dimension and area regulations:

Culver street setback 25 feet

Mason street setback 0

| | |
|----------------------|--------------------|
| East side setback | 10 feet |
| West side setback | 0 |
| Minimum lot area | 50,000 square feet |
| Maximum lot coverage | 60% |
| Minimum lot width | 198 feet |

(E) Special requirements.

(1) Ingress and egress. Provisions shall be made for safe and efficient ingress and egress to the public streets and highways serving the property without creating undue congestion or interference with normal traffic flow. Pursuant to the above requirement, the city may require an applicant to provide a traffic impact analysis demonstrating compliance with the above standard if the city determines that a proposed project has a reasonable potential of resulting in congestion and/or an unsafe traffic situation. The traffic impact analysis shall be performed by a qualified Traffic Engineer.

(2) Permanent seating allowed. The combined cultural/performing arts facility and the community center may have permanent seating for up to 550 persons. Occupancy limits: the total number of persons in attendance at any time shall be determined by the Michigan Building Code and the Saugatuck Township Fire District Chief - Fire Inspector.

(3) Food and beverage services. Food or beverages may only be offered for consumption or for sale on premises to the patrons in attendance at the event. The facility may contain a kitchen which is used by outside caterers to provide food for the events at the facility. Food and beverages shall not be offered for sale outside of the facility.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 070312-1, passed 3-12-2007; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 130408-1, passed 4-8-2013; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.030 R-2 LAKE STREET DISTRICT (LS).

(A) Generally. This district shall be primarily a residential district. The objective of the district is to enhance low density single-family land use and promote visual access to the Kalamazoo River.

(B) Permitted uses:

- (1) Dwelling, single-family detached;
- (2) Essential public services;
- (3) Home occupations; and
- (4) Short-term rental unit.

(C) Special land uses. The following uses are subject to review and approval by the Planning Commission according to the provisions of §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Bed and breakfasts;
- (2) Home businesses;
- (3) Rented accessory dwelling units in accordance with § 154.092(J); and
- (4) Motor courts.

(D) Dimension and area regulations:

| | |
|----------------------|-------------------|
| Front yard setback | 10 feet |
| Side yard setback | 10 feet |
| Rear yard setback | 25 feet |
| Minimum lot width | 66 feet |
| Minimum lot area | 8,712 square feet |
| Maximum lot coverage | 25% |

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017; Am. Ord. 180813-1, passed 8-13-2018)

§ 154.031 R-1 MAPLE STREET DISTRICT (MS).

(A) Generally.

(1) This district will provide for a larger lot single-family residential development and land use. The purpose of the district is to promote single-family residential land use in a low density setting.

(2) The district promotes preservation of the rural character of the district and its natural resources. Development of this district will promote **single-family residential development to the exclusion of all other uses.**

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(3) The extension of city infrastructure will be concentrated in this district to ensure planned and controlled development.

(B) Permitted uses:

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;
- (2) Dwelling, two-family;
- (3) Essential public services;
- (4) Home occupations; and
- (5) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Home businesses;
- (2) **Religious facilities;**
- (3) Rented accessory dwelling units in accordance with § 154.092(J); and
- (4) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

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(D) Dimension and area regulations:

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|---------------|---------|
| Front setback | 50 feet |
| Side setback | 10 feet |

| | |
|----------------------|--------------------|
| Rear setback | 19 feet |
| Minimum lot area | 15,000 square feet |
| Minimum lot width | 80 feet |
| Maximum lot coverage | 25% |

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.032 NEIGHBORHOOD MARINE DISTRICT (NHM).

(A) Generally.

(1) The purpose of this district is to promote utilization of the waterfront property with mixed land uses.

(2) The goal of the district is to encourage larger lot development in order to preserve and protect visual access to the waterfront.

(3) Land uses in the district that emphasize water access and usage are desired after appropriate review.

(B) Permitted uses:

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;
- (2) Essential public services;
- (3) Bed and breakfasts;
- (4) Home occupations; and
- (5) Short-term rental units.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Restaurants;
- (2) Marinas/commercial boats;
- (3) Home businesses;
- (4) Rented accessory dwelling units in accordance with § 154.092(J);
- (5) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1; and
- (6) Floating homes moored in a full service marina.

(D) Dimension and area regulations:

| | |
|----------------------|--------------------|
| Front setback | 25 feet |
| Side setback | 10 feet |
| Rear setback | 15 feet |
| Minimum lot area | 17,424 square feet |
| Minimum lot width | 132 feet |
| Maximum lot coverage | 35% |

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017; Am. Ord. 210726-A, passed 7-26-2021)

§ 154.033 R-1 PENINSULA NORTH (~~DUNESIDE~~DUNE SIDE) DISTRICT (PN-A).

(A) Generally. The purpose of this District is to preserve and protect residential water front land uses along Kalamazoo Lake and River. The intent of the District shall be to retain the river front residential character of the area and protect the area's natural resources. Small lot development is permitted in coordination with water oriented residential uses. The ~~Duneside~~Dune side portion of this District (southern end or south of and including parcel number 0357-009-036-00) is a unique area within the city with unique topographic constraints. These regulations are intended to allow accessory structures between the street and the river while retaining the view of the river for all property owners within the District.

(B) Permitted uses.

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1.
- (2) Essential public services.
- (3) Home occupations; and
- (4) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

- (1) Home businesses;
- (2) Rented accessory dwelling units in accordance with § 154.092(J); and
- (3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) Dimension and area regulations. In the event that any lawful nonconforming structure shall be damaged by fire, wind accident, act of God, or other such means or matter, reconstruction or restoration shall be permitted by right under the following conditions: Reconstruction is permitted within the original dimensions at every structural level and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on a public right-of-way or public easement, and all reconstruction or restoration of structures within a flood hazard area shall conform to the State Construction Code. Any expansion shall be in full conformance with the requirements of the zoning district.

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Front setbacks

Road front setback

29 feet from centerline on the west (dune) side of Park Street, and 12 feet from centerline on the east (river) side of Park Street

Water front setback

2 feet from the flood hazard elevation line

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Side setback

10 feet*

For lots less than 66 feet wide the side setbacks on each side shall be 10% of the lot width

Rear setback

10 feet*

Minimum lot area

8,712 square feet

Minimum lot width

66 feet

Maximum lot coverage

25%

Maximum building height

28 feet on the west side (dune) of Park Street, and 15 feet on the east side (river) of Park Street

* Except waterfront yards – see “water-front setback” above

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(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.034 R-1 PENINSULA NORTH (RIVERSIDE) DISTRICT (PN-B).

(A) Generally. The purpose of this District is to preserve and protect residential water front land uses along Kalamazoo Lake and River. The intent of the District shall be to retain the river front residential character of the area and protect the area's natural resources. Small lot development is permitted in coordination with water oriented residential uses. The riverside portion of this District (northern end or north of and including parcel number 0357-009-035-00) is a unique area within the city with unique topographic constraints. These regulations are intended to allow principal structures between the street and the river while allowing for accessory structures only on the dune side.

(B) Permitted uses.

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1.
- (2) Essential public services.
- (3) Home occupations; and
- (4) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

- (1) Home businesses;
- (2) Rented accessory dwelling units in accordance with § 154.092(J); and
- (3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) Dimension and area regulations. In the event that any lawful nonconforming structure shall be damaged by fire, wind accident, act of God, or other such means or matter, reconstruction or restoration shall be permitted by right under the following

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conditions: Reconstruction is permitted within the original dimensions at every structural level and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on a public right-of-way or public easement, and all reconstruction or restoration of structures within a flood hazard area shall conform to the State Construction Code. Any expansion shall be in full conformance with the requirements of the Zoning District.

Front setbacks

Road front

Where the street easement is less than 30' wide: 14 feet from centerline on the west side of Park Street and 12 feet from center line on the river side of Park Street

Where the street easement is 30' wide or greater: 33 feet from centerline on the river side and 33 feet from centerline on the west side of Park Street.

Water-front setback

The water-front setback shall be the average setback for any existing subject structure and all similar structures within 300 feet on either side of the subject property side lot line. The maximum setback shall not exceed 25 feet. No structure shall be constructed within the flood hazard area.

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“Similar structure” shall mean that only principal structures shall be compared to each other, while all accessory structures shall be compared whether garage, gazebo or deck over 24 inches in height.

Side setback

10 feet*

For lots less than 66 feet wide, the side setbacks shall be 10% of the lot width on each side. Structures less than 3-5 feet from the lot line are subject to higher construction restrictions of the State Building Code.

Rear setback

10 feet*

Minimum lot area

8,712 square feet

Minimum lot width

66 feet

Maximum lot coverage

25%

* Except waterfront yards – see “water-front setback” above

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.035 R-1 PENINSULA SOUTH DISTRICT (PS).

(A) Generally. The Peninsula South District is intended to recognize the character of plats that were created prior to 1968 and, as far as possible, allow for reasonable

development. The district is also intended to promote waterfront residential land uses and enhance and protect the existing character of the district. The district objective is to promote visual access to Kalamazoo Lake and River and preserve the environmental characteristics of the zone. This district is designed to be more restrictive than other residential zones because of its proximity to water and the undeveloped portions of the city.

(B) Permitted uses:

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;
- (2) Essential public services;
- (3) Home occupations; and
- (4) Short-term rental units.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

- (1) Home businesses;
- (2) Rented accessory dwelling units in accordance with § 154.092(J); and
- (3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) Dimension and area regulations:

Front setback

25 feet from right-of-way for lots fronting on Park and Perryman Streets, or 15 feet from all other platted streets and alleys

Side setback

10 feet*

Rear setback

10 feet*

Minimum lot width

66 feet

Maximum lot coverage

25%

Minimum lot area

8,712 square feet

* Except waterfront yards – see § 154.022(F)(4) waterfront lots

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017; Am. Ord. 201109-A, passed 11-9-2020)

§ 154.036 R-1 PENINSULA WEST DISTRICT (PW).

(A) Generally. The purpose of this District is to promote and protect the natural environmental features of the area such as dunes and open spaces. Residential

development on larger lots is encouraged in this District. Density in this District is intended to be less dense than other residential districts in the city to preserve the stability of the District.

(B) Permitted uses.

- (1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;
- (2) Essential public services;
- (3) Home occupations; and
- (4) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

- (1) Religious facilities;
- (2) Home businesses;
- (3) Rented accessory dwelling units in accordance with § 154.092(J); and
- (4) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) Dimension and area regulations:

| | |
|----------------------|--------------------|
| Front setback | 25 feet |
| Side setback | 10 feet |
| Rear setback | 25 feet |
| Minimum lot area | 21,780 square feet |
| Minimum lot width | 100 feet |
| Maximum lot coverage | 25% |

(Ord. passed 6-24-1996; Am. Ord. passed 9-22-1997; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.037 C-4 RESORT DISTRICT.

(A) Generally.

(1) The purpose of this district is to provide compatible zoning for existing and future hotels, motels, and bed and breakfasts.

(2) The zone is intended to eliminate a number of nonconforming uses and preserve the historic character of the structures in the district.

(3) It is designed to ~~complement~~**complement** the waterfront property and permit lodging facilities that are associated and coordinate with the waterfront.

(4) Land use in this district is intensive but limited to provide a specific zone for the use.

(B) Permitted uses:

- (1) Bed and breakfasts;
- (2) Essential public services; and
- (3) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Marinas/commercial boats;
- (2) Parking facilities;
- (3) Restaurant, where such facilities are designed, constructed, and managed as an integral part of an overall motel or hotel operation;
- ~~(4) Planned unit developments;~~
- (5) Hotels/inns;
- (6) Motels/motor courts;
- (7) Swimming pools, tennis courts or other recreational facilities oriented to the clientele of the motel or hotel;
- (8) Other uses deemed by the Planning Commission to be accessory to a motel or hotel use;
- (9) Dwellings, single-family, regardless of the floor area ratio; and
- (10) Rented accessory dwelling units in accordance with §154.092(J).

(D) Dimension and area regulations:

- (1) All uses except single-family dwellings:

| | |
|----------------------|--------------------|
| Front setback | 15 feet |
| Side setback | 10 feet |
| Rear setback | 10 feet |
| Minimum lot area | 15,000 square feet |
| Minimum lot width | 66 feet |
| Maximum lot coverage | 50% |

- (2) Single-family dwellings:

Front setback

15 feet

Side setback

7 feet* For lots less than 66-feet wide, the side setbacks on each side shall be 10% of the lot width

Rear setback

10 feet*

Minimum lot area

8,712 square feet

Minimum lot width

66 feet

Maximum lot coverage

25%

*Except waterfront yards - see 154.022(F)(4) waterfront lots

(3) On sites of five acres or more, where the developer uses the required yard setback area for parking, there shall be minimum building setback from the right-of-way to each street on which the property abuts of at least 35 feet, the front 25 feet of which shall be bermed and landscaped. Where the required yard setback is not used for parking, there shall be minimum building setback from the right-of-way to all streets on which the property abuts of 40 feet, the total of which shall be landscaped. There shall be a minimum building setback from all property lines of 25 feet, and a minimum building setback from all other adjacent use districts of 35 feet. On sites smaller than the five acres, lesser setbacks shall apply as determined by the Planning Commission; and

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(4) A minimum-ten-foot-wide landscaped berm or green belt shall separate all non-residential parking areas from residential uses on adjacent properties.

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(E) Surfacing of parking lots and pedestrian walks. All areas provided for use by commercial or industrial vehicles and all pedestrian walks shall be surfaced with bituminous asphalt, concrete or similar materials as approved by the city and properly drained. See § 154.130.

(F) Refuse containers. Refuse containers shall be screened. Screening shall consist of vegetation or solid fencing. Containers (including the container site and container lids) shall be properly secured and maintained to prevent unauthorized use, to avoid odors, and to prevent infestation by rodents and vermin. Refuse container screening shall be designed and constructed consistent with the character of surrounding development. See § 154.142 and Chapter 152.

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(G) Ingress and egress. In all districts, provisions shall be made for safe and efficient ingress and egress to the public streets and highways serving the property without creating undue congestion or interference with normal traffic flow. Pursuant to the above requirement, the city may require an applicant to provide a traffic impact analysis demonstrating compliance with the above standard if the city determines that a proposed project has a reasonable potential of resulting in congestion and/or an unsafe traffic situation. The traffic impact analysis shall be performed by a qualified Traffic Engineer.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 090427-2, passed 4-27-2009; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 091109-1, passed 11-9-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.038 RESERVED.

§ 154.039 C-2 WATER STREET EAST DISTRICT (WSE).

(A) Generally. The Water Street East District is designed to preserve the residential flavor of the area while promoting commercial land use and development. The district is designed for an intermediate intensity and density of structures and land use. Commercial

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development is desired in this district. The district will also promote visual access to the Kalamazoo River and Lake.

(B) Permitted uses:

- (1) Essential public services;
- (2) Retail stores;
- (3) Domestic business repairs;
- (4) Personal service establishment;
- (5) Art gallery;
- (6) Dwelling, single-family detached;
- (7) Second- and third-floor apartments;
- (8) Short-term rental unit on second and third floors; and,
- (9) Home occupations.

(C) Special uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Hotel/inn;
- (2) Motel/motor court;
- (3) Motion picture facilities;
- (4) Amusement and recreation services;
- (5) Recreational transportation rental facilities;
- (6) Parking facilities;
- (7) Restaurant;
- (8) Domestic business repairs;
- (9) Business, professional offices; and
- (10) Bed and breakfast establishment.

(D) Dimension and area regulations:

(1) Permitted uses (except as noted) and special uses: 4. Amusement and recreation services and 5. Recreational transportation rental facilities. 7. Restaurant

| | |
|----------------------|-------------------|
| Front setback | 0 feet |
| Side setbacks | 10 feet |
| Rear setback | 10 feet |
| Minimum lot area | 4,356 square feet |
| Maximum lot coverage | 65% |

(2) Special uses: 1. Hotel/inn, 2. Motel/motor court, 3. Theater, and 8. Dwelling unit, single-family detached.

Front setback
0 feet

Side setbacks

10 feet

Rear setback

10 feet

Minimum lot area

8,712 square feet

Minimum lot width

66 feet

Maximum lot coverage

65%

*Front setback shall be 10 feet for single- family dwellings.

(Ord. 050711, passed - -; Am. Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-1, passed 4-27-2015; Am. Ord. 200622-1; 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.040 C-1 WATER STREET NORTH DISTRICT (WSN).

(A) Generally. Water Street North District is designed to promote high intensity commercial uses that complement its waterfront setting. This district will promote visual access to the Kalamazoo River and Lake to coordinate with the commercial uses of the district. The purpose of the district is to promote a more intense commercial use and encourage development of similar businesses and land uses in the district.

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(B) Permitted uses:

- (1) Dwelling, single-family detached;
- (2) Dwelling unit, two-family;
- (3) Essential public services;
- (4) Retail stores;
- (5) Personal service establishments;
- (6) Art gallery;
- (7) Marinas/commercial boats;
- (8) Second- and third-floor apartments;
- (9) Charter fishing/tours;
- (10) Home occupations; and
- (11) Short-term rental unit.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Bed and breakfasts;
- (2) Hotel/inn;
- (3) Motel/motor court;

- (4) Restaurants;
- (5) Home businesses;
- (6) Domestic business repairs;
- (7) Recreational transportation rental facilities; and
- (8) Parking facilities.

(D) Dimension and area regulations:

(1) Permitted non-residential uses and special uses: 4. Restaurants and 6. Recreational transportation rental facilities.

Front setback

0 feet

Side setbacks

0 feet*

Rear setback

0 feet*

Minimum lot

4,560 square feet

Minimum lot width

66 feet

Maximum lot coverage

100%*

* Subject to Fire Code Regulations

(2) Single-family dwellings, two-family dwellings, and special use: 5. Home businesses.

| | |
|----------------------|-------------------|
| Front setback | 15 feet |
| Side setbacks | 5 feet |
| Rear setback | 10 feet |
| Minimum lot area | 6,600 square feet |
| Minimum lot width | 66 feet |
| Maximum lot coverage | 50% |

(3) Special uses: 1. Bed and breakfast, 2. Hotel/inn, and 3. Motel/motor court.

Front setback

0 feet

Side setback

0 feet*

Rear setback

0 feet*

Minimum lot area
8,712 square feet
Minimum lot width
66 feet
Maximum lot coverage
50%

* Subject to Fire Code Regulations

(Ord. 050711, passed - -; Am. Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-1, passed 4-27-2015; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.041 C-2 WATER STREET SOUTH DISTRICT (WSS).

(A) Generally. This district will provide an area for waterfront retail and commercial land use. The Water Street South District will provide for a less intense commercial use than the City Center District and promote visual access to the Kalamazoo River. The intent of the district is to coordinate the aspects of a Central Business District with that of waterfront property and blend commercial uses that complement and enhance the waterfront.

(B) Permitted uses:

- (1) Essential public services;
- (2) Retail stores;
- (3) Bed and breakfasts;
- (4) Personal service establishments;
- (5) Art gallery;
- (6) Parks;
- (7) Dwelling, single-family detached;
- (8) Second- and third-floor apartments;
- (9) Home occupations; and
- (10) Short-term rental unit on second or third floors.

(C) Special land uses. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

- (1) Hotel/inn;
- (2) Motel/motor court;
- (3) ~~Motion picture facilities~~Theater;
- (4) Marina commercial/private;
- (5) Community center;
- (6) Club and fraternal organization;
- (7) Amusement and recreational services;
- (8) Recreational transportation rental facilities;

- (9) Amusement arcades;
- (10) Parking facilities; and
- (11) Restaurants.

(D) Dimension and area regulations:

(1) Permitted uses and special uses: 5. Community center, 6. Club and fraternal organization, 7. Amusement and recreational services, ~~and~~ 8. Recreational transportation rental facilities, and 11. Restaurants.

| | |
|----------------------|----------------------------|
| Front setback | 0 feet |
| Side setback | 10 feet |
| Rear setback | 15 feet |
| Minimum lot area | 6,600 square feet |
| Minimum lot width | 66 feet of street frontage |
| Maximum lot depth | 100 feet |
| Maximum lot coverage | 45% |

(2) Special uses: 1. Hotel/inn, 2. Motel/motor court, 3. ~~Motion picture facility~~Theater, and 4. Marina commercial/private:

| | |
|----------------------|--------------------|
| Front setback | 0 feet |
| Side setback | 10 feet |
| Rear setback | 15 feet |
| Minimum lot area | 13,200 square feet |
| Minimum lot width | 132 feet |
| Minimum lot depth | 100 feet |
| Maximum lot coverage | 45% |

(Ord. 050711, passed - Am. -; Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100510-1, passed 5-10-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-1, passed 4-27-2015; Am. Ord. 200622-1; 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.042 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT (MR).

(A) Generally.

(1) This district will provide an area for multi-family residential structures. All parcels in this district will have direct access to either Blue Star Highway or the northern 2,000 feet of Maple Street or the section of North Street between Maple and Blue Star.

(2) The intent is to recognize the legitimate existence of (and need for) apartment buildings and duplex developments, but, to limit the uses to a portion of the city where

adequate highway access, fire protection and public utilities are readily available and to prevent the creation of land use conflicts and nuisances in existing single-family districts.

(B) Permitted uses:

- (1) Dwelling, single-family detached;
- (2) Dwelling, two-family;
- (3) Essential public services;
- (4) Home occupations; and
- (5) Short-term rental unit.

(C) Special land uses. The following uses are subject to review and approval by the Planning Commission according to the provisions of §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

- (1) Dwelling, Multiple Family (more than two attached) including multiple principal structures as an exception to § 154.022(C)(5);
- (2) Bed and breakfasts (in detached single-family dwellings only);
- (3) Home businesses (in detached single-family and two-family dwellings only); and
- (4) Rented accessory dwelling units in accordance with §154.092(J).

(D) Dimension and area regulations for permitted uses:

| | |
|----------------------|--------------------|
| Front setback | 50 feet |
| Side setback | 10 feet |
| Rear setback | 10 feet |
| Minimum lot width | 80 feet |
| Minimum lot area | 15,000 square feet |
| Maximum lot coverage | 25% |

(Ord. 040726, passed - - ; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.043 ZONING MAP.

(A) The areas and boundaries of such districts noted in this subchapter are hereby established to scale as shown on a map entitled zoning map of the city, and referred to herein as the ZONING MAP. The zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the City Hall and shall be the final authority as to the current zoning status in the city. No amendment to this chapter which involves a change of a mapped zoning district, shall become effective until such change and entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the Mayor, and attested to by the City Clerk.

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(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.044 INTERPRETATION OF DISTRICT BOUNDARIES.

When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed to follow the lot lines;

(C) Boundaries indicated as approximately following city boundaries shall be construed to follow city boundaries;

(D) Boundaries indicated as watercourses shall be construed to follow the centerline of the watercourses and in the event of changing watercourses shall be construed as following the changing watercourses;

(E) Boundaries indicated as approximately following property lines or section lines or other lines of a survey shall be construed to follow the property lines as of the effective date of Ord. 80-133;

(F) Boundaries indicated as parallel to, or extensions of features indicated in divisions (A) through (E) of this section shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map; and

(G) Where physical or cultural features existing on the ground are at variance with those shown in the zoning map, or in other circumstances not covered by divisions (A) through (F) of this section, the Zoning Administrator shall interpret the district boundaries. Upon appeal, the Zoning Board of Appeals reserves the right to amend the interpretation of the Zoning Administrator.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.045 AREA NOT INCLUDED WITHIN A CITY DISTRICT.

(A) In every case where property has not been specifically included within a district, including all cases in which property becomes a part of the city subsequent to the effective date of this chapter, the property shall be included within a zone district within one year from the official date of discovery that it was not so included or from the date of annexation.

(B) In the interim, the land shall be treated as land zoned Conservation and Recreation District.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.046 PERMITTED ACCESSORY STRUCTURES AND USES IN ALL RESIDENTIAL DISTRICTS.

(A) Carports, garages, or other buildings not used as a dwelling and customarily incidental to the principal use of the premises.

(B) Accessory uses customarily incidental to the principal use of the premises.

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(C) State licensed residential facilities, pursuant to M.C.L.A. § 125.3206.
(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.047 CONDOMINIUM SUBDIVISIONS.

(A) All condominium units, including single-family detached units, shall comply with the applicable site development standards contained in the dimension and area regulations for each district.

(B) The condominium subdivision shall comply with the provisions in division (C) of this section pertaining to potable water supply and waste disposal facilities and to the provisions of § 154.130.

(C) The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to the easement, and excavation and refilling of ditches and trenches necessary for the location of the installations.

(D) In addition to the materials required by §§ 154.080 through 154.092, the special land use permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:

(1) A project description which describes the nature and intent of the proposed subdivision;

(2) A survey plan of the condominium subdivision;

(3) A site plan showing the location, size, shape, area, and width of all condominium units;

(4) If applicable, a utility plan showing all sanitary sewer and water lines and easements granted to the city for installation, repair and maintenance of all utilities;

(5) Identification of any portions of the condominium subdivision within or abutting a floodplain;

(6) A street construction, paving and maintenance plan for all private streets within the proposed condominium subdivision;

(7) A storm drainage and stormwater management plan, including all conduits, swales, drains, detention basins, and other facilities;

(8) A description of the common elements of the condominium subdivision as will be contained in the master deed; and

(9) Proposed use and occupancy restrictions as will be contained in the master deed.

(E) All provisions of the condominium subdivision plan which are approved by the Planning Commission shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as a major amendment to a special land use permit, subject to the procedures of §§ 154.080 through 154.092.

(F) All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments or property irons as provided below.

(1) Monuments shall be located in the ground and made according to division (F)(2) below, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(2) All property irons shall be made of solid iron or steel bars at least 36 inches long and 1/2-inch in diameter. A monument is a property iron completely encased in concrete four inches in diameter.

(3) Monuments shall be located in the ground at all angles in the boundaries of the subdivision; at the intersection lines of streets with the boundaries of the subdivision and at the intersection of alleys with the boundaries of the subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(4) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the subdivision and referenced to the true point.

(5) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2-inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.

(6) All required monuments shall be placed flush with the finished grade where practical.

(7) All lot corners shall be identified or staked in the field by iron or steel bars or iron pipes at least 18 inches long and 1/2-inch in diameter or other approved markers.

(8) The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the City Clerk cash or a certified check, or irrevocable bank letter of credit running to the municipality, whichever the proprietor selects, in an amount determined by the City Council. The cash, certified check or irrevocable bank letter of credit shall be refunded to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

(G) The design and construction of all streets, sidewalks, water systems, sanitary systems, storm sewer systems, surface water retention and detention systems, fire protection/suppression systems, and other such infrastructure shall meet or exceed city standards.

(H) The City Council requires a copy of the maintenance agreement for common lands or common open space.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Statutory reference:

Condominium Act, see M.C.L.A. §§ 559.101 et seq.

§ 154.048 HISTORIC DISTRICT OVERLAY ZONE.

(A) Generally. The Historic District Overlay Zone (HDOZ) is designed to recognize the city's officially designated historic areas. The HDOZ represents a supplementary series of developmental requirements which are in addition to the regulations of the zone district(s) underlying the HDOZ.

(B) Permitted uses. Uses classified as such by the underlying zone district.

(C) Special land use. Uses classified as such by the underlying zone district.

(D) Dimension and area regulations. Except as noted under division (E) below, dimension and area regulations shall be as required by the underlying zone district.

(E) Special provisions. The requirements of Chapter 152, of the city code of ordinances, shall apply to all lands, buildings and structures within the HDOZ. In the event of conflict between the regulations of the Zoning Code and Chapter 152, the more stringent requirements shall apply unless there is historic precedent regarding the location of a structure, in which case the Historic District Commission may permit the reconstruction of a structure within a required setback if other zoning regulations can still be met. (Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.049 SERVICE OF ALCOHOLIC BEVERAGES.

The Planning Commission shall conduct a Special Land Use and Site Plan Review public hearing for any establishment seeking a license for the sale or consumption of beer, wine, or alcoholic beverages on-premises that is not located in the C-1 City Center Commercial District (CC), the C-4 Resort District, the C-2 Water Street East District (WSE), the C-1 Water Street North District (WSN), or the C-2 Water Street South District (WSS). Notice of the public hearing shall be served in the manner required by the Zoning Enabling Act, Act 110 of 2006 as amended. Following its determination as to whether the proposed special land use and accompanying site plan meet the criteria of the City Code, the Planning Commission shall recommend to the City Council approval, approval with conditions or denial. A recommendation for approval may be conditioned upon the execution of a development agreement between the applicant and the city. The City Council shall thereafter determine whether to deny, approve, or approve with conditions the special land use and site plan review.

(Ord. 140908-1, passed 9-8-2014; Am. Ord. 180529-2, passed 5-29-2018)

SITE PLAN REVIEW

§ 154.060 PURPOSE AND SCOPE.

(A) It is the purpose of this subchapter to require formal site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels, and the character of future development. The regulations contained in this subchapter are intended to promote safe and convenient traffic movement, both within a site and in relation to an access street, harmonious relationships with adjacent sites, and conservation of natural amenities and resources.

(B) Uses subject to formal site plan review. Formal site plan review by the Planning Commission shall be required for the following:

- (1) Residential subdivisions;
- (2) Condominium subdivisions;
- (3) All new non-residential principal structures;
- (4) All expansions to existing nonresidential principal structures; and
- (5) All PUD developments (see also § 154.110).
- (6) Except as provided herein, multi-family residential developments.

(C) All uses and structures not subject to formal site plan review shall be subject to administrative review by the Zoning Administrator for conformance with the zoning ordinance.

(D) The Zoning Administrator may require a formal site plan review for any other use or activity not required to go through the formal site plan review process based on unique circumstances involving the use or structure in question and identified as part of the record.

(E) Planned unit developments, developments of sites greater than two acres in area and developments to occur in phases are subject to formal site plan review and approval by the City Council. (Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 9-8-2003; Am. Ord. 091123-1, passed 11-23-2009; Am. Ord. 170626-2, passed 6-26-2017)

Statutory reference:

Site plans, see M.C.L.A. § 125.3501

§ 154.061 APPLICATIONS.

(A) The applicant shall submit payment of a non-refundable fee in accordance with the city's schedule of fees as adopted from time to time. Additional administrative fees for professional services may be applied, refer to § 154.175.

(B) At a minimum the application form for all site plan reviews shall include the following information:

- (1) The applicant's name and address in full;
- (2) The applicant's telephone number and email address;
- (3) Survey showing property corners, existing structures, and proposed construction.

(C) Additional information for formal site plan review shall require some or all of the following information unless waived by the Zoning Administrator:

- (1) Water courses and water bodies, including human-made surface drainage ways;
- (2) Existing public right-of-way, pavements and/or private easements;
- (3) Existing and proposed uses, buildings, structures, and parking areas;
- (4) Zoning classification of abutting properties;
- (5) Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate;

(6) Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths;

(7) Proposed water supply and wastewater systems locations and sizes;

(8) Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain;

(9) Proposed common open spaces and recreational facilities, if applicable;

(10) Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials;

(11) Signs, including type, locations and sizes;

(12) Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives;

(13) Exterior lighting showing area of illumination and indicating the type of fixture to be used;

(14) Elevations of proposed buildings drawn to an appropriate scale shall include:

(a) Front, side and rear views;

(b) Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and

(c) Location, if any, of any views from public places to public places across the property;

(15) Location, height, and type of fencing;

(16) Topographic elevations at two feet intervals; and

(17) Written statements relative to the effects on the existing traffic capacity of streets, and the proposed development's impact on schools, existing utilities, or natural features.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 120326-1, passed 3-26-2012; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.062 STANDARDS FOR ADMINISTRATIVE SITE PLAN REVIEW.

Administrative site plan review shall be conducted by the Zoning Administrator to ensure compliance with the provisions of this chapter 154.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.063 STANDARDS FOR FORMAL SITE PLAN APPROVAL.

~~(C)~~ ~~(A)~~ All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of the buildings. The site will be developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

(B) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter.

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(C) The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.

(D) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department.

(E) There shall be provided a pedestrian circulation system which is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, local shopping areas and other uses which generate a considerable amount of pedestrian traffic. All federal, state, and local barrier free requirements shall be met.

(F) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern serving adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the city's land use plan.

(G) All streets shall be developed in accordance with city specifications, unless developed as a private road.

(H) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, create puddles in paved areas or create erosion problems.

(I) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by an opaque wall or landscaped screen not less than six feet in height. (See §§ 154.142 through 154.144).

(J) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

(K) In approving the site plan, the Planning Commission may recommend that a bond or other financial guarantee of ample sum be furnished by the developer to ensure compliance for such requirements as drives, walks, utilities, parking, landscaping, and the like (see § 154.173).

(L) The Planning Commission may require a five year development plan for any remaining undeveloped property if the total parcel is greater than ten acres and a ten year development plan for any remaining undeveloped area of the parcel if the total parcel is greater than 20 acres.

(M) The Planning Commission may require a market feasibility study, prepared by a qualified professional as determined by the city, for any mixed use development or residential development greater than ten acres.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.064 CONDITIONS OF APPROVAL.

(A) As part of an approval to any site plan, the Planning Commission or City Council, as applicable, may impose additional conditions as in its reasonable judgment may be necessary for protection of the public interest and compliance with chapter 154.

(B) Such conditions shall be related to and ensure that the review standards of § 154.064 are met. Any performance guarantee shall meet the requirements of § 154.173.

(C) Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of the property.

(D) A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved.

(E) A record of the decision of the Planning Commission, the reason for the decision reached and any conditions attached to the decision shall be kept and made a part of the minutes of the Planning Commission. A similar record shall also be kept by the City Council in those instances where they have the final review authority.

(F) The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission or City Council, whichever had final review authority, to terminate the approval following a public hearing.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.065 VALIDITY OF SITE PLANS.

(A) The Planning Commission shall approve, approve with conditions or deny the submitted site plan. Reasons for a denial shall be set forth in writing.

(B) Where City Council approval is required the Planning Commission shall transmit its recommendation to the City Council. The City Council shall thereafter review the site plan and may approve, approve with conditions, or deny the submitted site plan. Reasons for denial shall be set forth in writing. The applicant shall be provided with a copy of the resolution of the City Council regarding the site plan.

(C) Approval of a site plan is valid one year. If physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion the approval shall be null and void.

(D) Upon written application, filed before the termination of the one-year review period, the Planning Commission may authorize one extension of not more than one year. The extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the one-year extension.

(Ord. 170626-2, passed 6-26-2017)

§ 154.066 AMENDMENTS TO APPROVED SITE PLANS.

(A) Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved plan. The Zoning

Administrator shall determine whether the proposed amendment constitutes a minor or major amendment.

(B) Minor changes. A minor amendment may be approved by the Zoning Administrator if:

(1) The proposed changes will not affect the basis on which initial approval was granted;

(2) The proposed minor changes will not adversely affect the overall planned unit development in light of the intent and purposes of the development as stated in § 154.060; and

(3) The proposed changes will not affect the character or intensity of use, the general configuration of buildings and uses on the site, vehicular or pedestrian circulation, drainage patterns, or the demand for public services.

(C) Minor changes. Examples of minor changes include, but are not limited to:

(1) Additions or alterations to the landscape plan or landscape materials;

(2) Alterations to the internal parking layout of an off-street lot provided that the total number of spaces or ingress or egress is not reduced; and

(3) Relocation of a trash receptacle.

(D) Major changes.

(1) A major change to an approved site plan includes any change that is not a minor change.

(2) A major change shall comply with the same filing and review procedures of the original approval, including the payment of a fee.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.067 PERFORMANCE GUARANTEES.

Performance guarantees may be required by the Planning Commission to ~~insure~~ ensure compliance with site plan conditions pursuant to the requirements of § 154.173.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.068 APPEALS OF FINAL SITE PLANS.

(A) There shall be no right of appeal of a site plan determination to ~~the~~ Zoning Board of Appeals.

(B) An appeal of a decision concerning a site plan shall be to the County Circuit Court.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

SPECIAL LAND USES

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§ 154.080 PURPOSE.

(A) In order that this chapter be flexible and reasonable, special land uses are provided for and require special land use permits.

(B) Conformance to special land use standards is required, in addition to all other requirements of this chapter. All the uses are hereby declared to possess characteristics of the unique and distinct form that each specific use shall be considered on an individual basis.

(C) The granting of a special land use permit does not negate the requirement for any other required permits.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Statutory reference:

Special land uses, see M.C.L.A. §§ 125.3502

§ 154.081 PLANNING COMMISSION DESIGNATED.

(A) The Planning Commission shall hear and permit such special land uses as the Planning Commission is specifically authorized to pass on by the terms of this chapter.

(B) It may grant special land uses with such conditions and safeguards as are appropriate under this chapter, or may deny special land uses when not in harmony with the purpose and intent of this chapter.

(C) Approval shall run with the land and shall not be issued for specified periods, unless the use is clearly temporary or time-related in nature.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.082 STANDARDS.

(A) Before any special land use permit is granted, the Planning Commission shall make findings of fact based upon competent evidence certifying compliance with the specific regulations governing individual special land uses and, in addition, ensure that the following general standards have been met. Each proposed special land use shall:

(1) In location, size, height and intensity of the principal and/or accessory operations, be compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property;

(2) Be consistent with and promote the intent and purpose of this chapter;

(3) Be compatible with the natural environment and conserve natural resources and energy;

(4) Be consistent with existing and future capabilities of public services and facilities affected by the proposed use;

(5) Protect the public health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole;

(6) Not create any hazards arising from storage and use of inflammable fluids;

(7) Not be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of development. In particular:

(a) The property shall be easily accessible to fire and police; and

(b) Not create or add to any hazardous traffic condition.

(8) Be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

(9) That in the nature, location, size and site layout of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of the district; and

(10) That in the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special land use is proposed to be located.

(B) The Planning Commission shall consult the city land use plan to determine if the proposed special land use is compatible with the future planned use of surrounding property and may limit the permit so as not to conflict with future planned land use. The duration of the permit may be limited only if such use is clearly temporary in nature. (Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.083 APPLICATION PROCEDURES FOR SPECIAL LAND USE PERMITS.

(A) Application. Prior to construction or physical development of a proposed special land use, as specified by this chapter, an application for a required special land use permit must be made to the Zoning Administrator on forms supplied by the city.

(B) Contents of application. The contents shall be the same as required for zoning permits in § 154.172. In addition, a site plan meeting the requirements of §§ 154.061et seq. shall be submitted.

(C) Fee. A fee may be set by the City Council and listed in the city's schedule of fees and shall accompany any plans or application in order to defray the cost of administration and inspection.

(D) Zoning Administrator review.

(1) The Zoning Administrator shall begin to collect the application package and review for required content.

(2) He or she shall review the site plan and make advisory comments based on site plan review standards. Review by engineering, planning or other consultants hired by the city may be initiated as needed.

(3) Upon completion of preliminary review and comment, the Zoning Administrator shall forward the entire application with comments to the Planning Commission.

(E) Planning Commission review. Planning Commission shall review the application based on:

- (1) Compliance with zoning bulk regulations;
- (2) Standards for the review of site plans;

(3) Standards for the consideration of special land uses set forth in this subchapter; and

(4) Any other standards in this subchapter related to conditions proposed to be imposed.

(F) Public hearing required. Before a special land use permit is approved a public hearing must be held by the Planning Commission with public notice properly given in accordance with § 154.179 and the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

Statutory reference:

Statutory requirements, see M.C.L.A. § 125.3504

§ 154.084 DECISION FOLLOWING PUBLIC HEARING.

(A) Following the public hearing, the Planning Commission shall issue a written decision on the application for a special land use permit. The Planning Commission may deny, approve, or approve with conditions, requests for special land use approval. The decision shall include:

(1) Findings of fact. The Planning Commission shall make findings based on the particular facts of the application and the analysis thereof including reference to conformance or nonconformance with specific standards of this chapter. These findings shall be embodied in a statement of conclusions along with the basis for the decision. Among the findings shall be a conclusion that the granting of special land use approval will or will not adversely affect the public interest, health, safety, or welfare of the community;

~~(2) Approval, approval with conditions or denial; and~~

(3) A statement of any conditions imposed.

(B) If approved or approved with conditions, a zoning permit shall be issued by the Zoning Administrator with all the conditions specified by the Planning Commission. One copy shall be given to the applicant. If denied, the applicant shall be given a copy of the Planning Commission denial and reasons therefore.

(Ord. 02-02, passed 2-11-2002)

§ 154.085 CONDITIONS.

(A) The Planning Commission may attach conditions to the approval of the special land use which may include conditions necessary to:

(1) Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use and activity;

(2) Protect the natural environment and conserve natural resources and energy;

(3) ~~insure~~ Ensure compatibility with adjacent uses of land; and

(4) Promote the use of land in a socially and economically desirable manner.

(B) Any conditions imposed shall be recorded in the record of the special land use permit. These conditions shall not be changed except upon ~~the mutual consent of the~~

~~Planning Commission and the landowner the review by the Planning Commission in accordance with Section 154.087.~~

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.086 PERFORMANCE GUARANTEES.

Performance guarantees may be required by the Planning Commission to ensure compliance with special land use conditions pursuant to the requirements of § 154.173.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.087 AMENDMENTS TO SPECIAL LAND USES.

When an application is received to expand or change the use, traffic pattern or similar elements, the application shall be subject to the same procedures followed for an original special land use request. See § 154.066(A) and (B).

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.088 LIMITATIONS ON VALIDITY OF PERMIT.

(A) Construction must be initiated under a special land use permit within one year from date of issuance of the permit. Upon receipt of a written request for an extension an extension of up to one year may be granted by the Planning Commission if the Planning Commission feels the nature of the problems preventing project initiation are legitimate, and that the approved site plan adequately represents current conditions on and surrounding the site.

(B) If the project is not initiated within an approved period the special land use is cancelled. Thereafter, the project may proceed only if approved after going through the entire special land use process again, starting with a new application.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.089 NO RIGHT OF APPEAL.

Any other provisions of this chapter notwithstanding, any requirement, decision or determination by the Planning Commission made pursuant to this subchapter shall not be appealable to the Zoning Board of Appeals.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.090 INSPECTION.

At least two site inspections by the Zoning Administrator must be held; one during development or construction and one before uses or structures are occupied. If the development is phased or in stages, then at least one inspection per phase or stage shall be made. The permit holder shall be required to contact the Zoning Administrator and arrange for the final inspection prior to occupancy.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.091 TVRO SPECIAL LAND USE PERMIT/ALLOWABLE ZONES.

All installations of satellite antennae over three feet in diameter shall be considered extraordinary structures and may only be installed upon obtaining a special land use permit in accordance with this subchapter, and a building permit prior to commencing installation.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.092 DESIGN STANDARDS FOR SELECTED SPECIAL LAND USES.

Recognizing that some land uses have characteristics of such unique and distinct form that they may negatively impact on adjoining parcels. Careful review of the following selected special land uses will be considered in accordance with the procedure and standards in §§ 154.080 through 154.092 and the standards that follow.

(A) Religious facilities. Ingress and egress shall meet the requirements of this chapter and any requirements of the City Engineer, the County Road Commission and the Michigan Department of Transportation, and shall be onto the street having the least impact upon residential properties. The primary use of buildings and grounds of a religious facility is for the regular assembly of persons for religious worship or services, together with noncommercial accessory uses.

(B) Motels/motor courts. Units shall not be used as apartments for non-transient tenants and shall have an office or lobby.

(1) Each unit shall have a minimum area of 300 square feet and shall have a bath facility with shower or bath, one toilet and sink as a minimum.

(2) There shall be no more than one unit for each 1,000 square feet of site area. Fractions shall be rounded to the nearest whole number.

(3) The following accessory uses may be permitted:

(a) One house or apartment for the use of the manager or caretaker and his or her family;

(b) One restaurant and/or coffee shop or cafeteria providing food and drink; and

(c) Amusements and sports facilities for the exclusive use of guests, including:

1. Swimming pool;
2. Children's playground;
3. Tennis and other game courts;
4. Game or recreation rooms; and
5. Meeting and/or conference rooms.

(4) A 20-foot landscaped buffer zone shall be provided from street right-of-way lines. A 15-foot vegetated or otherwise stabilized area shall be provided along the waterfront. A five-foot landscaped buffer zone shall be provided along the remaining property lines. Recreation facilities not to include buildings, may be permitted in the buffer zone if the Planning Commission determines that such facilities will not adversely impact traffic flows or surrounding properties and provided that impervious materials, such as asphalt, shall not be permitted in required buffer zones.

(C) Hotels/inns. All of the following requirements shall be met:

(1) There shall be open space which shall be in conformance with the district requirements in each zoning district. Screening shall be as required by the general

screening requirements of § 154.142. Off-street parking in front yard areas shall not be permitted;

(2) In addition to the rental rooms allowed, a hotel/inn shall have a managers quarters consisting of one or more rooms, and which quarters shall have a minimum total square footage of 300 square feet; provided, however, each of the rooms making up the managers quarters shall be at least the minimum size for the particular room as required in the State Construction Code;

(3) Additions to a structure for the purpose of providing additional rental rooms shall not be allowed except on those parcels of property which adjoin or are contiguous to the Center Commercial Zone District. In addition to other criteria, the Planning Commission shall verify that no addition will result in providing less than 1,900 square feet of lot area for each rental room; and

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(4) The following accessory uses may be permitted:

(a) One house or apartment for the use of the manager or caretaker and his or her family;

(b) One restaurant and/or coffee shop or cafeteria providing food and drink;

(c) Amusements and sports facilities for the exclusive use of guests, including:

1. Swimming pool;

2. Children's playground;

3. Tennis and other game courts; and

4. Game or recreation rooms.

(d) Meeting and/or conference rooms.

(D) Marinas.

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(1) Major construction.

(a) Pier construction shall comply with all appropriate local, state and federal regulations and §§ 154.200 through 154.207.

(b) Site uses may include:

1. Facilities for the berthing, launching, handling, or servicing of recreational or commercial boats.

2. Retail businesses which supply products primarily and directly for persons using the facility.

3. Indoor storage in a permanent structure. This area may be used for off-street parking when boats are in the water.

4. Outdoor storage provided that no parking lot shall be occupied by stored boats during the months when boats are normally in the water.

5. Boat fuel stations.

6. Clubs, lounges, restaurants, provided that they meet applicable requirements as if they were being developed separately from a marina.

7. Marine construction and maintenance equipment use and storage.

(c) Minimum site size shall be 17,424 square feet and minimum road frontage 132 feet.

(d) Minimum building and fuel station setbacks shall be 20 feet from the roadway.

(e) Shorelines shall be stabilized with an approved suitable material to prevent erosion.

(f) Parking will be determined based upon the provisions of § 154.130et seq., the combination of uses, and the amount and availability of indoor and outdoor storage.

(g) There shall be no above ground storage of gasoline, fuel oil, or other inflammable liquids or gases.

(2) Minor construction.

(a) Pier construction shall comply with all appropriate local, state and federal regulations and §§ 154.200 through 154.207 of this chapter.

(b) Site uses may include:

1. Facilities for the berthing, launching, and handling of recreational boats and commercial boats.

2. Accessory structures for storage, shower and lavatory facilities and refuse containers. Screening of latter from the roadway shall be required pursuant to the requirements of § 154.142.

3. Parking in compliance with § 154.130et seq.

4. Recreation facilities such as picnic areas, playgrounds, intended for use by the boating public only.

(c) Maximum site size shall be 17,423 square feet with a maximum 131 feet of road frontage.

(d) Buildings shall be set back at least 20 feet from the roadway and ten feet from property lines.

(e) Shorelines shall be stabilized with an approved suitable material to prevent erosion.

(f) This district shall not include retail or commercial uses other than the berthing of boats.

(E) Commercial boats.

~~(1) Commercial boat operations shall meet the requirements of the business license ordinance which require that all transactions are to occur in a structure. A structure is defined as anything constructed or erected, the use of which requires a location on the ground or attached to something having a permanent location on the ground.~~

(2) Off-street parking shall be provided based on one space per two crew members or deckhand and one space per two passenger capacity.

(3) Signage shall be controlled by the sign provisions of this chapter.

(4) Restroom facilities shall be provided based on ~~one for each three through 20 people and County Health Department regulations, the Michigan Plumbing Code.~~

(F) Changes in grade.

(1) A special land use permit shall be required for all alterations to the original natural grade in excess of two feet at any point. This shall include the use of any fill materials, removal of any materials other than those resulting from basement excavations and rearrangement of material on the described property.

(2) Prior to the removal, importation or rearrangement of material, the applicant shall submit a survey (topographic) showing existing grades and elevations. A second survey

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shall show all grades and elevations after the excavation or fill is completed. The final survey shall clearly indicate the direction of storm water movement and the final sources of dispersion or disposal.

(3) All excavation permits shall include the name, address and legal description of the property where the material will be disposed of. All permits for fill shall identify the type of material brought in and its source including owner's name, address and property legal description.

(G) Dwelling, multi-family (more than two attached) including multiple principal structures as an exception to § 154.022(C)(5).

(1) Site requirements. For multiple family developments with more than two units per structure, the allowed density shall be no greater than one unit for every 6,200 square feet of lot area not to exceed seven units per acre when averaged across the entire lot.

(2) Special use requirements.

(a) For all structures:

1. Front setback: 50 feet.
2. Side setback: 50 feet.
3. Rear setback: 50 feet.
4. Outdoor storage of trash or rubbish shall be screened from neighboring uses.

(b) For driveways and parking lots:

1. Front setback: ten feet.
2. Side setback: 20 feet.
3. Rear setback: 20 feet.
4. There shall be a ten feet wide screen in accordance with § 154.144.

(3) Performance standards.

(a) All multi-family developments shall have direct access to a major street (per Public Act 51) or an approved paved city street.

(b) Provision shall be made for safe and efficient egress and ingress to public streets and highways which shall be designed to minimize congestion and interference with normal traffic flow. The proposal shall not be calculated to reduce the traffic service level of any street nor to access any street functioning below level of service "C" as calculated by MDOT.

(c) All streets within a development shall be constructed as public streets and maintained with an all-weather road surface.

(d) No dwelling unit shall have its principal access more than 150 feet from either an access drive or a public street, and the required off-street parking area.

(e) The distance between any two residential structures which occupy the same lot shall not be less than 30 feet, if both walls facing each other contain windows or other openings, and not less than 20 feet for all other situations.

(f) All developments shall be located only where adequate public sewer and water facilities already exist.

(g) All storm water drainage shall meet or exceed federal Phase II storm water regulations and shall be so constructed as to cause 0% increase to existing storm water systems unless excess capacity is available.

(h) Open space shall be provided which is easily accessible and useable. Such open space shall cover at least 10% of the parcel area or 2,000 square feet per dwelling unit, whichever is greater.

(i) All off-street parking shall be adequately lighted during hours of darkness. Such lighting shall be screened from all neighboring uses and streets.

(j) All drives within the development shall have a minimum pavement width of 13 feet for one-way drives, and 24 feet for two-way drives. Internal driveways shall have a minimum width of ten feet.

(k) Only the following accessory land and/or building uses shall be permitted:

1. One office space not greater than 1,000 square feet for conducting the business of the development.

2. Utility areas for laundry facilities and auxiliary storage for tenants.

3. Recreation area such as community buildings, playgrounds, swimming pools and open space for tenants.

(H) Private recreation camps.

(1) The following uses may be permitted, as long as they are an integral part of a private recreation camp:

(a) No more than three residences for the use of the manager or caretaker and family;

(b) Conference facilities, including kitchen and dining facilities (but excluding restaurants), meeting rooms, and other related accessory areas, such as outdoor seating and dining;

(c) Indoor and outdoor recreation facilities, including parks, nature trails, ball field, playgrounds, tennis courts, swimming pools and other similar facilities;

(d) Assembly buildings, churches and indoor and outdoor chapels;

(e) Cabins and other transient overnight lodging (except recreational vehicles);

(f) Gardening activities; and

(g) Infirmary; and

(h) Accessory uses and buildings necessary for the above uses.

(2) No trees or other vegetation, except those that are damaged and/or diseased and constitute a public hazard, shall be removed from the required setback area. No grading or changes in topography shall occur except as necessary for entrance roads, required utilities, drainage or safety improvements.

(3) All uses shall be integrated into the design of the project with compatible architectural and site features such as landscaping and signage.

(4) All uses established on the property shall provide parking as required by this chapter.

(5) One sign per major entrance to the camp is permitted. The sign shall be no greater than 48 square feet in total surface area and no higher than eight feet from the average grade of its base, including any berm or supporting structures.

(6) Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare or light from spilling onto any surrounding property.

(I) Summer resort and park associations. Expansion of the territorial area of a summer resort and park association and building on vacant sites/lots.

Special procedure. The governing board of the summer resort and park association involved, the Michigan Department of Environmental Quality Land and Water Management Division, and the City of Saugatuck Planning Commission shall agree upon a general development plan for the association involved for any undeveloped site/lots/units/areas or expansion of the geographical area of an existing summer resort and park association. Once final approval is given by the City Council, individual units can be constructed or altered upon application by the summer resort and park association's design review committee and approval of; any required permits from the [DEQEGLE](#); County Health Department or city sewer and water permits; zoning permits by the city's Zoning Administrator; and building permit(s) from the city's Building Inspector. After a Development Plan has been approved by the Planning Commission under this section of the Zoning Ordinance, the resulting site plan shall be administered the same as a conforming subdivision for development of individual units (lots, parcels).

(1) Allowed uses. Uses within the association shall only include those uses allowed in the SRP zoning district.

(2) Seasonal dwellings allowed. Subject to state law requirements, dwellings may be constructed to a lesser standard provided for in the State Building Code for seasonal use dwellings provided that the association's by-laws limit occupancy to no more than nine months in any calendar year.

(3) No ZBA authority. Authority is hereby denied to the Zoning Board of Appeals ("ZBA") TO GRANT ANY VARIANCE FROM ANY PROVISION OF A SUMMER RESORT AND PARK ASSOCIATION SPECIAL Use Permit. (See also § 154.089).

(4) Maximum density. The overall density of the development shall not exceed three dwelling units per acre.

(5) Maximum area coverage. In any critical dune area, the maximum lot coverage for the entire association shall not exceed 10% for all buildings and structures.

(6) Maximum share area coverage. Each member's share area (or shares) corresponds to a lot as platted in establishing the summer resort and park association. All structures constructed for that member's share area shall not exceed 25% of the area of the corresponding lot.

(7) Plat standards. All summer resort and park associations established, expanded or in which additional development is proposed, after the date of this chapter shall conform to either the state Land Division Act or the state Condominium Act, which ever is both applicable and more stringent.

(8) Road standards. Roads may be built to a lesser standard than might otherwise be required by city ordinance so long as emergency vehicle access is acceptable to and approved by the Fire Chief.

(9) State permits required. Approval procedures shall follow the procedures and requirements for approval of planned unit developments in § 154.115 of this chapter but shall include a preliminary review by [Michigan Department of Environmental Quality Environment, Great Lakes and Energy](#)-Land and Water Management Division (or successor) district staff with written comments supplied to the Planning Commission at least three weeks prior to the city's public hearing.

(10) Environmental impact assessment. When a summer resort and park association plan is being considered in an area of critical dunes, high risk erosion area, flood hazard area or regulated wetlands, an environmental impact assessment in conformance with M.C.L.A. § 324.35319 shall be filed with the city by the applicant and, if the Planning Commission finds that additional information is considered necessary or helpful in reaching a decision, the Commission may require an environmental impact statement in conformance with M.C.L.A. § 324.35320, as amended.

(11) Time limit. After a development plan has been approved, and the infrastructure has been completed, there shall be no time limit for development of individual share areas (lots). If the platted infrastructure has not been completed for any portion of an approved plat of development within one year of the date of approval, then the approval for those lots or share areas dependent upon that infrastructure shall expire per § 154.088 of this chapter.

(J) Rental of an accessory dwelling unit. Unless otherwise specified below, a rental accessory dwelling unit shall conform to all regulations in § 154.022(W) and the following:

(1) A rented accessory dwelling unit shall only be permitted on a parcel that contains an owner occupied detached single-family dwelling unit;

(2) An accessory dwelling unit to be rented is subject to inspection by a city official before occupancy and must meet all applicable health, fire, and safety codes; and

(3) Signage shall be per the regulations for short-term rentals.

(K) Automotive services. As defined in § 154.005 of this chapter, automotive services shall meet the following standards:

(1) Vehicles about to be, or in the process of, repair shall be within a fully enclosed building at all times;

(2) The exterior storage of parts, partly dismantled, damaged, or inoperable vehicles shall be prohibited;

(3) Vehicles for sale or rent shall be stored in an enclosed structure or on a fully improved concrete or asphalt surface which meets all applicable setbacks for the district in which it is located;

(4) Any waste materials, parts, or fluids must be stored of and disposed of in conformance with any and all federal, state, county, or local regulations; and

(5) Facilities shall obtain and maintain all applicable federal, state, and local permits and licenses.

(L) Recreational transportation rental facilities. As defined in § 154.005 of this chapter, recreational transportation rental facilities shall meet the following standards:

(1) Recreational transportation devices, other than watercraft, shall be stored on private property in a location meeting the required setbacks as set forth in the zoning district in which it is located. Watercraft shall not be stored in the required front and side yard setbacks for the district;

(2) Facilities shall obtain and maintain all applicable federal, state, or local licenses; and

(3) Signage shall be only as permitted in § 154.141.

(M) Brewery, distillery, and winery. A brewery, distillery, and winery as defined within § 154.005 shall be subject to the following conditions:

(1) All apparatus or equipment associated with the fermentation or distillation of grain, fruits, or other ingredients shall be completely contained within a fully enclosed principal building;

(2) Applicants shall not store products, ingredients, supplies, or waste outdoors;

(3) Products produced on site shall be sold or consumed on site as part of a retail business or restaurant and not distributed;

(4) Operations shall not produce any noise, odor, or other conditions deemed to be a nuisance;

(5) Applicants shall obtain and maintain all applicable local, state, and federal licenses.

(N) In-fill dwelling unit projects that exceed a floor area ratio of 0.3:1.

(1) Purpose. This division is intended to promote quality development and eliminate conditions of gross design incompatibility having the potential for adverse long-term impacts on adjacent properties. It is not intended to stifle individuality or compel rigid conformity but, instead, recognizes that great diversity of style, often between homes side by side, is one of the city's traditional neighborhood strengths, and is premised upon a desire to facilitate compatibility.

(2) Standards. Notwithstanding the other provisions of this chapter, for dwelling unit in-fill projects that exceed a floor area ratio of 0.3:1, it is essential that residential structures be compatible with the placement, height, scale, and proportion of adjacent residential properties or with the general neighborhood within 200 feet in all directions. Such projects shall comply with the following standards.

(a) Front yard. The front yard setback shall be consistent with immediately adjacent residential properties or, when the immediately adjacent properties are non-residential structures, residential structures that exceed the minimum front yard setbacks by two times, vacant lots, or otherwise inadequate for a determination, then the average established setback of the frontage on the same side of the street, between two intersecting streets, shall prevail. Nothing in this division shall be construed to permit any new dwelling unit to be located closer than five feet to the front property line.

(b) Separation. Side yard setbacks shall be established by considering the other side yard setbacks in the general neighborhood, but shall not be less than the required side yard setbacks for the zoning district.

(c) Elevations. Finished floor elevations, the height of exposed basement walls, and front yard grade elevations shall be substantially similar to those of immediately adjacent dwellings or, when the immediately adjacent properties are non-residential structures, vacant lots, or are otherwise inadequate to make a determination, the elevations shall be determined by the average of elevations in the general neighborhood.

(d) Size and mass. Overall height, width, scale, footprint, and general proportions shall be similar to and compatible with the general character of the neighborhood. In determining compatibility, greater weight will be given to the overall height, width, scale, footprint, and general proportions to the immediately adjacent residential properties.

(O) Restaurants with outdoor seating. The inclusion of outdoor seating shall be viewed as an expansion of a commercial business and shall meet the following standards:

(1) Tables, chairs, or similar features shall not have display signage or emblems representative of the restaurant;

(2) Outdoor seating area shall be on a fully improved surface of concrete, paver brick, or similar solid material;

(3) If alcohol is served, area shall meet all applicable local, state, and federal regulations; and

(4) Seating and service within the right-of-way shall be classified as a special land use regardless of the zoning district and shall also meet the following standards:

(a) Tables must be removed from the public right-of-way when restaurant is not open;

(b) A five-foot wide, unobstructed space must be maintained on the sidewalk at all times to prevent pedestrian traffic obstruction;

(c) An approved revocable usage license, issued by City Council, must be obtained before any tables, chairs, or similar features can be placed within the right-of-way;

(d) No accessory features, including but not limited to garbage cans, service stations, fencing, or similar features shall be permitted within the public right-of-way;

(e) Seating shall be arranged to not interfere with pedestrian travel or the opening of car doors; and

(f) No outdoor seating within the public right of way shall be permitted between November 1 and April 1.

(P) Service of alcoholic beverages standards.

(1) Any new establishment seeking a license for the sale and consumption of beer, wine, or alcoholic beverages on-premises shall require special land use approval and site plan review in accordance with this division.

(2) The applicant shall provide a copy of any licensing materials submitted to the Michigan Liquor Control Commission.

(3) The applicant shall provide a site plan illustrating the proposed location where the alcohol sales would occur, as well as all other locations where on-premises sales presently exist within a one thousand-foot radius of the closest lot lines of the subject site.

(4) The proposed establishment must promote the city's economic development goals and objectives, and must be consistent with the city's master plan and zoning ordinance.

(5) Given the character, location, development trends and other aspects of the area in which the proposed use or change in use is requested, the applicant shall demonstrate that the use will: rejuvenate an underutilized property or an identifiable area within the city; provide a unique business model, service, product, or function; add to the diversity of the city or to an identifiable area within the city; or, that the addition of the use or proposed change in use will be otherwise a benefit or asset to the city or identifiable area.

(6) The applicant must demonstrate that the use or change in use as constructed and operated is compatible with the area in which it will be located, and will not have appreciable negative secondary effects on the area, such as:

(a) Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents;

(b) Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings;

(c) Excessive numbers of persons gathering outside the establishment; or

(d) Peak hours of use that add to congestion or other negative effects in the neighborhood.

(Ord. passed 6-24-1996; Am. Ord. 040726, passed - -; Am. Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 070108-1, passed 1-8-2007; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 121008-1, passed 10-8-2012; Am. Ord. 140908-1, passed 9-8-2014; Am. Ord. 150309-2, passed 3-9-2015; Am. Ord. 180529-1, passed 5-29- 2018; Am. Ord. 180813-1, passed 8-13-2018) Penalty, see § 154.999

PLANNED UNIT DEVELOPMENT

§ 154.110 INTENT AND PURPOSE.

(A) The provisions of this subchapter provide requirements and standards for the submission, review and approval of applications for planned unit developments (PUD).

(B) The PUD regulations are designed to accomplish the objectives of this chapter through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(C) The permanent preservation of open space, natural areas and the existing small town rural character of Saugatuck are major objectives of these PUD regulations.

(D) To those ends, these PUD regulations are intended to permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; and to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the city. Further, it is the purpose of the planned unit development regulations to promote the intent and purpose of this chapter, and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

(E) The provisions of this subchapter are not intended as a device for ignoring or circumventing this chapter or the planning upon which it has been based.

(Ord. 02-02, passed 2-11-2002)

§ 154.111 PUD IS AN OVERLAY ZONE.

The purposes, procedures and standards of this subchapter are intended to guide the applicant in the preparation of preliminary and final site plans for a PUD, consistent with the purposes stated in § 154.110. These standards shall be used as the basis for the evaluation of the site plans by the Planning Commission and City Council and shall be considered in reviewing any application for a PUD. Approval of a PUD may proceed only when an application and site plan therefore are determined to be in compliance with the regulations of this subchapter and those of §§ 154.060 through 154.068. A district zoned PUD is an overlay zone. The underlying zone shall establish permitted uses, density and the

minimum lot size for consideration as a PUD. All condominium projects and condominium subdivisions shall be permitted only if the PUD requirements of this subchapter are met. (Ord. 02-02, passed 2-11-2002)

§ 154.112 ELIGIBILITY CRITERIA.

To be eligible for planned unit development approval, the applicant must demonstrate that the following criteria will be met.

(A) Recognizable and substantial benefit. The planned unit development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. This benefit must otherwise be unfeasible or unlikely to be achieved taking into consideration the reasonable foreseeable detriments of the proposed development and uses(s); including, without limitation:

(1) The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; and

(2) Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

(B) Minimum area and density. The minimum land area necessary to be considered for a PUD shall not be less than the land areas as specified for a lot in the underlying zoning district in which the lot is presently located. The density of dwelling units shall not exceed that permitted within the underlying district. Density may be shifted throughout the site and dwellings may be clustered on lots smaller than those permitted in the underlying zone if doing so better achieves the open space preservation objectives of this subchapter.

(C) Availability and capacity of public services. The proposed planned unit development shall not exceed the capacity of existing and available public services, including but not necessarily limited to, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the planned unit development is completed.

(D) Compatibility with the land use plan. The proposed development shall not have an adverse impact on the Comprehensive Plan of the city.

(E) Compatibility with the planned unit development intent. The proposed developments shall be consistent with the intent and intent of these regulations, as stated in § 154.110.

(F) Economic impact. The proposed developments shall not impede the continued use or development of surrounding properties for uses that are permitted in the district in which they are located.

(G) Unified control of property. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the planned unit development regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of the transfer is given immediately to the Zoning Administrator.

(H) Dedication of utilities and roads. Roads within the PUD development not associated with access to individual commercial or residential units shall be dedicated to the city. Likewise, utility easements shall be conveyed to the city. Utility easements and roads in PUD developments approved prior to the enactment of this chapter may remain in private ownership.

(Ord. 02-02, passed 2-11-2002)

§ 154.113 PROJECT DESIGN STANDARDS.

In considering any application for approval of a planned unit development proposal filed according to the procedures of § 154.115 and application and data requirements of § 154.114, the Planning Commission and City Council shall make their determinations on the basis of standards set forth for site plan review, the eligibility criteria of § 154.112, as well as the following standards and requirements.

(A) Minimum lot area. Planned unit developments may be approved only on contiguous properties containing a minimum of three acres under single ownership.

(B) Compatibility with adjacent uses. The proposed planned unit development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

(1) The bulk, placement and materials of construction of proposed structures;

(2) The location and screening of vehicular circulation and parking areas in relation to surrounding development;

(3) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development;

(4) The hours of operation of the proposed uses; and

(5) The provision of landscaping and other site amenities.

(C) Permitted uses. Any land use authorized in the underlying district may be included in a planned unit development as a principal or accessory use, provided that public health, safety and welfare are not impaired.

(D) Application base regulations. Unless waived or modified in accordance with division (E) below, the yard and lot coverage, parking, loading, landscaping, lighting and other standards for the underlying district(s) shall be applicable for uses proposed as a part of a planned unit development. Mixed uses shall comply with the regulations applicable for each individual use, as outlined above, except that if regulations are inconsistent with each other, the regulations applicable to the most restrictive use shall apply. However, a special use that is part of a PUD shall not be separately processed as a special use, instead, it shall be processed as part of the PUD application.

(E) Regulatory flexibility. To encourage flexibility and creativity consistent with the planned unit development concept, departures from the regulations in division (D), above, may be permitted, subject to review and approval by the Planning Commission and City Council. For example, such departures may include but are not limited to modifications to: lot dimensional standards; floor area standards; setback requirements; parking, loading

and landscaping requirements; and similar requirements. These modifications may be permitted only if they will result in a higher quality of development or a better design or layout than would be possible without the modifications.

(F) Permitted mix of uses. Where the existing underlying zoning district is residential, nonresidential uses shall be permitted as part of a planned unit development which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant and the non-residential use will not create a nuisance for abutting property. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed uses: extent to which it serves residents in the PUD compared to others who travel to the site, amount of traffic generated; hours of operation or use; noise, odors and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use. Where residential development is the principal use and a commercial component of the PUD is predominantly designed to serve persons other than those who reside in the PUD, it shall not be permitted.

(G) Open space requirements. Open space shall at least equal that which would be provided under the maximum lot coverage requirements of the underlying district. Open space shall be in large contiguous units that are easily accessible and usable. Small discontinuous areas of open space are contrary to the intent of this section, although it may be necessary to permit up to 20% of the total open space area in small discontinuous areas on a given parcel in order to achieve quality design and/or function of the balance of the PUD. Any land without a structure within the boundaries of the site may be included as required open space, except for land in the floodplain, subject to an easement, submerged lands and land contained in public or private street right-of-way. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the site plan and never change to another use unless the PUD plan is properly amended according to the requirements of § 154.117. The conveyance shall:

(1) Ensure the open space is under single ownership or control, such that there is a single person or entity having proprietary responsibility for the open space. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, master deeds and/or deed restrictions that indicate that open space will be held as proposed in perpetuity;

(2) Guarantee to the satisfaction of the City Council that all open space portions of the development will be maintained in the manner approved. Documents shall be presented to the satisfaction of the city attorney that bind all successors and future owners in fee title to maintenance commitments made as a part of the approval of the open space; and

(3) Provide for maintenance to be undertaken by the city in the event that the dedicated open space is inadequately maintained, or is determined by the city to be a public nuisance, with the assessment of costs upon the property owners within the PUD.

(H) Frontage and access. Planned unit developments shall front onto a street with adequate capacity to safely accommodate the traffic of the development without unreasonably congesting the street. Road improvements contiguous to the site of the PUD that would improve traffic safety and reduce congestion may be required as a condition of a development approval. Access and egress openings from the development onto a public or

private street shall be limited to one per 200 feet. The nearest edge of any entrance or exit drive shall be located no closer than 100 feet from any street or road intersection (measured from the nearest intersection right-of-way line). All requirements of §§ 154.060 through 154.068 shall also apply to planned unit developments.

(I) Utilities; privacy for dwelling units. The design of a planned unit development, including electric, telephone and cable television lines, shall be placed underground, wherever feasible or required by the city.

(J) Privacy for dwelling units. The design of a planned unit development shall provide visual and sound privacy for all dwelling units within and surrounding the development. Fences, walks and landscaping shall be used in the site design to protect the privacy of dwelling units.

(K) Emergency access. The configuration of buildings, driveways and other improvements shall permit convenient and direct emergency vehicle access.

(L) Pedestrian and vehicular circulation. A pedestrian circulation system shall be provided that is isolated as completely as possible from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing or planned streets, sidewalks and bicycle pathways in the vicinity of the site.

(M) Minimum spacing. Minimum spacing between detached buildings shall not be less than 20 feet measured from the nearest point of the foundation. In no case shall spacing be less than required under the Building Code.

(N) Building length. No multiple-family building shall exceed 120 feet in length along any one elevation of the building measured between its two furthest points.

(O) Sensitive natural features. All sensitive natural features such as drainage ways and streams, wetlands, lands within the 100-year floodplains, and stream or river banks (which by virtue of soils and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by any principal or accessory buildings and structures.

(P) Natural vegetation strip along streams. Drainage ways and streams shall be protected by a 25 foot natural vegetation strip or public easement measured from the centerline of the drainage ways or streams and measured from the ordinary high water mark for other surface water bodies.

(Q) Buffer zone along property lines. Natural vegetation, planted or landscaped buffer areas of 25 feet width are required wherever feasible along all exterior boundaries of the property to be developed as a PUD.

(R) Parking areas. The parking area shall be designed so as to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanses of surfaced area. However, landscaped areas in parking lots shall be large enough to support thriving vegetation and shall be preferred over many small landscape islands.

(S) Common property.

(1) Common property in the PUD is a parcel or parcels of land, a privately owned road, or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites or condominiums within the PUD. When common property exists, the ownership of the common property shall be private.

(2) When privately owned, arrangements must be made for the improvements, operation and maintenance of the common property and facilities, including private streets, drives, service parking and recreational facilities (such as a club house or tennis courts).

(3) The applicant shall guarantee to the satisfaction of the city attorney that all common property portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the approval of the common property.

(4) This provision shall not prohibit a transfer of ownership or control, provided notice of the transfer is provided to the city and the land use continues as approved.

(T) Easements across common property. When common property exists in private ownership, the owners shall grant easements, over, under and through the property to the city as are required for public purposes.

(Ord. 040726, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 130812-1, passed 8-12-2013)

§ 154.114 APPLICATION AND DATA REQUIREMENTS.

Application for planned unit development approval shall include all data requirements for site plan review as specified in §§ 154.060 through 154.068. Twelve copies shall be submitted. In considering any application for approval of a planned unit development proposal, the Planning Commission and City Council shall make their determinations on the basis of standards set forth for site plan review, as well the following standards and requirements. In addition, the application shall include the following:

(A) An overall plan for the planned unit development. The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, square footage or acreage allocated to each use, approximate locations of each principal structure and use in the development, setbacks and typical layouts and elevations for each type of use. The overall plan shall clearly delineate each type of residential use; office, commercial and other nonresidential use; each type of open space; community facilities and public areas; and other types of land use;

(B) Map and written explanation. A map and written explanation of the relationship of the proposed planned unit development to the city's Comprehensive Plan;

(C) Conformance with the planned unit development concept. The overall design and all uses proposed in connection with a planned unit development shall be consistent with and promote the intent of the planned unit development concept described in § 154.110, as well as with the specific project design standards set forth herein;

(D) Compatibility with adjacent uses. The proposed planned unit development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design and layout features which exhibit due regard for the relationship of the development to the surrounding properties and uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

(1) The bulk, placement and materials of construction of proposed structures;

(2) The location and screening of vehicular circulation and parking areas in relation to the surrounding development;

(3) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development;

(4) The hours of operation of the proposed uses; and

(5) The provision of landscaping and other site amenities.

(E) Public services. The proposed planned unit development shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the planned unit development is completed;

(F) Impact of traffic. The planned unit development shall be designed to minimize the impact of traffic generated by the proposed development on surrounding areas;

(G) Accommodations for pedestrian traffic. The planned unit development shall be designed with a sidewalk network to accommodate safe pedestrian circulation throughout and along the perimeter of the site, without interference from vehicular traffic;

(H) Compliance with applicable regulations. The proposed planned unit development shall be in compliance with all applicable federal, state and local laws and ordinances;

(I) Legal documentation of single ownership or control. The documentation shall be in the form of agreements, contracts, covenants and deed restriction which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained at public expense will continue to be operated and maintained by the developers, their successors, or other authorized entity;

(J) Schedule. A specific schedule of the intended development and construction details, including the phasing or timing of all proposed improvements; and

(K) Draft. A draft of ownership and governance documents. These documents shall include the following:

(1) Deeds of ownership;

(2) Warranties guaranteeing ownership conveyed and described in the deeds;

(3) A list of covenants, conditions and restrictions that are conditions of ownership upon the purchasers and owners in the planned unit development; and

(4) Association bylaws (for example, condominium or homeowner's association bylaws) which describe how the association is organized; the duties of the association to operate, manage and maintain common elements of the planned unit development; and, the duties of individual shareholders to manage and maintain their own units.

(Ord. 02-02, passed 2-11-2002)

§ 154.115 PROCEDURES AND REQUIREMENTS.

(A) Amendment required. The approval of a planned unit development application shall require an amendment to this chapter to revise the zoning map and designate the subject property as "Planned Unit Development Overlay Zone" or "PUD Overlay Zone". Approval

granted under this section, including rezoning, if applicable, and all aspects of the final site plan and conditions imposed on it, shall constitute an inseparable part of the PUD approval.

(B) Review procedure.

(1) General. Planned unit development applications shall be submitted in accordance with the following procedures and requirements, which provide for detailed review of planned unit development proposals by the Planning Commission, followed by review and final approval by the City Council:

(2) Pre-application conference.

(a) Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Chairperson of the Planning Commission, the Mayor, and the City Manager, together with such consultants as either the city or the applicant deem appropriate. The City Manager shall invite officials from other departments of the city, or agencies serving the city who might have an interest in the proposed development, or who might assist the city in the review process. The purpose of the meeting is to inform city officials of the concept of the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the city in terms of the proposed development. Statements made in the course of a pre-application conference shall not be legally binding commitments.

(b) At the pre-application conference (or conferences), the applicant shall submit a general sketch plan of the proposed planned unit development, accompanied by other maps and by written statements sufficient to convey the following information:

1. A legal description of the property in question;
2. A recent map of the site, reflecting area size and boundary line dimensions;
3. The total number of acres and square feet in the project;
4. Existing and proposed land uses and their approximate locations;
5. A statement of the approximate number of residential units, the approximate number and type of nonresidential units, and the approximate number of acres and square feet to be occupied by each type of use;
6. The approximate net residential density and expected final population of the proposed PUD;
7. The number of acres and square feet to be preserved as open or recreational space, and the general location of any such proposed open space or public use areas;
8. Existing floodplains, bodies of water and other unbuildable areas, and all known natural resources and natural features to be preserved;
9. Circulation patterns and emergency vehicle access, including pedestrian walkways and arterial, collector or local streets;
10. An explanation of the character of the PUD, the manner in which it has been planned to take advantage of the PUD regulations, the manner in which it reflects the purpose of planned unit developments as stated in § 154.110, and its conformance to the city's Comprehensive Plan. The applicant shall detail the modification of the underlined zone to be sought;
11. A statement of ownership or option to purchase of all lands within the proposed PUD;

12. A general indication of the expected schedule of development, including phases of development, if any; and

13. Any other maps plans, site data or information that the applicant wishes to submit to explain the proposed development.

(c) After completion of the pre-application review, an applicant who wishes to proceed shall submit an application for PUD approval and a site plan conforming to the requirements of §§ 154.060 through 154.068.

(C) Applicant eligibility. The application shall be submitted by the owner of an interest in land for which planned unit development approval is sought, or by the owner's designated agent. The applicant or a designated representative should be present at all scheduled review meetings or consideration of the proposal may be tabled.

(D) Application forms and documentation. The application for planned unit development shall be made on the forms provided by the Zoning Administrator and shall conform with the submittal requirements of § 154.114. An application which does not meet submittal requirements shall be considered incomplete and shall not be formally reviewed.

(E) Site plan preparation. The site plan shall be prepared in the manner specified in §§ 154.060 through 154.068. A site plan which does not meet submittal requirements shall be considered incomplete and shall not be formally reviewed.

(F) Submission of a completed plan. The planned unit development application materials, required fees, and sufficient copies of the completed site plan shall be submitted to the Zoning Administrator. Once the site plan and all required materials are established as being complete, sufficient copies shall be provided for distribution to each member of the Planning Commission and City Council.

(G) Zoning Administrator. After all application materials have been received and review fees paid, the City Clerk shall initiate the following.

(1) Acceptance for processing. The application shall be placed on the agenda of an upcoming Planning Commission meeting and a public hearing shall be scheduled.

(2) Public hearing. The public hearing shall be scheduled in the same manner as required for special uses in §§ 154.080 through 154.092, the public hearing and notice required by this division shall be regarded as fulfilling the public hearing and notice requirements for amendment of this chapter.

(H) Planning Commission review. The Planning Commission shall conduct a public hearing on a PUD request. The planned unit development proposal and site plan shall be reviewed by the Planning Commission in relation to applicable standards and regulations and for consistency with the intent and intent of the planned unit development concept. In formulating a decision, the Planning Commission shall consider the public hearing findings, any special reports as well as the recommended actions of the Zoning Administrator, city consultants and other reviewing agencies.

(1) Plan revision. If the Planning Commission determines that revisions are necessary to bring the planned unit development proposal into compliance with applicable standards and regulations, the applicants shall be given the opportunity to submit a revised site plan.

(2) Submission of revised plans. Following submission of a revised plan, the planned unit development proposal shall be placed on the agenda of the next scheduled meeting of the Planning Commission for further review and possible action.

(1) Planning Commission determination. The Planning Commission shall make a recommendation to the City Council, based on the requirements and standards of this chapter. The Planning Commission shall recommend approval; approval with conditions; or, denial as follows.

(1) Approval. Upon determination by the Planning Commission that the final site plan for planned unit developments is in compliance with the standards and requirements of this chapter and other applicable ordinance and laws, the Planning Commission shall recommend approval.

(2) Approval with conditions. The Planning Commission may recommend that the City Council impose reasonable conditions with the approval of a planned unit development proposal, to the extent authorized by law, for the following purposes.

(a) To ~~insure~~ ensure that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development;

(b) To protect the natural environment and conserve natural resources and energy;

(c) To ~~insure~~ Ensure compatibility with adjacent uses of land;

(d) To promote the use of land in a socially and economically desirable manner;

(e) To protect the public health, safety and welfare of the individuals in the development and those immediately adjacent, and the community as a whole;

(f) To achieve the intent and purpose of this chapter; and

(g) In the event that the planned unit development is approved subject to conditions, such conditions shall become a part of the record of approval, and shall be modified only as provided in § 154.117.

(3) Denial. Upon determination by the Planning Commission that a planned unit development proposal does not comply with the standards and regulations set forth in this chapter, or otherwise would be injurious to the public health, safety, welfare and orderly development of the city, the Planning Commission shall recommend denial.

(4) Preparation of report. The Planning Commission shall prepare and transmit a report to the City Council stating its conclusions and recommendations, the basis for its recommendation, and any recommended conditions relating to an affirmative decision.

(5) Submission of plans for City Council review. After the Planning Commission makes its recommendations, the applicant shall make any required revisions and submit sufficient copies of the revised site plan and supporting materials for City Council review.

(6) Public hearing. Upon receipt of the recommendations of the Planning Commission on the proposed planned unit development plan and application, the City Council shall schedule a public hearing, in accordance with § 154.115 above.

(7) City Council determination. The City Council shall make a determination based on review of the site plan and recommendation of the Planning Commission and the reports and recommendation from the Zoning Administrator, city consultants and other reviewing agencies. Following completion of its review, the City Council shall approve, approve with conditions, or deny a planned unit development proposal in accordance with the guidelines described previously in § 154.113.

(8) Recording of Planning Commission and City Council action. Each action taken with respect to a planned unit development shall be duly recorded in the minutes of the

Planning Commission and/or City Council, as appropriate. The grounds for the action taken shall also be recorded in the minutes.

(9) Effect of approval. Approval of a planned unit development proposal shall constitute an amendment to the zoning map if the property is not already zoned PUD. All improvements and use of the site shall be in conformity with the approved planned unit development and any conditions imposed. Notice of the adoption of a PUD amendment shall be published in accordance with the requirements set forth in §§ 154.110 through 154.118. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements will be carried out in accordance with the approved planned unit development unless an amendment pursuant to § 154.117 is adopted by the City Council upon request by the applicant or his or her successors. If a PUD involves a platted subdivision or master deed for a condominium project, whichever is applicable shall be filed as required by those statutes before construction may begin.

(10) Zoning Board of Appeals; authority. The Zoning Board of Appeals shall not have the authority to consider an appeal of a decision by the City Council or Planning Commission concerning a planned unit development proposal.

(11) Application for a building permit. Prior to issuance of a building permit, the applicant shall submit proof of the following:

- (a) Final approval of the site plan and planned unit development application;
- (b) Final approval of the engineering plans;
- (c) Acquisition of all other applicable city, county or state permits; and
- (d) Receipt of filing of the plat or master deed from the appropriate state agency whichever is applicable.

(12) Expiration of planned unit development approval. Construction must be initiated under a planned unit development approval within one year from date of issuance of a zoning permit therefore. Upon receipt of a written request for an extension, an extension of up to one year may be granted by the Planning Commission if the Planning Commission feels the nature of the problems preventing project initiation are legitimate, and that the approved site plan adequately represents current conditions on and surrounding the site. If the project is not initiated within 24 months of the original approval the PUD is cancelled. Thereafter, the project may proceed only if approved after going through the entire planned unit development process again, starting with a new application. In the event that an approved planned unit development site plan becomes null and void, the city shall initiate proceedings to amend the zoning classification of the site.

(13) Performance guarantee. The Planning Commission or City Council may require that a performance guarantee meeting the requirements of § 154.067 be deposited with the City to ensure faithful completion of any improvements associated with or conditions required by planned unit development approval.

(14) Fees in escrow for professional reviews. For any application for site plan approval, a special land use permit, planned unit development, variance, or other use or activity requiring a permit under this chapter, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required for any project with more than ten dwelling

units, or more than 10,000 square feet of enclosed space, or which requires more than 20 parking spaces. An escrow fee may be required for any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(Ord. 02-02, passed 2-11-2002)

§ 154.116 PHASING AND COMMENCEMENT OF CONSTRUCTION.

(A) Integrity of each phase.

(1) Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the planned unit development and residents of the community.

(2) Each phase of a PUD project requires submittal of a site plan and review under the procedures and requirements of this subchapter. However, a larger area could be rezoned PUD than the phase for which development approval is sought. If done, site plan review must still follow the two phase, two hearing process established in this subchapter.

(B) Rate of completion of residential and nonresidential components.

(1) Purpose. The purpose of the following provision is to ensure that planned unit developments are constructed in an orderly manner and, further, to ensure that the planned unit development approach is not used as a means of circumventing restrictions on the location or quantity of certain types of land use.

(2) General standards. In developments which include residential and non-residential components, the phasing plan shall provide for completion of a least 35% of all proposed residential units concurrent with the first phase of any non residential construction; completion of at least 75% of all proposed residential construction, concurrent with the second phase of non-residential construction; and completion of 100% of all residential construction prior to the third phase of non-residential construction. For purposes of carrying out this provision, the percentage shall be reasonable approximations as determined by the Planning Commission and Zoning Administrator, based on the floor area and land area allocated to each use.

(3) Modification to general standards. The percentages may be modified should the Planning Commission and City Council determine that the applicant presented adequate assurance that the residential component or components of the project will be completed within the specified time period.

(4) Completion of each phase. Each phase of the project shall be commenced within 12 months of the schedule set forth on the approved plans. If construction is not commenced within the required time period, approval of the plan shall become null and void, subject to the provision in § 154.115.

(Ord. 02-02, passed 2-11-2002)

§ 154.117 REVISION TO APPROVED PLANS.

(A) General revision. An approved planned unit development proposal and site plan may be revised in accordance with the procedures set forth for approval of a new proposal in § 154.114.

(B) Minor changes. Notwithstanding division (A) above, minor changes may be permitted by the Planning Commission after following site plan review amendment procedures outlined in §§ 154.060 through 154.068, and subject to the Planning Commission finding that:

(1) The proposed changes will not affect the basis on which initial approval was granted;

(2) The proposed minor changes will not adversely affect the overall planned unit development in light of the intent and purposes of the development as stated in § 154.110; and

(3) The proposed changes will not affect the character or intensity of use, the general configuration of buildings and uses on the site, vehicular or pedestrian circulation, drainage patterns, or the demand for public services.

(C) Minor changes. Examples of minor changes include, but are not limited to:

(1) Additions or alterations to the landscape plan or landscape materials;

(2) Alterations to the internal parking layout of an off-street lot provided that the total number of spaces or ingress or egress is not reduced; and

(3) Relocation of a trash receptacle.

(D) Dedication of utilities and roads. Roads within the PUD development containing commercial or multifamily residential apartments, not associated with access to individual commercial or residential units, shall be dedicated to the city. Likewise, utility easements shall be conveyed to the city. Utility easements and roads in PUD developments approved prior to the enactment of this chapter and PUD developments only containing single family residential dwellings may remain in private ownership.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.118 REQUIRED IMPROVEMENTS PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY.

The Planning Commission is hereby empowered to stipulate that all improvements required of an approved PUD be constructed and completed prior to issuing a certificate of occupancy. In the event that the improvements are partially completed to the point that occupancy would not impair the health, safety and general welfare of residents, but are not fully completed, the Planning Commission may, upon the recommendation of the Building Inspector, approve a certificate of occupancy so long as the developer deposits a performance bond with the City Clerk/Treasurer in an amount equal to the cost of the improvements yet to be made, the improvements to be completed with six months of the date of the issuance of the certificate of occupancy. In the event the provision herein are not complied with, the bond shall be forfeited and shall be used by the city to construct the required improvements yet to be made, and/or for the enforcement of this chapter.

(Ord. 02-02, passed 2-11-2002)

OFF-STREET PARKING

§ 154.130 GENERAL OFF-STREET PARKING REGULATIONS.

Off-street parking shall be provided and maintained by each property or business owner for all buildings and uses as required by § 154.135.

(A) Multiple uses. When a single parcel of land or a building contains more than one use or activity that requires parking spaces, each use shall be considered separately in calculating the number of parking spaces required.

(B) Changes in use. Whenever a use is changed or a new use is created for existing buildings or floor area, additional parking spaces shall be provided and maintained in the proper ratio to the increased floor area or capacity.

(C) Increases in floor area. Whenever the floor area or capacity is increased in an existing building, either by structural alteration, or by new construction, additional parking spaces shall be provided and maintained in the proper ratio to the increased floor area or capacity.

(D) Decreases in floor area. Whenever the floor area or capacity is decreased in an existing building for any use or activity the requirement for off-street parking spaces shall also decrease in relation to the decreased floor area or capacity.

(E) New construction. Construction of a new commercial building shall require the provision of parking to comply with the requirements of this chapter.

(F) Existing parking spaces. Existing parking spaces provided on or off-premises shall be assigned to existing uses and may not be assigned to newly created floor space or uses unless sufficient parking spaces are provided on or off site to meet the requirements of existing floor space and/or uses.

(G) Requirements for service/delivery vehicles. Minimum off-street parking space for service/delivery vehicles shall be one space for every such vehicle operated by the establishment.

(Ord. 02-02, passed 2-11-2002)

§ 154.131 EXCEPTION TO OFF-STREET PARKING REQUIREMENTS.

(A) Except as otherwise required in this section, the following zoning districts shall be exempt from any parking requirements:

- (1) C-1 City Center Commercial;
- (2) C-2 Water Street Commercial;
- (3) C- 2 Water Street East;
- (4) C-1 Water Street North; and
- (5) C-2 Water Street South.

(B) If the Planning Commission determines that off-street parking is required as part of a site plan, special land use approval, planned unit development approval, or any new structure containing four or more dwelling units, then additional off-street parking requirements may be required.

(Ord. 120326-1, passed 3-26-2012)

§ 154.132 OFF PREMISES PARKING.

(A) If approved by the Zoning Administrator, required parking may be located within a reasonable distance of the premises it serves and/or may be consolidated into a large parking area serving other buildings and uses; provided that the property is located in the same district.

(B) The off-street parking shall be maintained and regulated as if it were located on the premises it is designed to serve.

(C) The Zoning Administrator may require a plat, deed or agreement, or any other proof necessary to show that the required parking, if located off the premises, is controlled by and available to the property owner in perpetuity.

(D) An agreement between the city and the owner of the off-premises parking area which meets the satisfaction of the City Attorney shall be drafted and recorded of the expense of the property owner. It shall prohibit any change of the property used for off-premises parking without first receiving approval of the Zoning Administrator. In no case shall the amount of off-premises parking be reduced without the consent of the city as an amendment to this agreement.

(Ord. 02-02, passed 2-11-2002)

§ 154.133 JOINT USE OF PARKING FACILITIES.

The joint use of parking facilities by two or more contiguous uses not separated by a street, private road or alley, may be granted by the Planning Commission whenever the use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction are met.

(A) Computing capacities. In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time of day. If space requirements for individual uses occur at distinctly different times, the total of the off-street parking facilities required for joint or collective use may be reduced below the sum of the individual space requirements.

(B) Record of agreement. A copy of an agreement between joint users shall be filed with the city. This agreement shall include a guarantee for continued use of the parking facility by each party.

(C) Notice of change required. Whenever a business is engaged in the sharing of a parking facility based on differing hours of use, and the hours of use change, the business owner must notify the city of the change in hours. The Zoning Administrator shall review the change in hours of use and make a determination whether the joint use shall continue. The Zoning Administrator may also forward the notice of change to the Planning Commission for review.

(Ord. 02-02, passed 2-11-2002)

§ 154.134 SITE DEVELOPMENT REQUIREMENTS.

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements.

(A) Marking and designation. Parking areas shall be so designed and marked as to provide for the orderly and safe movement and storage of vehicles.

(B) Size. All parking spaces shall be at least nine feet wide and 20 feet in length.

(C) Surface. Off-street parking shall be surfaced with asphalt, concrete, paving blocks, gravel or other stable, durable material on a properly engineered base and shall not result in storm water runoff onto adjoining properties or streets.

(D) Access. All off-street parking areas shall have vehicular access to a street or alley.

(E) Access points. Access points (driveways) located on a street, shall be as follows:

(1) Any vehicular access point shall not exceed 25 feet in width;

(2) All vehicular access points excluding single-family residential shall be located at least 150 feet or two-thirds the distance of the lot frontage, whichever is less, from the intersection of any right-of way lines of streets and at least 15 feet from all side and rear property lines;

(3) There shall be a minimum distance of 30 feet between any two access points serving the property, but no more than two access points shall be provided. The Planning Commission, after review, may permit additional access points when such access points are justified and necessary due to the length of the street frontage serving the premises and that the additional access points will substantially reduce traffic hazards or congestion on adjacent streets serving the property; and

(4) Private roads designed to provide vehicular access to non-residential buildings or uses shall not pass through a residential zoning district.

(F) Site maneuverability. Each parking space, within an off-street parking area, shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street right-of-way shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern as follows:

(1) For right angle parking patterns 75 to 90 degrees, the maneuvering lane width shall be a minimum of 22 feet; and

(2) For parking patterns 54 to 74 degrees, the maneuvering lane width shall be a minimum of 18 feet.

(a) For parking patterns 30 to 53 degrees, the maneuvering lane width shall be a minimum of 15 feet.

(b) All maneuvering lane widths of less than 20 feet shall permit only 1-way traffic movement.

(G) Screening.

(1) All off-street parking shall have a properly maintained landscape separation strip at least five feet in width along all property lines and streets on which the off-street parking is located.

(2) Vehicular wheel stops or barriers shall be installed to prevent vehicles from driving onto the landscaped area. See § 154.142 Screening.

(Ord. 02-02, passed 2-11-2002)

§ 154.135 MINIMUM OFF-STREET PARKING REQUIREMENTS.

Minimum Automobile Off-Street Parking Requirements

Types of Buildings and Uses

Minimum Number of Parking Spaces Required per Indicated Unit

Unit of Measure

Minimum Automobile Off-Street Parking Requirements

Types of Buildings and Uses

Minimum Number of Parking Spaces Required per Indicated Unit

Unit of Measure

Floating homes

2

Per floating home

Dwellings

2.0

Per dwelling unit

Retail store

1.0

Per 100 square feet of usable floor area

Research, development and testing laboratories

0.4

Per 100 square feet of usable floor area

Motion picture theaters

0.3

Per person based on maximum capacity

Or

1.0

Per 50 square feet of usable floor and/or land area devoted to assembly of recreation use on the premises

Motel/motor court or hotel/inn

1.0

Per sleeping unit

And

1.0

Per resident manager

Bed and breakfast

1.0

Per 3 sleeping units or fraction thereof

Automotive dealer establishments

1.5

Per person regularly employed on the premises
Gasoline service stations

1.5

Per person regularly employed on the premises
Automobile and truck repair establishments

0.5

Per 100 square feet of usable floor area devoted to retail selling of merchandise, goods and products

Sales and service establishments

0.5

Per 100 square feet of usable floor area devoted to retail selling of merchandise, goods and products

Marina

1.0

Per 4 transient boat slips

Plus

1.0

Per 1 seasonal boat slip

Veterinarian and animal hospital service establishments

1.8

Per person regularly employed on the premises

Plus

3.0

Per veterinarian

Manufacturing Wholesale and storage establishments

0.7

Per person regularly employed on the premises, based on largest single employment shift

Educational facilities

0.6

Per student enrolled on the premises

Cultural facilities

0.3

Per 100 square feet of usable floor area

Or

1.0

Per 100 square feet of floor and/or land area devoted to assembly of visitor use on the premises

Commercial boat

1.0

Per 5-passenger capacity

Religious facilities

0.3

Per seat, based on maximum capacity of auditorium or principal place of assembly
Mortuaries, funeral homes

1.0

Per 50 square feet of usable floor area devoted to slumber rooms, parlors or individual
mortuary rooms

Plus

0.3

Per seat, based on maximum capacity of funeral service chamber or chapel
Private recreation camp

1.0

Per 3 beds

Plus

0.3

Per 100 square feet of usable floor area for buildings devoted to visitor assembly

Or

1.0

Per 100 square feet of floor and/or land area devoted to visitor assembly

For uses not listed, the Planning Commission shall determine the appropriate number of
parking spaces required.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-
10-2006; Am. Ord. 120326-1, passed 3-26-2012; Am. Ord. 160711-1, passed 7-11-2016;
Am. Ord. 210726-A, passed 7-26-2020) Penalty, see § 154.999

SIGNS, SCREENING AND FENCES

§ 154.140 SIGN DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the
context clearly indicates or requires a different meaning.

BANNER. A flexible sign directly mounted to a building, or a support on a building, or
between two poles made of natural or synthetic material that is used to call attention to a
business, product, service, or activity, not including flags as defined in this section.

BULLETIN or MENU BOARDS. Printed or handwritten messages that announce an event
held on the premises or sample restaurant menus attached to a bulletin board in a
weatherproof enclosure.

CONSTRUCTION SIGN. A sign which identifies the owners, financiers, contractors,
engineers, architects, tenants, or other parties responsible for a project under construction.

DIRECTIONAL SIGN. A sign for private traffic direction which directs traffic movement
onto or within a property.

FEATHER FLAG SIGN, WINDFEATHER SIGN. A flexible sign made of natural or synthetic
material typically fastened on one long side to a flexible or non-flexible pole mounted on

the ground, intended to move with the wind to call attention to a business, product, service or activity, not including flags as defined in this section.

FLAG. A piece of fabric of distinctive design that is used as a sign, symbol, or emblem hung from a pole, a bracket, or attached to the side of a building.

GARAGE SALE SIGN. A sign used to advertise a private sale of personal household possessions and not for the use of any commercial venture.

HOME ADDRESS SIGN. A sign with a numerical address of the property.

HOME BUSINESS/HOME OCCUPATION SIGN. A sign which advertises or identifies a business that is located in a private residence.

INFORMATIONAL SIGN. Signs that carry information and have no commercial message such as telephone or loading only or one that lists business hours.

MURAL. A work of art applied to or made integral with a wall surface.

NEON SIGNS.

(1) **EXTERIOR NEON SIGN.** A freestanding or attached sign displayed on the exterior of a building.

(2) **INTERIOR NEON SIGN.** A neon sign displayed within four feet of a window and intended to be viewed from the outside.

OFF-PREMISE SIGN. A sign which directs attention to a business or service offered or existing elsewhere than upon the same lot where the sign is displayed. The above shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner to others for the purpose of conveying a commercial or non-commercial message.

PENNANT. Any lightweight plastic, fabric, or other material, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PERMANENT SIGN. Any sign constructed of durable materials, secured on a structure or property, and intended to exist for the duration of time that the use or occupant is located on the premises.

POLITICAL/ELECTION SIGN. A temporary sign used in connection with an official city, school district, county, state, or federal election or referendum.

PORTABLE SIGNS. Any sign designed to be moved easily and not permanently attached to the ground or other permanent structure, including but not limited to: flashing A-frames, searchlights, beacons, balloons, umbrellas, trailers, wheeled or non-wheeled carts, or signs inside, on, or against parked vehicles.

OPINION SIGN. A sign displaying a noncommercial message that is political, religious, or personal in nature.

REAL ESTATE SIGN. A sign advertising the real estate upon which the sign is located as being for sale or lease.

RENTAL SIGN. A sign advertising the rental of a dwelling for long or short-term occupancy.

SANDWICH BOARD SIGN. A temporary free standing sign constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top, each angular face held at an appropriate distance by a supporting member.

SIGN. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, logos or pictures, or combination thereof, intended

to be used to attract attention to or convey information about a person, place, business, firm, profession, or association.

SIGN AREA. The smallest area within a three or four sided polygon or circle enclosing the display surface of the sign including all letters, characters, and delineations that differentiate it from the background against which it is placed. SIGN AREA shall not include the structural supports for free standing signs. Where a sign has two faces, placed back to back, and are of equal size, the area of the two faces shall be considered as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the sign area.

SIGN, ATTACHED. A permanent sign which is either painted or attached to the exterior wall of a building, including lettering on a canopy/awning, a sign hanging under a canopy/awning, or on the exterior of a window.

(1) **CANOPY/AWNING SIGN.** A fabric canopy or awning with all or any part used as a sign.

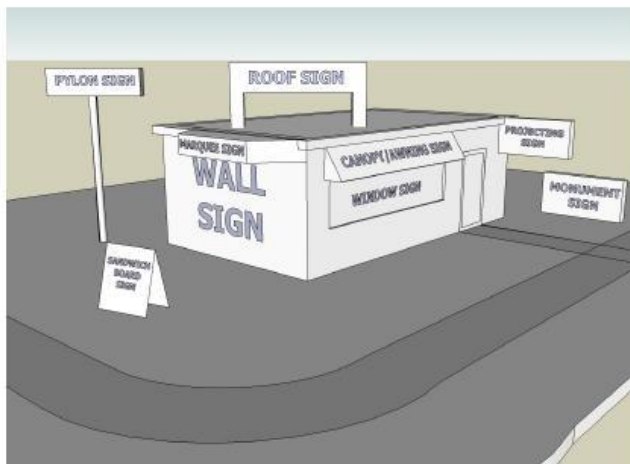
(2) **PROJECTING SIGN.** A double-faced sign attached at an angle or perpendicular to the wall of a building.

(3) **ROOF SIGN.** Any sign erected and constructed wholly on or over the roof of a building, supported by the roof structure.

(4) **WALL SIGN.** Any sign that is attached parallel to the wall or painted on the wall of a building.

(5) **WINDOW SIGN.** A sign painted on, or attached directly to, the exterior surface of a glass window or door.

(6) **MARQUEE SIGN.** A changeable message sign either freestanding or attached to a building. Also known as a MESSAGE BOARD.



SIGN, FREESTANDING. A permanent sign which is not attached to a building or any other structure and is set permanently in the ground with posts or base.

(1) PYLON SIGN. A freestanding sign affixed permanently in the ground and supported by a single or double post(s).

(2) MONUMENT SIGN. A freestanding sign affixed directly to a masonry or other base without a support post.

TEMPORARY SIGN. Any sign that is not constructed or intended for long term use or is not permanently attached to a building, window, or structure, including but not limited to banners, pennants, feather flag signs, windfeather signs, real estate signs, garage sale signs, directional signs for special events, or signs to advertise short term sales.

(Ord. 050711, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 160808-2, passed 8-8-2016)

§ 154.141 SIGN REQUIREMENTS.

(A) Statement of purpose. The purpose of this chapter is to regulate permanent signs in a manner which will permit the identification and/or ~~advertising~~advertising of a business, product, or event while maintaining the protection of the city's appearance and the general welfare of the public.

(B) Regulation of sign requirements. All permanent signs shall be subject to the following regulations to be enforced by the Zoning Administrator, unless otherwise provided in this chapter (see § 154.022(K)(5), § 154.022(L)(4), and Chapter 152). Unless otherwise permitted within this section, no signage shall be displayed within the city of Saugatuck.

(C) Sign permit procedure. All proposed permanent signs shall be subject to prior approval by the Zoning Administrator. All applications for approval of proposed signs shall indicate size, type, materials, structural supporting devices, and type of illumination (if any). A scale drawing of the proposed sign shall be provided with all applications. If the application is made by the building tenant, the same must have written permission for the proposed sign from the building owner. Sign approval shall be valid for a period of one year. If the approved sign is not installed within that period, a new application must be submitted.

(D) Signs- freestanding. Non-residential uses are permitted to have one freestanding sign per frontage. Said sign shall meet the following requirements:

(1) Total area of all freestanding signs for each lot shall not exceed 0.25 square feet per linear foot of property frontage on a public or private road up to 32 square feet;

(2) Freestanding signs shall not exceed 12 feet in height from the grade of the sidewalk to the upper most point of the sign. If no sidewalk is present, then the measurement shall be taken to the grade of the nearest public or private road;

(3) Freestanding signs shall be located at least five feet from any property line;

(4) Freestanding signs shall be located at least 25 feet from any other freestanding sign;

(5) Freestanding signs shall be placed in a ~~manor~~manner as to not create a traffic vision obstruction; and

(6) Directional freestanding signs, on private property for the direction of traffic, shall not exceed two square feet in size per sign, and shall be approved as part of an overall site plan by the Planning Commission.

(E) Attached signs. Each non-residential use is permitted to have up to two wall signs per building frontage. Attached signs as defined in this chapter shall meet the following requirements:

(1) The total area of all attached signage associated with a non-residential use shall not exceed 0.75 square feet per linear foot of building frontage. The maximum area of any sign visible from more than one street shall not exceed 0.75 square feet per linear foot of the largest building frontage and shall count as the signage for that frontage. If the building contains more than one business, then the frontage shall be limited to the building frontage of the tenant space facing a public street or primary entrance;

(2) Projecting and canopy signs shall be located such that there is a clear area of no less than seven feet below the lowest part of the sign and the sidewalk or ground surface below the sign and shall not project more than four feet from the building face to which it is attached;

(3) No attached sign shall be permitted to extend above the roofline of the building to which it is attached;

(4) No projecting or canopy sign shall be within ten feet of another projecting or canopy sign; and

(5) Building names which do not contain a commercial message, as determined by the Zoning Administrator, and have been engraved into stone or brick as part of the building facade shall not be included in the calculation of signage or number of signs permitted.

(F) Sign illumination. The illumination of permanent signs shall be subject to the following regulations:

(1) All externally lit signs shall be designed so that the light source shall not be visible from the public right-of-way;

(2) All internally lit signs shall be designed such that the source of the lighting is not visible from the public right-of-way; and

(3) No sign shall contain lights which flash, change color or intensity.

(G) Exempt signs. The following permanent signs are exempt from requiring a permit or historic district approval if they meet the following regulations:

(1) Signs on docks: Signs on docks shall be permitted subject to the following regulations:

(a) Primary signage meant to identify a business or service from a waterway shall be limited in size to six square feet in area; and

(b) Signage on a boat dock with the main business located in a nearby building shall be limited to one sign with a maximum area of 1.5 square feet oriented vertically, and attached only to a piling at the entrance to the dock.

(2) Residential signs: Buildings that do not contain any commercial use shall be permitted to have an attached sign up to two square feet listing the name of the structure, the occupants, street address, or other non-commercial message.

(3) Signs erected by government agencies and necessary for the identification, operation, or protection of public services, incidental to the legal process, or necessary for public welfare.

(4) Flags: Official national, state, local, provincial, or other government entity flags, and official public or private educational institution, fraternal organization, society, or similar organization flags, no larger than 24 square feet in size shall be permitted. Flags displaying commercial emblems, commercial messages, business or organization names, or "Open" or similar message shall be regulated as attached signs.

(H) Historic district. Permanent signs located within the historic district shall require approval from the Historic District Commission before installation.

(I) Temporary signs. Temporary signs shall be regulated by § 150.30.

(J) Compliance with building codes. All signs shall comply with the building and electrical codes of the city. Underground wiring shall be required for all illuminated signs, or signs requiring electrical connections which are not attached to a building.

(K) Existing non-conforming signs. The intent of this section is to permit the continuance of a lawful use of any sign existing at the time of the effective date of this section, although the sign or supporting structure may not conform with the provisions of this section. Further, it is the intent that non-conforming signs and structures be gradually eliminated upon their natural deterioration.

(1) Every permanent legally existing sign which does not conform to the height, size, area, or location requirements of this subchapter as of the date of the adoption of this section, is hereby deemed to be non-conforming.

(2) Alteration, erection, replacement, or enlargement of signs. No person, firm, corporation, partnership, or other legal entity shall alter, replace, or enlarge the faces, supports, or other parts of existing non-conforming signs except in accordance with this section. Non-conforming signs, however, may be repaired, repainted, or otherwise maintained.

(3) Accidental destruction.

(a) If a non-conforming sign is destroyed, it may be replaced, provided that it is not enlarged in size or dimension. If the sign is located in the public right-of-way, the sign may not be replaced without the approval of the Zoning Board of Appeals for a sign permit.

(b) For the purpose of this section, a non-conforming sign is destroyed if damaged to an extent that the cost of repairing it to its former state or replacing it with an equivalent sign equals or exceeds the value of the damaged sign prior to the damage.

(4) A non-conforming sign may be diminished in size or dimension, or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use.

(L) Permanent signs in the public right-of-way or in city parks.

(1) All existing non-conforming signs, supports, and structures located in the public right-of-way may continue to occupy the right-of-way until such time that they are accidentally destroyed, removed, or become non-functional. These signs shall not be replaced without approval of the Planning Commission for a sign permit, the City Council for a revocable license, and the Historic District Commission if located in the Historic District.

(2) Any new permanent signs within the public right-of-way shall obtain City Council approval prior to erection. Signs shall not create a traffic vision obstruction, pedestrian traffic obstruction, or prevent the general accepted use of the public right-of-way.

(Ord. passed 6-24-1996; Am. Ord. passed 4-27-1998; Am. Ord. 050711, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010) Penalty, see § 154.999

§ 154.142 SCREENING.

(A) Intent. The intent of this section is to promote the public's health, safety and general welfare by minimizing noise, air and visual pollution; to improve the appearance of off-street parking and other vehicular use areas; and require buffering between incompatible land uses.

(B) Application. These requirements shall apply to all uses for which site plan review is required under §§ 154.060 through 154.068 and any other use so specified in this chapter.

(C) Landscape plan required. A landscape plan shall be required to be submitted as part of a site plan review (see §§ 154.060 through 154.068) showing landscaping, greenbelt buffer zone(s), and/or screening consistent with the requirements set forth herein. The landscape plan shall include but not be limited to:

(1) Location, spacing, size and descriptions for each plant type proposed for use within the required landscape area;

(2) Minimum scale: one inch equals ten feet;

(3) Existing and proposed contours on-site and where requested by the Zoning Administrator, 150 feet beyond the site at intervals not to exceed two feet;

(4) Typical straight cross-section including slope, height and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings;

(5) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns;

(6) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials;

(7) Identification of existing trees and vegetative cover to be preserved;

(8) Identification of grass and other ground cover and method of planting; and

(9) Identification of landscape maintenance program including statement that all diseased, damaged or dead materials shall be replaced in accordance with standards of this chapter.

(D) Screening between land uses. Upon any project for which a site plan is required, or whenever a nonresidential use or multiple family dwelling abuts a residentially zoned or used property, screening shall be constructed along all adjoining boundaries with residentially zoned or used property. The Planning Commission may waive some or all of these provisions for a planned unit development where the waiving of the provisions will strengthen the planned unit development concept. The required screening may be accomplished by the following methods:

(1) A buffer zone at least ten feet in width consisting of living plant materials so as to maintain a minimum opacity of at least 80%. Opacity shall be measured by observation of

any two square yard area of landscape screen between one foot above the finished grade and the top or highest point of the screen. The plantings must meet this standard based on reasonably anticipated growth over a period of three years. In the event that after a period of three years, the screening has not achieved an opacity of 80%, the property owner may be required to install additional plant material.

(2) An earthen berm constructed with slopes not to exceed 1:3 and planted with grass, ground cover or other living plant material to prevent soil erosion. Berms shall be constructed with a rounded surface with a 2-foot minimum width at the highest point of the berm and extending the length of the berm.

(3) A solid wall or fence meeting the requirements of this section at least five feet but not greater than six feet in height measured on the side of the proposed wall having the higher grade within five feet horizontally. When the distance between structures or adjoining lots is less than twice the minimum setback, or where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence may be required at the discretion of the Planning Commission.

(4) A combination of an earthen berm and a solid wall which meet the requirements of this section.

(E) Screening adjacent to a street or highway. Upon any project for which a site plan review is required, a greenbelt buffer strip with the minimum width determined by half the front yard setback its zoning classification shall be located between the abutting right-of-way of a public street or state highway.

(1) The buffer strip shall be landscaped with a minimum of one tree not less than 12 feet in height or a minimum caliper of two and one-half inches (whichever is greater at the time of planting), for each 30 lineal feet, or major portion thereof, of frontage abutting the right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and/or other natural living landscape material.

(2) Access ways from a public right of way through required landscape strips shall be permitted, but the access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless the calculations would result in a violation of the spacing requirement set forth in this section.

(F) Additional screening requirements. Where a commercial or industrial zone or use abuts a residential zone or use, all support equipment including but not limited to air conditioning and heating equipment, gas meters and exhaust fans located outside of a building shall be screened from the view of abutting streets and surrounding properties. If the building is located in the Historic District, the proposed screening must be approved by the Historic District.

(1) Roof mounted equipment. Roof mounted equipment shall be screened from the view of abutting streets and surrounding properties by an architectural feature such as a parapet wall, roof or other structure that is compatible with the building. If the building is located within the Historic District, the proposed screening must be approved by the Historic District Commission.

(2) Equipment at finished grade. When located on the ground adjacent to a building, mechanical equipment shall be screened from the view of the street or surrounding properties by a solid wall, fencing or landscaping.

(3) Outdoor storage. In all commercial or industrial districts, outdoor storage areas shall be screened by a solid wall, fence or landscaping.

(4) Public utility substations. Public utility substations shall be screened on all sides by a solid wall, fence or landscaping.

(5) Loading areas. Loading areas shall be screened whenever abutting a different zone or a residential property consistent with the requirements of this section.

(6) Trash storage areas. All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened on all sides by a solid screen no less than six feet in height. Gates shall have a working latch and remain closed when not in use. All such enclosures shall be maintained in good working order with properly functioning gates and hardware.

(7) Privacy screen. Structures in a Residential Zone shall not exceed six feet in height above the surface of the deck, patio or pool or other area to be screened. These structures shall not require a fence permit.

(G) Parking lot landscaping. Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one tree for every eight parking spaces, with minimum landscaped space within a designated parking area of 50 square feet. A minimum distance of three feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

(H) Greenbelt buffers.

(1) A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, state highway or major thoroughfare, and shall be landscaped with a minimum of one tree not less than 12 feet in height or a minimum caliper of two and one-half inches (whichever is greater at the time of planting) for each 30 lineal feet, or major portion thereof, of frontage abutting the right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and/or other natural, living, landscape material.

(2) Access ways from a public right-of-way through required landscape strips shall be permitted, but the access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless the calculation would result in a violation of the spacing requirement set forth in this section.

(I) Exceptions to fencing and screening requirements.

(1) Buildings abutting lot lines. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.

(2) Location adjustment. Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped, or in naturally vegetated areas, retained in their natural vegetative state at the discretion of the Planning Commission.

(3) Existing screening. Any fence, screen, wall or hedge which does not conform to the provisions of this section and which is legally existing at the effective date of this chapter may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall or hedge except as permitted in other sections of this chapter.

(4) Planning Commission modification. Any of the requirements of this section may be waived or modified through site plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(5) Zoning Board of Appeals. The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

(Ord. 02-02, passed 2-11-2002)

§ 154.143 FENCING.

(A) Intent. The purpose of this section is to promote the public health, safety and welfare by regulating the manner and location of fence installations in the city while preserving the appearance, character and value of the community and its residential neighborhoods and commercial areas.

(B) Permit required. The erection, construction or substantial rebuilding of any fence shall require a fence permit. Substantial rebuilding is reconstruction of more than 50% of the structure, a change in height of the structure or a change from existing material. Painting, cleaning, replacement of like materials or other actions commonly considered as general maintenance shall not be defined as "substantial rebuilding".

(C) Permit process. Any person desiring to construct, or cause to be constructed, any fence or screen for which a permit is required as defined in this chapter, shall apply to the Zoning Administrator for a permit. A site plan of the proposed fence or screen shall be submitted with the application and shall:

(1) Be drawn to scale with the scale noted, and the direction north noted;

(2) Include the name, address and phone number of the person who prepared the drawing;

(3) Show the locations and proper dimensions of lot lines and street right of way lines. A legal survey may be requested at the discretion of the Zoning Administrator;

(4) Show the location of the proposed fence or screen in relation to the property lines;

(5) Show the height of the fence throughout; and

(6) The Zoning Administrator shall review the application with respect to compliance with the requirements of this chapter. If all requirements have been met, a permit will be issued.

(D) General requirements.

(1) Materials. Fences and screens shall be constructed of steel, iron, wood, masonry or other durable materials. Masonry piers may be substituted for wood posts.

(2) Construction. Fences and screens shall be constructed and maintained plumb and true with adequate support and in a safe and sightly manner. Posts or piers shall be spaced not more than eight feet on center.

(3) Maintenance and repair. The owner of any fence or screen shall remove or repair a fence that is dangerous, dilapidated or otherwise in violation of this code. Fences and screens shall be maintained to retain their original appearance, shape and configuration. Elements of the fence or screen that are missing, damaged, destroyed or repaired shall be replaced and/or repaired to maintain conformity with the original fence.

(4) Fire/public hazard. No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which interferes with access by the Fire Department, or which will constitute a hazard to street traffic or pedestrians.

(E) Fence location and height regulations.

(1) There shall be a maximum of one fence permitted along a property line for each property owner. No portion of a fence shall project beyond the owner's property line.

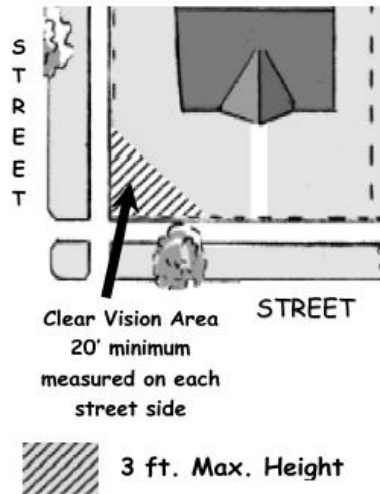
(2) When erecting a new fence next to an existing fence, the maintenance of the area between the fences shall be the responsibility of the person erecting the new fence. Fence panels shall be raised sufficiently above grade to allow for maintenance of the area between the fences.

(3) The decorative side of the fence (the one that reveals to the least extent the support members of the fence) shall be located so that it is facing toward the adjacent properties and toward the street on a corner lot.

(4) Fences located within a rear or side yard shall not exceed six feet in height measured from the surface of the ground, unless as part of an approved site plan, in which case the Planning Commission may approve fences up to ten feet in height.

(5) Fences located within a front yard setback shall not exceed three feet in height measured from the surface of the ground and shall not be located within one foot of the public right-of-way or sidewalk and shall not prevent clear vision of an intersection or a driveway.

(6) For corner lots, fences located within a side yard abutting a side street shall not exceed six feet in height measured from the surface of the ground. All fences in the side yard on a side street shall be located at least one foot from the public right-of-way or sidewalk and shall not prevent clear vision of an intersection or a driveway. Clear vision at an intersection means that no fence higher than three feet measured from the surface of the ground shall be placed within 20 feet of an intersection as illustrated below:



(7) No fence may be located in the public right-of-way, including but not limited to the area between the sidewalk and the street.

(8) For purposes of this division, for a corner lot the widest lot dimension along a street line shall be deemed to be a side yard on a side street.

(F) Additional fence requirements.

(1) Barrier fences. Fences containing barbed wire, electric charges or sharp materials at the top of the fence are prohibited unless needed to protect the public safety and approved by the Planning Commission.

(2) Temporary construction fences. Temporary construction fences and fences for protection around excavations shall comply with all requirements of the State Construction Code. The fences shall not be in place for a period of more than one year without special approval from the Zoning Administrator.

(3) Hedges. A hedge used as a fence or screen shall be considered a fence for the purposes of this chapter.

(4) Masonry walls. A masonry wall used as a fence or screen shall be considered a fence for the purposes of this chapter. Masonry walls shall be constructed to facilitate maintenance. Drainage patterns shall not be modified so as to endanger adjacent property. The outer face of the wall (those facing adjacent property owners or streets) shall be made of clay, brick, stone, split face or cut concrete block, or other similar decorative material.

(5) Privacy screening. See § 154.142.

(6) Waterfront. Fences located within 25 feet of the shore of any lake, river or stream shall not be greater than four feet in height and shall be wrought iron, open mesh, chain link, lattice, slatted or similar type fencing provided that a minimum ratio of six parts open space to one part solid material is maintained.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170522-1, passed 5-22-2017; Am. Ord. 201109-B, passed 11-9-2020)

§ 154.144 LANDSCAPING.

(A) Intent. The intent of this section is to promote the public's health, safety and welfare by reducing noise and visual pollution; improving the appearance of off-street parking and other vehicular use areas; by requiring buffering between incompatible land uses and regulating the appearance of property abutting public rights of way.

(B) Application of regulations.

(1) These requirements shall apply to all uses for which a site plan review is required under §§ 154.060 through 154.068 and any other use specified in this chapter.

(2) No site plan shall be approved unless the site plan shows landscaping, greenbelt buffer zones and/or screening consistent with the requirements set forth herein.

(C) Site landscaping requirements. Upon any project for which a site plan review is required, a minimum of 10% of the site area shall be landscaped excluding the road right of way. Areas used for storm drainage purposes such as unfenced drainage courses or retention areas may be included as a portion of the required landscaped area but not to exceed 5% of the site area. This shall be in addition to any buffer zone or parking lot landscaping required by this section.

(1) Quality of plant materials. Plant materials shall be of generally acceptable species, free of insects and disease, hearty to the climate and shall conform to the minimum standard of the American Association of Nurserymen.

(2) Existing trees. Existing trees labeled "To Remain" on site plans shall be protected during construction by the installation of barriers or fences placed around the drip line of any tree intended to be saved to prevent any vehicle or other construction equipment from being parked or stored within the drip line.

(3) Trees damaged or removed. In the event that healthy trees which are used to meet the minimum requirements of this chapter are cut down, destroyed, damaged or excavated at the drip line, as determined by the city, the contractor shall replace them with a tree of minimum size as required in §§ 154.140 through 154.144.

(4) Installation, maintenance and completion. All landscaping required by this chapter shall be planted prior to obtaining a certificate of occupancy or a performance bond shall be secured pursuant to § 154.173 for the amount of the cost of the landscaping, to be released only after landscaping is completed to the satisfaction of the city.

(Ord. 02-02, passed 2-11-2002)

BOARD OF APPEALS

§ 154.150 PROVISION FOR ZONING BOARD OF APPEALS.

A Zoning Board of Appeals is hereby authorized in accordance with Public Act 110 of 2006, being M.C.L.A. § 125.3101 et seq., as amended, to carry out the responsibilities provided therein, and those delegated herein.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

§ 154.151 MEMBERSHIP.

(A) Membership of the Zoning Board of Appeals shall consist of five members, each to be appointed by the City Council for a term of three years.

(B) Members of the Zoning Board of Appeals are required to be electors residing in the city.

(C) One member of the Zoning Board of Appeals may be a member of the Planning Commission who holds no other municipal office.

(D) Members of the Board of Appeals shall serve at the pleasure of the Council and shall be removable by the City Council for nonfeasance, malfeasance and misfeasance of office upon written charges and after a public hearing.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007; Am. Ord. 080825-1, passed 8-25-2008)

§ 154.152 ALTERNATE MEMBERS.

(A) The City Council shall appoint not more than two alternate members for the same term as regular members of the Board of Appeals (three years).

(B) An alternate member may be called to sit as a regular member of the Board of Appeals in the absence of a regular member if the regular member is absent from or unable to attend a meeting.

(C) An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest.

(D) The alternate member shall have the same voting rights as a regular member of the Board of Appeals.

(E) The Chairperson of the Zoning Board of Appeals shall be responsible to call any alternate member to serve and shall, if practical, call on the members to serve alternately.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

§ 154.153 ORGANIZATION AND PROCEDURES.

(A) Rules of procedure. The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its functions. The Board shall choose its own chairperson, and, in his or her absence, an acting chairperson.

(B) Meetings. Meetings shall be held the second Thursday of each month or as otherwise scheduled. All meetings by the Board shall be open to the public in accordance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 et seq. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance. A quorum (three members) is required. The Board may choose to not hold a meeting if there is a lack of substantial business for the agenda.

(C) Records. Minutes shall be recorded of all proceedings which shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. The minutes shall be filed in the city administration office and shall be made available to the general public. The City Clerk shall act as secretary to the Zoning Board of Appeals and all records of the Board's action shall be taken and recorded under the City Clerk's direction.

(D) Counsel. An attorney for the city shall act as legal counsel for the Board and shall be present at all meetings upon request by the Board as approved by the Zoning Administrator.

(E) Hearings. Within a reasonable amount of time following the filing of an appeal by a party permitted to appeal by law, the Zoning Board of Appeals shall hold a hearing of the appeal. Notice of the hearing shall be given in accordance with § 154.179. Upon the hearing, any party may appear in person, or by agent, or by attorney.

(F) Decisions.

(1) The Zoning Board of Appeals shall return a decision on a case within 45 days after a request or appeal has been heard, unless a further time is agreed upon with the parties concerned.

(2) Any decision of the Board shall not become final until the expiration of five days from the date of entry of the order, unless the Board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and shall so certify on the record.

(G) Vote required. The concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirement, decision or determination of the Zoning Administrator or Planning Commission, or to decide in favor of the applicant, a matter upon which they are required to pass under this chapter or to effect a variation in this chapter, provided, however, that a concurring vote of two-thirds of the members of the Board shall be necessary to grant a variance from uses of land permitted in this chapter.

(H) Report to City Council and Planning Commission. Each February the Zoning Board of Appeals Chairperson shall report to the City Council and Planning Commission, list all applications and appeals made to it since its last report, and shall summarize its decisions on the applications and appeals.

(I) Powers and duties. The Zoning Board of Appeals shall have the power and duties prescribed by law and by this chapter which are more particularly specified as follows.

(1) Generally. Upon appeal, the Zoning Board of Appeals may reverse or affirm, wholly, or in part, or may modify the order, requirement, decision or determination, as in its opinion ought to be made in the premise, and to that end shall have all the power of the official from whom the appeal is taken, and may direct the issuance of a permit.

(2) Interpretation. Upon appeal from a decision of the Zoning Administrator or Planning Commission, to decide any question involving the interpretation of any provision of this chapter including determination of the exact location of any zoning boundary if there is uncertainty with respect thereto; and

(3) Variances. The Zoning Board of Appeals shall be empowered to issue variances under conditions set forth in this chapter.

(J) Validity of permit. Any decision of the Zoning Board of Appeals which has resulted in granting a zoning permit, or variance shall be valid for a period of one year, with the Zoning Administrator to have the power to extend the permit for an additional year upon showing of a practical need.

(K) Right of court review. Any person aggrieved by a decision of the Zoning Board of Appeals shall have the right to review of same by appeal to the County Circuit Court. Upon appeal, the Circuit Court shall review the record and decision of the Board of Appeals to ensure that the decision:

- (1) Complies with the Constitution and laws of the state;
- (2) Is based upon proper procedure;
- (3) Is supported by competent, material and substantial evidence on the record;
- (4) Represents the reasonable exercise of discretion granted by law to the Board of Appeals; and

(L) If the court finds the record of the Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Appeals, the court shall order further proceedings before the Board of Appeals on conditions which the court considers proper. The Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. Any supplementary record and decision shall be filed with the court.

(M) Authority of court. As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the Board of Appeals.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007; Am. Ord. 141013-1, passed 10-13-2014)

§ 154.154 EFFECT OF APPEALS PROCEEDINGS.

An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal had been filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the Board of Appeals or by the circuit court, on application, on notice to the officer or board from whom the appeal is taken and on due cause shown.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.155 STANDARDS FOR VARIANCES.

(A) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the Board of Appeals may in passing on appeals vary or modify any of the rules or provisions of this chapter relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings or structures, so that the intent of this chapter should be observed, public safety secured, and substantial justice done.

(B) To obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:

(1) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

(2) That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

(3) That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and

(4) That the problem is not self-created or based on personal financial circumstances.

(C) To obtain a use variance, the applicant must show an unnecessary hardship by demonstrating that all of the following standards are met:

(1) That the property in question cannot be used for any of the uses permitted in the district in which it is located;

(2) That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions;

(3) That by granting the variance, the essential character of the neighborhood would not be altered; and

(4) That the problem is not self-created or based on personal financial circumstances.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.156 USE AND NON-USE VARIANCE REQUESTS.

The following standards apply to consideration of use and non-use variance requests:

(A) If when applying the standards of § 154.155 of this chapter to a non-use variance request, the Zoning Board of Appeals finds that the requirements of this chapter, as written, can be met or that there is no practical difficulty preventing a reasonable use of the land, then the non-use variance request shall be denied;

(B) If when applying the standards of § 154.155 of this chapter to a use variance request, the Zoning Board of Appeals finds that no hardship exists and there is a reasonable use of the property as zoned without the grant of a use variance, then the use variance request shall be denied; and

(C) If when applying the standards of § 154.155 above to either a use or non-use variance request, the Zoning Board of Appeals finds that the hardship or practical difficulty is not unique, but common to several properties in the area, the finding must be transmitted by the Board of Appeals to the Planning Commission who shall determine whether to initiate an amendment to this Zoning Code. See § 154.153.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.157 APPLICATION PROCEDURES FOR APPEAL.

(A) Filing of appeal. When any order, requirement, decision or determination is subsequently appealed to the Zoning Board of Appeals, as provided in this chapter, the appellant shall file a notice of appeal with fee to the Zoning Administrator who shall forward all materials to the Zoning Board of Appeals.

(B) Zoning Board of Appeals. Zoning Board of Appeals shall review the appeal and schedule a hearing within a reasonable amount of time of the filing date in accordance with § 154.179. All decisions shall be based upon standards provided in this chapter and according to the authority to clearly interpret the provisions herein. Decisions shall be made within 45 days of the hearing date in accordance with § 154.153 above. (Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

ADMINISTRATION AND ENFORCEMENT

§ 154.170 ENFORCEMENT BY ZONING ADMINISTRATOR.

This chapter shall be administered by the Zoning Administrator designated and appointed by the City Council. (Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.171 DUTIES OF THE ZONING ADMINISTRATOR.

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this chapter and in so doing shall perform the following duties:

(A) Enforcement. The Zoning Administrator shall administer and enforce this chapter and shall have the right to enter and inspect periodically all construction sites during the process of the work. He or she shall inspect the construction at least once upon completion of the work to ~~insure~~ ensure compliance with this chapter. A violation of this chapter shall constitute a nuisance per se.

(B) Binding interpretations. The Zoning Administrator shall have the authority to render binding interpretations of provisions of this chapter and shall administer the same. An aggrieved party may appeal any interpretation/determination made by the Zoning Administrator in writing to the Zoning Board of Appeals within 21 days of any such determination/interpretation.

(C) Issue permits. All applications for zoning permits, special land use permits (including PUD) occupancy permits and variances shall be submitted to the Zoning Administrator, who may issue such permits and certificates of occupancy when all applicable provisions of this chapter have been met and approval has been granted by the proper body or official.

(D) Revocation of permit. The Zoning Administrator shall have the authority to revoke any permit issued pursuant to this chapter if the requirements of the permit and the provisions of this chapter are being violated, and in such case shall have the power to issue a stop-work order. An aggrieved party may appeal within 21 days of any such determination/interpretation.

(E) Assistance of Building Inspector or engineer. The Zoning Administrator may seek the advice and assistance of the city Building Inspector or such licensed engineer as he or she may designate if he or she feels it necessary to assure compliance with this chapter, and the Building Inspector or licensed engineer shall render such assistance when requested to do so.

(F) Stop work orders. Upon notice from the Zoning Administrator that any use being conducted or that any work or construction is being done contrary to the provisions of this chapter, such use or work shall cease immediately. The stop work order shall be in writing

and shall be given to the owner of the property involved (as shown on the most recent property tax bill). Any person who shall continue to work on and/or construct a structure, land or building or use it after having been served with a stop work order, except such work as that person is expressly directed by the city to perform to remove a violation, shall be in violation of this chapter.

(G) Record applications. The Zoning Administrator shall maintain files of all applications for all the above permits, and for variances and shall keep records of all the permits and variances issued. These shall be filed in the City Administration office and shall be open to the public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved.

(H) Inspections. The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.

(I) Record nonconforming uses. The Zoning Administrator shall record all nonconforming uses of land found during inspections existing at the effective date of this chapter for purposes of carrying out the provisions of § 154.174.

(J) Record of complaints. The Zoning Administrator shall keep a record of every written and/or identifiable complaint of a violation of any of the provisions of this chapter, and of the action taken consequent to each such complaint, which records shall be public records. The Zoning Administrator is not limited to responding to complaints when it comes to enforcement of this chapter. Anytime there is a violation, the Zoning Administrator shall follow established procedures to provide notice of the violation and get it corrected.

(K) Occupancy permits. No structure or use shall be occupied (except for a single-family residence in zones permitting single-family residences), without first receiving an occupancy permit. An occupancy permit shall be issued by the Building Inspector following an inspection that confirms that all requirements of a previously issued zoning permit, if any, or if not, of this chapter have been met.

(L) Cancellation of zoning permits, special land use permits and variances.

(1) The Zoning Administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with any of the provisions of this chapter, or in case of any false statement or misrepresentation made in the application.

(2) Upon the revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.

(3) Cancellation of a permit issued for a special land use, planned unit development or variance shall not occur before a hearing by the body which granted the permit.

(4) The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on cancellation of the permit.

(M) Collect, retain and return performance bonds. The City Clerk-Treasurer shall collect and retain all performance bonds, as may be required by the requirements of this chapter.

(N) Limits on authority. Under no circumstances is the Zoning Administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein. It shall be the responsibility of the City Council to assure that the Zoning Administrator enforces the provisions of this chapter.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014) Penalty, see § 154.999.

§ 154.172 APPLICATION PROCEDURES FOR ZONING PERMITS THAT DO NOT REQUIRE SITE PLAN REVIEW.

(A) Prior to construction or physical development of a proposed new use or structure, or the restoration and structural improvement (other than minor repairs) of an existing use or structure, an application for a required zoning permit must be made to the Zoning Administrator on forms supplied by the city.

(B) The data to be supplied by the applicant which shall constitute the application shall include the following, when applicable:

(1) Names and address of applicant;

(2) Location, shape, area and dimension of the lot, and of the proposed structure or improvement;

(3) Description of proposed use and of the building (dwelling, structure, barn, garage and the like) or improvements;

(4) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;

(5) The yard, open space and parking space dimensions; and

(6) Proof of ownership of the property.

(C) A fee as may be set by the City Council and listed in the city's schedule of fees shall accompany any plans or application in order to defray the cost of administration and inspection.

(D) The Zoning Administrator shall review the application for required contents and shall require conformance with zoning district regulations unless a variance is obtained from the Board of Appeals, where provided in this chapter.

(E) Upon determining that the applicable conditions have been met, the Zoning Administrator shall approve the application and issue a zoning permit. One copy of the zoning permit shall be returned to the owner or applicant.

(F) If the application for zoning permit is denied by the Zoning Administrator the reason or cause for denial shall be stated in writing.

(G) A zoning permit shall be valid for 12 months. If not acted upon, a new application shall be completed and submitted for review and determination of conformance with this chapter.

(H) At least one site inspection by the Zoning Administrator must be held during development and before the new use or structure is occupied.

(I) Cancellation of permit shall be as provided for in § 154.171(G) of this subchapter. (Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.173 PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE.

(A) Generally. In authorizing any zoning permit, special land use permit, condominium subdivision, planned unit development or variance, the body or official which administers the respective request, as designated by this chapter, may require that a performance guarantee or bond be furnished to ~~insure~~ensure compliance with the requirements,

specifications and conditions imposed with the grant of the approval, permit or variance; to ~~insure~~-ensure the discontinuance of a temporary use by a stipulated time; and to provide sufficient resources for the city to complete required improvements or conditions in the event the permit holder does not.

(B) Improvements covered. Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements.

(1) Form. The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the City Clerk, which names the property owner as the obligor and the city as the obligee.

(2) Time when required. The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the city shall deposit the funds in an interest bearing account in a financial institution with which the city regularly conducts business.

(3) Amount. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed in the schedule of fees. If none are specified or applicable to the particular use or development, the City Council may by resolution establish a guideline which it deems adequate to deal with the particular problem while ensuring the protection of the city and its inhabitants.

(C) Return of performance guarantee or bond. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee, with earned interest, upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.

(D) Withholding and partial withholding of performance bond. When all of the required improvements have been completed, the obligor shall send written notice to the City Clerk of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and City Council indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

(1) The Planning Commission, or on a PUD, the City Council, shall either approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission or the City Council within 30 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

(2) Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the city may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining would be returned to the applicant.

(E) Performance bond for razing of building.

(1) The Zoning Administrator may require a bond prior to the razing or demolition of principal structures and accessory structures having more than 144 square feet of floor area. The bond shall be determined by the City Council.

(2) A bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Inspector or the City Council may from time to time prescribe, including filling of excavations and proper termination of utility connections.

(F) Record. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

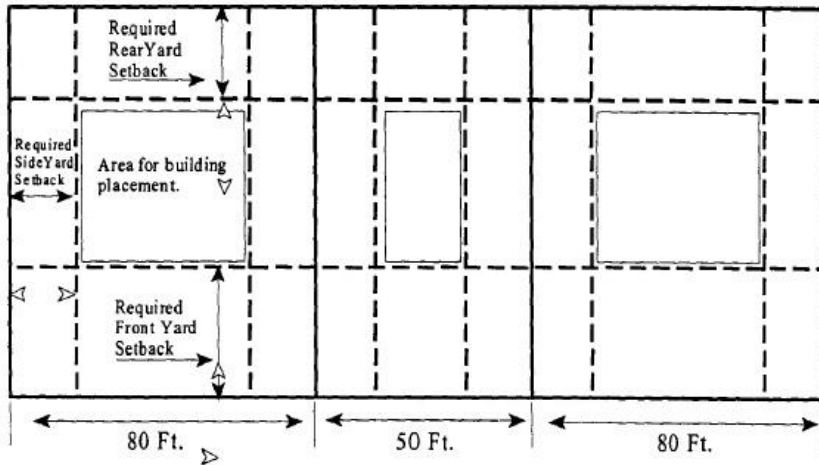
§ 154.174 NONCONFORMING USES, LOTS AND STRUCTURES.

Nonconforming lots, structures and uses, so long as they exist, prevent the full realization of the goals and objectives of the City of Saugatuck Master Plan and the objectives of this chapter. Upon the adoption of this chapter or subsequent amendments, there are lots, structures and uses of land and structures which were lawful prior to the adoption of this chapter, or the relevant amendment thereto, but which are not now in conformance. It is the intent of this chapter to permit these lawful nonconforming lots, structures and uses to continue but, with the exception of nonconforming residential structures, not to encourage their prolonged existence.

(A) Nonconforming lots.

(1) Existing lot of record. In any zoning district where an existing lot of record fails to meet the requirements for minimum lot area, minimum lot width or both, of the zoning district in which it is located, the lot may be used for the uses in the zoning district, provided that any structures comply with the required front, side, and rear yard setbacks of the zoning district; provided, however, that the foregoing shall not apply to a nonconforming lot abutted by another lot or lots under the same ownership. The zone district requires a minimum lot width of 80 feet. The undersized lot of 50 feet is a legal nonconforming parcel. The lot may be used to accommodate a permitted building provided all setbacks are complied with. A variance is not required.

Example: Nonconforming Lot



(2) Abutting lots of record under single ownership. In any zoning district, where two or more abutting lots of record in the same ownership do not, when considered individually, meet the requirements for minimum lot area, lot width, or both, of the zoning district in which the lot is located, prior to development any such lots shall be combined and considered as one lot for the purposes of this chapter. Where abutting lots of record which have been combined fail to meet the requirements for minimum lot area, lot width, or both, of the zoning district in which the combined lot is located, the combined lot may be used for uses allowed in the zoning district, provided that the required front, side and rear yard setbacks of the zoning district are complied with.

(B) Nonconforming uses of land not involving a building or structure. The lawful use of any land, not involving a building or structure, existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the use does not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions:

(1) Enlargement. A lawful nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of this chapter, or amendment thereto;

(2) Relocation. A lawful nonconforming use shall not be moved in whole or in part to any other portion of the lot occupied by such use on the effective date of this chapter, or amendment thereto; and

(3) Cessation. If the property owner or lessee stipulates that any such nonconforming use of land will be discontinued, or if any such nonconforming use of land ceases or is abandoned for any reason for a period of one year, any subsequent use of the land shall conform to the requirements of this chapter. The occurrence of one or more of the following conditions shall be deemed to constitute an intent on the part of the property owner or lessee to cease, discontinue and/or abandon the nonconforming use:

(a) Utilities, such as water, gas and electricity to the property have been disconnected;

(b) Signs or other indications of the existence of the nonconforming use have been removed;

(c) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;

(d) The property and/or grounds have not been maintained and/or have fallen into disrepair; and

(e) Other actions which, in the opinion of the Zoning Administrator, evidence an intention on the part of the property owner or lessee to abandon the nonconforming use of the land.

(C) Nonconforming structures. Use of structures which are existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the structures do not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions.

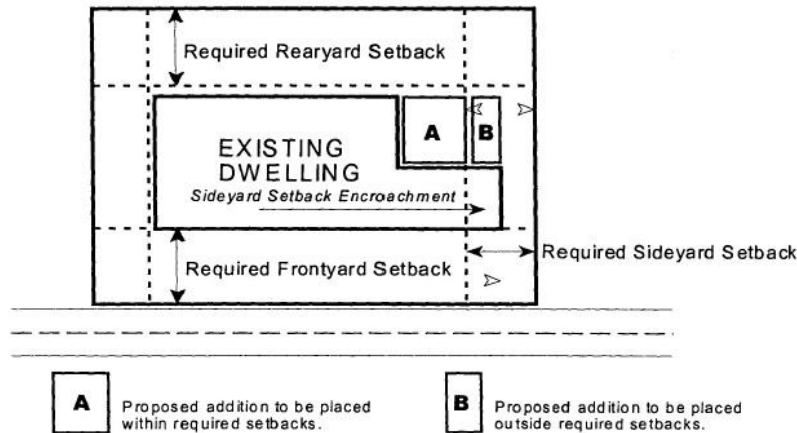
(1) Enlargement or alteration.

(a) A lawful nonconforming structure may not be enlarged, expanded or altered in any way which increases its nonconformity with the provisions of this chapter unless otherwise noted within this chapter. The nonconforming structure may be enlarged or altered provided that all such changes are in conformance with all provisions of this chapter at every structural level. All enlargements or alterations shall be subject to review and approval by the Zoning Administrator.

(b) Pursuant to the above, the Zoning Administrator may require the applicant to provide boundary and/or topographic surveys of the existing nonconforming structure and associated site. These surveys shall be sealed by a registered land surveyor registered in the State of Michigan. The topographic survey may be limited to providing dimensional detail on the height of existing structures, unless additional information is required by the Zoning Administrator.

(c) The surveys shall verify that the existing setbacks and height limit of the existing nonconforming structure comply with the setbacks and height standards of the underlying zone district. Further, the survey drawing shall be used to identify the specific area, with dimensions, to be occupied by the expansion or alteration of the nonconforming structure.

Example: Nonconforming Residential Structure



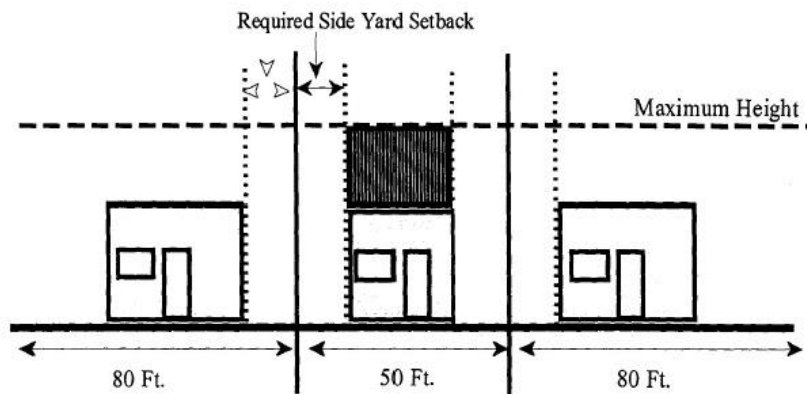
The existing dwelling encroaches on a required side yard setback resulting in a nonconforming situation. Proposed addition "A" may be permitted following a residential site plan review by the Planning Commission. However, a variance from the Zoning Board of Appeals would be required for addition "B".

(2) Non-use (dimensional) variance. Such variances may be authorized by the Zoning Board of Appeals for enlargement or alterations of nonconforming structures that increase any nonconformity(ies) under the provisions of §§ 154.150 through 154.157.

(3) ZBA conditions pursuant to enlargement/alteration. In authorizing a variance to enlarge or alter a lawful nonconforming structure, the Zoning Board of Appeals may impose conditions necessitated by the request including, but not limited to: additional site landscaping; site buffers; fencing; facade design requirements, building materials and building color changes; additional off-street parking and vehicular circulation modifications; signage; exterior lighting; and related building and site design modifications and conditions.

Example: Structural Alteration on a Nonconforming Lot

The zone district requires a minimum lot width of 80 feet. The undersized lot of 50 feet is a legal nonconforming parcel. The lot may be used to accommodate a permitted building provided all setbacks are complied with. In the following example, the undersized lot meets all building setbacks. The applicant wishes to increase the height of the structure. He or she may do so provided the upper story remains within all setbacks and height limits. A variance is not required.



(4) Damage and reconstruction.

(a) Nonconforming structure. In the event that any lawful, nonconforming, structure shall be damaged or destroyed by fire, wind, accident, act of God, or other similar means or manner, or threatened by flood, reconstruction, restoration, and/or raising shall be permitted by right, unless such destruction or damage was due to the intentional or reckless act or actions of an owner of the property. A structure to be reconstructed or restored shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on, a public right-of-way or public easement. In addition, a structure to be reconstructed, restored, or raised within a designated special flood hazard area shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, and shall further conform to the State Construction Code. Any reconstruction shall be subject to compliance with the provisions of this chapter, and any expansion shall be in full conformance with the requirements of the zoning district.

(b) Building permit required. Any reconstruction or restoration authorized pursuant to this division shall require the issuance of a building permit within 12 months of the occurrence of the damage.

(c) Special flood hazard area. For purposes of this division, threatened by flood shall mean that the structure is located in the special flood hazard area as designated in the current Flood Insurance Rate Map (FIRM) and the lowest floor level is less than one foot above the Base Flood Elevation (BFE) as designated in the FIRM. In addition, a structure that is threatened by flood shall not be raised more than three feet above the BFE.

(5) Decrease of nonconformity and re-establishment. If a lawful nonconforming structure is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then those nonconforming characteristics shall not be later re-established or increased.

(D) Nonconforming use of structure. The lawful use of any structure existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though

the use does not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions:

(1) Extending use within a structure. Any lawful nonconforming use may be extended throughout any internal parts of a building which were manifestly arranged or designed for such use at the effective date of this chapter, or amendment thereto, but no such use shall be extended to occupy any portion of a building which was not manifestly arranged or designed for the use at the effective date of this chapter, or amendment thereto, nor shall the use be extended to occupy any land or air space outside the building.

(2) Alteration of structure possessing a nonconforming use. No existing structure devoted to a lawful nonconforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.

(3) Reconstruction of structure occupied by a nonconforming use. If a structure which conforms with the provisions of this chapter, but which is occupied by a lawful nonconforming use, is damaged by any means or in any manner to the extent that the value of reconstruction or restoration exceeds one-half the value of the structure prior to the damaging occurrence, as determined by the most recent city assessment of the value of the structure, excluding the value of the land, for purposes of taxation, the structure may be reconstructed or restored only if its use conforms with the provisions of this chapter.

(4) Re-establishment of nonconforming use. If a lawful nonconforming use of any structure is terminated and replaced by a permitted use, the nonconforming use shall not be later re-established.

(5) Cessation. If the property owner or lessee stipulates that a lawful nonconforming use of a structure or structure and land in combination will be discontinued, or if any such nonconforming use of a structure, or structure and land in combination, ceases for any reason for a period of more than 12 months, any subsequent use of the structure shall conform to regulations of the zoning district in which it is located. The occurrence of one or more of the following conditions shall be deemed to evidence an intent on the part of the property owner or lessee to cease, discontinue and/or abandon the nonconforming use:

(a) Utilities, such as water, gas and electricity to the property have been disconnected;

(b) Signs or other indications of the existence of the nonconforming use have been removed;

(c) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;

(d) The property, buildings and/or grounds have not been maintained and/or have fallen into disrepair; and/or

(e) Other actions which, in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use of the structure or structure and land in combination.

(6) Removal of nonconforming use status after removal or destruction of building. Where lawful nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming use status of the land.

(7) Change in use (substitution).

(a) A lawful nonconforming use of a structure may be changed to another nonconforming use only if functionally similar to the previous non-conforming use. Application for a change in use shall require approval of the Zoning Board of Appeals. The Board may approve the change only if it complies with all of the following standards:

1. The proposed use does not increase the degree of nonconformity existing prior to the change of use. Pursuant to this standard, the proposed use shall not create, or result in, impacts which are considered more objectionable than the use to be replaced. These impacts shall include, but are not limited to, increased traffic, truck deliveries, parking requirements, hours of operation, noise, vibration, odors, litter, outside storage, pedestrian movement, off-site drainage and other factors.

2. No structural alteration of the existing structure will be required to accommodate the new use, unless the alteration will bring the structure into greater conformity with the underlying zone district standards.

(b) In approving a change in use, the Board may require reasonable conditions in order to decrease the impact on adjoining properties. These conditions may include, but are not limited to, buffers, landscaping, off-street parking, access controls, hours of operation and other such conditions to reduce any negative impact.

(E) Basic repairs and maintenance.

(1) Basic repairs and maintenance. On any structure devoted in whole or in part to any lawful nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, mechanical equipment or plumbing to an extent not exceeding 20% of the current replacement value of the structure as based on the records of the City Assessor, provided that the structure is not enlarged, extended, moved or structurally altered unless otherwise provided for by this chapter.

(2) Safety improvements. Nothing in this chapter 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 health, upon order of the official.

(F) Structures under construction. Any structure on which actual construction was lawfully begun prior to the effective date of this chapter, or amendment thereto, but which, under this chapter or amendment thereto, is classified as nonconforming, shall be considered existing and legally nonconforming pursuant to construction purposes and the intended use. Nothing in this chapter shall be deemed to require any change in the plans, construction or use of the structure. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to reconstruction the demolition or removal shall be deemed actual construction.

(G) Nonconforming special land uses.

(1) There were uses which were permitted by right under Ord. 80-133 which are not permitted uses under this chapter. Those existing uses which were permitted uses and are listed as special land uses in this chapter shall not be considered nonconforming uses.

(2) Those uses, or parts of uses, which existed as permitted uses under Ord. 80-133 and are listed as special land uses in this chapter, shall be considered to be approved existing special land uses with the configuration shown on a site plan drawn to reflect how the uses existed at the time of adoption of this chapter. Parts of uses which are nonconforming immediately prior to the adoption of this chapter shall continue to be nonconforming under this chapter.

(3) An owner of an approved existing special land use permit may obtain from the Commission a certification of site plan reflecting how the use exists at the time of adoption of this chapter with identification of nonconforming parts, if any. In the case of disputes over facts on what existed at the time of adoption of this chapter, aerial photographs, flown in the city by the county or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the county photos but before the adoption of this chapter, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above mentioned photos may be accepted as the site plan for the written special use permit.

(4) When a special use owner applies to amend the approved existing special use for expansion or change, a written special use permit shall be prepared for the entire use and parcel. In review of the special use permit amendment application for expansion or change, the Commission shall only review and act on the expansion or change portion of the special use permit. If the application for amendment of the special use permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the approved existing special use permit.

(H) Purchase and condemnation of nonconforming uses and structures. Subject to the provisions of state law, the city may acquire by purchase, condemnation or other means private property, or an interest in private property, for the removal of nonconforming uses and structures.

(Ord. 02-02, passed 2-11-2002; Am. Ord. passed 9-8-2003; Am. Ord. 091123-1, passed 11-23-2009; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 141208-1, passed 12-8-2014; Am. Ord. 201109-C, passed 11-9-2020)

§ 154.175 FEES; ESCROW FOR PROFESSIONAL REVIEWS.

(A) Filing application. Upon the filing of an application for a zoning permit, special land use permit, planned unit development, Board of Appeals review, variance or rezoning, an administrative fee, as determined by the City Council, shall accompany the application.

(B) Publication of fees. A schedule of fees as established by the City Council shall be maintained at the office of the Zoning Administrator.

(C) Payment of fees. Fees shall be paid to the City Clerk prior to the processing of any application required under this chapter.

(D) Fees in escrow for professional reviews. For any application for site plan approval, a special land use permit, condominium subdivision, planned unit development, variance, or other use or activity requiring a permit under this chapter, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten dwelling units, or more than 10,000 square feet of enclosed space, or which requires more

than 20 parking spaces. An escrow fee may be requested for any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(1) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the city values to review the proposed application and/or site plan of an applicant. Professional review will result in a report to the city indicating the extent of conformance or nonconformance with this chapter and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review contracted by the city and a copy of the statement of expenses for the professional services rendered.

(2) No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Clerk. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.

(3) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning or other permit issued by the city in response to the applicant's request.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.176 AMENDMENTS; PROCEDURES.

(A) City Council may amend. The regulations and provisions stated in the tables and text of this chapter and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by the City Council in accordance with Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended.

(B) Initiation of amendments. Proposals for amendments, supplements or changes may be initiated by the City Council on its own motion, by the Planning Commission, or by written request of (or petition of) one or more owners of property to be affected by the proposed amendment.

(C) Amendment procedure.

(1) Written request or petition to City Council. Except for those initiated by the Planning Commission or City Council, all written requests by one or more owners for an amendment shall be submitted to the City Council or the Planning Commission directly.

(a) Referral to Planning Commission/public hearing. The City Council shall refer every proposed amendment, supplement or change to the Planning Commission for the holding of a required public hearing thereon and for review and recommended action.

(b) Planning Commission recommendation. In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions,

factors that should be considered by the Planning Commission and the City Council include, but are not limited to, the following:

1. Whether the rezoning is consistent with the policies and uses proposed for that area in the city's Master Land Use Plan;
2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

(2) The Planning Commission may recommend any additions or modifications to the original amendment proposal. The Planning Commission shall transmit a written report with recommendations within a reasonable time frame to the City Council setting forth the reasons why they recommend acceptance, denial or modification of the amendment proposal.

(D) Action by the City Council. If the City Council deems any amendments, changes, additions or departures advisable to the proposed text or district boundaries recommended by the Planning Commission, it shall refer the same back to the Planning Commission for a further report thereon within a time specified by the City Council. Before any amendments shall become effective, the City Council may, on its own, conduct a public hearing on the proposed amendment. Thereafter, the City Council may adopt the amendment with or without any changes or may refer the same again to the Planning Commission for further report.

(E) Public hearing procedure and notification. For any required public hearing conducted by the Planning Commission or any additional public hearings by the City Council on a proposed amendment to this chapter, the following procedure and notice requirements shall apply:

(1) Notice of the public hearing shall be given by publishing the notice in accordance with § 154.179 and the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended;

(2) Notice of a proposed zoning change shall also be made in accordance with § 154.179 and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended; and

(3) Following adoption of an amendment to this chapter, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

(a) A summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment;

(b) The effective date of the amendment; and

(c) The place and time where a copy of the amendment may be purchased or inspected.

(F) Effect of a protest to proposed amendment. Protests against any proposed zoning ordinance text or map amendment must be filed in accordance with §§ 402 and 403 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, M.C.L.A. §§ 125.3402 through 125.3403 or as amended.

(G) Re-submittal. No application for a rezoning which has been denied by the City Council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Council to be valid.

(H) Comprehensive review of zoning chapter. The Planning Commission shall, from time to time at intervals of not more than two years, examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to the City Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

(I) Conditional rezoning.

(1) Intent. It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of § 405 of the Michigan Zoning Enabling Act (M.C.L.A. § 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(2) Application and offer of conditions.

(a) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

(c) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(d) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the requested new zoning is requested.

(e) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for the use or development is ultimately granted in accordance with the provisions of this chapter.

(f) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for the use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.

(g) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.

(h) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to

final rezoning action of the City Council provided that, if the withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(3) Planning Commission review. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in § 154.176(C), may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(4) City Council review. After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberation shall include, but not be limited to, a consideration of the factors for rezoning set forth in § 154.176(D) and (H). Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with § 401 of the Michigan Zoning Enabling Act (M.C.L.A. § 125.3401), refer such amendments to the Planning Commission for a report thereon with a time specified by the City Council and proceed thereafter in accordance with the statute to deny or approve the conditional rezoning with or without amendments.

(5) Approval.

(a) If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

(b) Contain a legal description of the land to which it pertains.

(c) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.

(d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(e) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the City with the Allegan County Register of Deeds.

(f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(6) Zoning map. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The City Clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(7) Approval. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the city with the Allegan County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(8) Effect. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(9) Compliance with conditions.

(a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain that development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(b) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

(10) Time period for establishing development or use. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if: it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and the City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(11) Reversion of zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under division (I)(10) above, then the land shall revert to its former zoning classification as set forth in M.C.L.A. § 125.3405. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(12) Subsequent rezoning of land. When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to division (I)(11) above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Allegan County Register of Deeds a notice that the statement of conditions is no longer in effect.

(13) Amendment of conditions.

(a) During the time period for commencement of an approved development or use specified pursuant to division (I)(10) above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the statement of conditions.

(b) The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

(14) City right to rezone. Nothing in the statement of conditions nor in provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act (M.C.L.A. §§ 125.3101 et seq.)

(15) Failure to offer conditions. The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

§ 154.177 VIOLATIONS.

(A) Any person, association, partnership, corporation or legal entity that violates disobeys, omits, neglects or refuses to comply with any provision of this chapter, any permit issue pursuant to this chapter, or any condition attached to a zoning permit, special land use permit, planned unit development permit, Zoning Board of Appeals decision or variance or other lawful directives of the Zoning Administrator shall be guilty of a violation of this chapter. Notice of any violations of this chapter shall be given in writing by the Zoning Administrator and shall be served by certified mail or personal service.

(B) A procedure for processing violations shall be established with the assistance of the City Attorney and retained on file with the City Clerk. The Zoning Administrator shall follow the procedure in pursuing all alleged ordinance violations.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Statutory reference:

Violations as a nuisance per se, abatement, see M.C.L.A. § 125.3407

§ 154.178 SEVERABILITY.

The various parts, sections and clauses of this chapter are declared to be severable. If any part, section, or clause is found to be unlawful by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

(Ord. 02-02, passed 2-11-2002)

§ 154.179 PUBLIC NOTICE.

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 - 125.3702 and the other provisions of this section with regard to public notification.

(A) Responsibility. When the provisions of this chapter or the Michigan Zoning Enabling Act require that notice be published, the City Clerk shall be responsible for preparing the

content of the notice, having it published in a newspaper of general circulation in the city and mailed or delivered as provided in this section and in compliance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101 - 125.3702.

(B) Notice and publication.

(1) For all public hearings, notice shall be published and, when required in division (B)(2) below, mailed or delivered not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification.

(2) If the action that is subject to a public hearing is a rezoning of less than 11 adjacent properties, a special land use, a planned unit development, a variance request or an appeal of an administrative decision, then, notice shall be sent by mail or personal delivery to owners of property for which an approval is being considered and the applicant, if different than the owner(s) of the property. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to all occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

(C) Content. All mail, personal and newspaper notices for public hearings shall:

(1) Describe the nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose;

(2) Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property; and

(3) Opportunity for comments. State where and when the request will be considered. Indicate when and where written comments will be received concerning the request. (Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

WATERFRONT CONSTRUCTION

§ 154.200 PURPOSE.

It is the purpose of this chapter is to establish requirements and procedures for the construction, location and use of piers and docks, pilings, bulkheads and mooring buoys in and immediately adjacent to the waters of the Kalamazoo River and Kalamazoo Lake within the city, to regulate dredging and backfill below the ordinary high water mark, and to provide for administration and enforcement of this chapter.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.201 OBJECTIVES.

The objective of this chapter is to facilitate the minimal disturbance of the natural ecology and as well as the Kalamazoo River and Kalamazoo Lake for recreational purposes, to minimize interference with riparian rights of other property owners, and to promote the public health, safety and general welfare.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.202 UNSAFE STRUCTURES.

(A) Use prohibited. No owner or occupant of premises on which a pier or dock, bulkhead, boat hoist, mooring buoy or other such waterfront structure has deteriorated or fallen into disrepair or has been damaged by fire, ice or other casualty shall permit the use thereof, and the owner or occupant shall either remove the unsafe structure or place it in a safe and sound condition and until removed or placed in a safe and sound condition, shall post a warning notice and block access thereto.

(B) Removal of structures. Any dilapidated or dangerous waterfront structure in existence along the waterfront of the city shall constitute a public nuisance and shall be removed or repaired within 30 days after notice of the condition has been given to the owner of the property involved.

(C) Notice. If such a dilapidated or dangerous waterfront structure exists, the Zoning Administrator shall send a notice of the condition to the owner of the premises as is disclosed by the last tax roll of the city at such address as is shown thereon, by certified mail. The notice shall require that the dangerous structure be removed or repaired. Any person who fails, refuses or neglects to repair or remove such a dangerous or dilapidated structure within the time limits above provided for shall be guilty of a violation of this code. (Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.203 OTHER AGENCY PERMITS.

(A) The issuance of a permit pursuant to this chapter shall not relieve the applicant from obtaining any required permit or approval from the Department of Army Corps of Engineers, the Michigan Department of Environmental Quality or such other federal or state regulatory agency when required by federal or state law.

(B) The obtaining of a permit or approval from the Department of Army Corps of Engineers, Michigan Department of Environmental Quality or such other federal or state agency shall not relieve the applicant from complying fully with this chapter and obtaining a permit pursuant to its provisions.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.204 LIMITATIONS ON USE.

(A) No watercraft shall be moored to a dock, pier or spring piling in such a manner that would result in an overhang of more than ten feet.

(B) The use of any dock, pier or spring piling for the mooring of any watercraft currently used or generally designed for use as a construction barge shall be permitted in riparian rights areas adjacent to residential properties.

(C) Mooring of a construction barge for periods not exceeding ten days in any calendar year for the sole purpose of dock construction or maintenance at the property where the construction or maintenance is occurring is expressly permitted.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.205 MAJOR CONSTRUCTION REGULATIONS.

(A) Permit. Prior to commencement of any major waterfront construction, a permit shall be obtained from the city in accordance with the procedures contained in this chapter. The city can attach reasonable conditions to the granting of any permit.

(B) Major construction defined.

(1) The construction of a bulkhead, dock, pier, boat hoist and/or other structure extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is to rent, lease or otherwise make available to the general public space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment, a condominium or a marina.

(2) Major construction shall also include any pier or dock, whether for commercial or private use, which extends into the waters of the Kalamazoo River or Kalamazoo Lake more than 45 feet as measured from the Ordinary High Water, elevation 581.5 International Great Lakes Datum (IGLD). A major construction permit shall always be required for waterfront construction in connection with the establishment, use or expansion of a private or commercial marina where permitted under §§ 154.023 through 154.041 of this code.

(C) Compliance with zoning code. When major waterfront construction is to be in conjunction with a commercial facility, or commercial or private marina, issuance of a major construction permit shall be conditioned upon full compliance with the applicable provisions of § 154.092(D), and § 154.130 parking for marinas is also required. Compliance with § 154.130 is required.

(D) Pier or dock construction.

(1) Piers or docks constructed pursuant to this subchapter shall not extend outboard more than 100 feet from the bulkhead, or at a location on the bottom of the ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD). The only exception to the length restriction is as stated in division (D)(9) below for the Neighborhood Marine district (NHM).

(2) The main pier extending from the shoreline shall have a minimum width of four feet. A main pier may be "L" shaped so long as any finger piers do not exceed the maximum distance from the shore/bulkhead as specified in division (B) above.

(3) Finger piers less than four feet wide extending from the main pier shall not exceed 30 feet in length, and shall have a minimum width of three feet.

(4) Pier or docks shall allow for the flowage of littoral materials and water in such a manner as to preclude detrimental impact in adjacent properties and environment.

(5) All pier or docks shall be located so as not to infringe on the riparian rights of other property owners or recorded water access or use easements.

(6) Pier or dock construction must be substantial and the design and materials must be consistent with established construction standards as required by the State Construction Code.

(7) All piers or docks constructed under a major construction permit shall have the capacity to carry a live load of 100 pounds per square foot and shall have located thereon adequate lighting in areas available for public use in periods of darkness.

(8) No piers or dock shall be placed within the parcel's required side yard setbacks nor may they be placed within the extension of the required setback into the riparian rights area (one and one-half times the allowed boat length). Boats, boat hoists and spring pilings shall be located within the owners riparian rights area.

(9) Consideration for main pier lengths in excess of 100 feet is permitted in the Neighborhood Marine (NHM) district only. The length may be extended to a maximum of 200 feet from the bulkhead, or at a location on the bottom of ordinary high water, elevation 581.5 . International Great Lakes Datum (IGLD), whichever is less, following a determination by the Planning Commission that all of the following requirements have been met:

(a) The extension into the body of water shall be no greater than existing piers on both sides of the parcel. A line shall be determined by inspection of the site and neighboring piers;

(b) An extension beyond 100 feet is not to be allowed if any limitation to navigation by existing channel will occur;

(c) Respect for riparian rights of neighbors and setbacks are required; and

(d) Parking must be provided in accordance with § 154.130 for any increases in the number of berths or moorings provided.

(E) Bulkhead construction. The entire property shoreline shall be protected by an impermeable bulkhead. Bulkhead design and construction shall be consistent with the established construction standards. Bulkheads shall not be less than one foot higher than the highest water level on record, and the top of the bulkhead shall not be less than six inches higher than the backfill on adjacent terrain.

(1) Bulkhead location. Bulkheads shall not be located on a line closer toward the water than the nearest existing structure of a similar nature, or at a location on the bottom of ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD).

(2) Backfill and dredging.

(a) Backfill and dredging, if to be performed in connection with major construction, must be specified in requests for all permits as to:

1. Need;
2. Location;
3. Quantity; and
4. Disposition of spoil.

(b) Backfill may be with dredged material, but below the normal high water mark shall not be more than two cubic yards per foot of lineal placement, unless otherwise authorized by the Department of the Army Corps of Engineers' permit.

(F) Spring piles. Spring piles shall be considered part of the basic structure and must be located within the overall length requirements for piers or docks as set forth in this subchapter.

(G) Wetlands. No major construction shall be allowed in wetland areas.

(H) Permit procedures.

(1) An application for major construction permits shall be filed with the Zoning Administrator.

(2) The application shall be available at the City Clerk's office and shall require the following information:

(a) The applicant's full name, mailing address and telephone number;

(b) The location where proposed construction activity will occur;

(c) The legal description of upland property at the waterfront construction site;

(d) Reason for the proposed waterfront construction, its purpose and intended use;

(e) The name and address of the owner of the upland real property;

(f) A statement as to why construction will not cause pollution, impair or destroy the water, or any natural resources;

(g) A description of any alternatives to the proposed waterfront construction if any have been considered;

(h) The names and addresses of adjacent property owners, and a statement as to whether any objections have been made to the applicant concerning the proposed waterfront construction;

(i) The name, address and telephone number of the applicant's authorized agent, if the application is being handled through an agent, attorney or other representative of the applicant;

(j) The dates the proposed waterfront construction is intended to commence and be completed;

(k) Whether an application to the other appropriate federal or state agency, as required by law, has been made, and the date the application has been submitted;

(l) A statement as to whether the proposed construction has been approved or denied or not acted upon by other state or federal agencies as required by law;

(m) A site plan showing the proposed waterfront construction in appropriate form as set forth in the permit application; and

(n) A statement as to whether the facility is to be leased, rented or made available to the general public, or is to be used in conjunction with any other commercial facility available for use by the general public.

(I) Filing fees. A filing fee as determined by the City Council and set forth in the city's schedule of fees for site plan review shall accompany each application.

(J) Processing of applications.

(1) Within 15 days from the date of filing the application, the Zoning Administrator shall review the application and forward the same to the Planning Commission with any comments the Zoning Administrator deems appropriate.

(2) Any incomplete application filed with the Zoning Administrator shall be returned to the applicant. However, another filing fee shall not be required upon re-submission of a prior incomplete application.

(K) Notice of hearing.

(1) The Zoning Administrator or his or her designated agent shall have published a notice of the date, time and place of the public hearing to consider the application and receive objections or comments, and the notice shall include the name of the applicant, the location of the proposed major construction, and a brief description of the nature of the construction.

(2) The notice shall be published in conformance with Michigan Zoning Enabling Act, as amended.

(L) Duties of Planning Commission.

(1) The Planning Commission shall consider the application at a public hearing within 30 days after receipt of the application from the Zoning Administrator, unless further time is agreed upon by the parties concerned. The Planning Commission shall approve, approve with conditions, deny or require modification of proposed major construction.

(2) In reviewing an application, the Planning Commission shall consider the following criteria:

(a) The impact on the ecological aspects of the waters and the adjacent properties located at the waterfront construction site;

(b) The impact the construction would have on the use of the water by recreational boaters and adjacent property owners, and any hazard or interference to navigation the waterfront construction might create;

(c) Compliance with the requirements of this chapter;

(d) Compliance with §§ 154.023 through 154.041; and

(e) Objections by the general public or nearby property owners, submitted in writing or in person at the public hearing.

(M) Denial of permit. If the Planning Commission shall deny the application for a permit, they shall state their reasons therefore.

(N) Modification. The Planning Commission shall have the right to require modifications of the proposed major construction plan as submitted in the application, and may issue a permit conditioned on the applicant's acceptance of the modifications as determined by the Planning Commission. The Planning Commission may also approve a permit with conditions of approval.

(O) Assistance of Building Inspector or Engineer.

(1) Before approval of the application, the Planning Commission may request the opinion of the City Building Inspector or such licensed engineer as it may designate regarding the proposed major construction.

(2) If such an opinion is desired by the Planning Commission, it may delay a decision on the application submitted pursuant to this subchapter for a period of not more than 30 days from the date of public hearing.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.206 MINOR CONSTRUCTION REGULATIONS.

(A) Permit. Prior to the commencement of the minor waterfront construction as hereinafter defined, a permit shall be obtained from the Michigan Department of Environmental Quality or successor agency.

(B) Minor construction defined.

(1) Construction of bulkheads, piers or docks, mooring buoys, boat hoists or other structures extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is for the private use of the facility or facilities by the property owner, and not for rent, lease or availability to the general public as a commercial facility or yacht club.

(2) The purpose of this classification is to permit relatively inexpensive construction of any pier or dock, not longer than 45 feet, at any one single-family residential parcel of land. Construction is limited in magnitude to that which might be done for the personal benefit of the owner and immediate family members.

(C) Pier or dock construction.

(1) Piers, docks or spring piles constructed pursuant to this subchapter shall not extend outboard more than 45 feet from the bulkhead or shoreline, the length of which shall be measured from the bulkhead, or at a location on the bottom of ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD) whichever is less.

(2) All piers or docks shall be substantially constructed and meet generally accepted construction standards.

(3) Finger piers shall not exceed 30 feet in length.

(D) Number of piers or docks. Only one pier or dock shall be allowed for each residential lot or parcel. City-owned property shall be exempt from this provision. The City Council shall determine the appropriate number of docks allowed on city property.

(E) Bulkheads. Bulkheads may be in accordance with permits issued by the U.S. Army Corps of Engineers and/or the Michigan Department of Environmental Quality and § 154.205(E)(1).

(F) Backfill and dredging. Backfill and dredging in minor construction projects shall be controlled the same as set forth in § 154.205(E)(2).

(G) Boat hoists. Boat hoists shall be permitted for seasonal use. A boat hoist may be installed in place of a pier or dock or at the end of a pier or dock, but in such case shall extend not more than 45 feet from the bulkhead or ordinary high water mark, International Great Lakes Datum (IGLD).

(H) Mooring buoys. A single mooring buoy may be located directly off the shore or bulkhead; however, it must meet USCG design standards and lighting requirements for buoy and boat. No more than one single mooring buoy shall be permitted per parcel or lot. A lot may have both one dock and one buoy.

(l) Permit procedure.

(1) An application for minor waterfront construction permit shall be filed with the Zoning Administrator.

(2) The application shall be available at the City Clerk's office and shall require the following information:

(a) The applicant's full name, mailing address, and telephone number;

(b) The address and property identification number of where proposed construction activity will occur:

(c) Intended use for the proposed waterfront construction;

(d) A statement as to why the construction will not cause pollution, impair or destroy the water, or any natural resources;

(e) The dates the proposed waterfront construction is intended to commence and be completed;

(f) A copy of an approved permit from the applicable federal and state agencies including the Michigan Department of Environmental Quality or the US Army Corp of Engineers. A waterfront construction permit shall not be issued by the city without receipt of these required permits.

(g) A sketch plan showing the proposed waterfront construction in appropriate form as set forth in the permit application.

(3) Upon receipt of a complete application, the Zoning Administrator shall cause notice to be sent to the adjacent property owners of the subject property, by first class mail utilizing tax record information, a letter explaining the general nature of the proposed minor waterfront construction project. The Zoning Administrator shall approve the application if it meets the requirements of this section.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 091109-1, passed 11-9-2009)

§ 154.999 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than \$9 and not more than \$500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

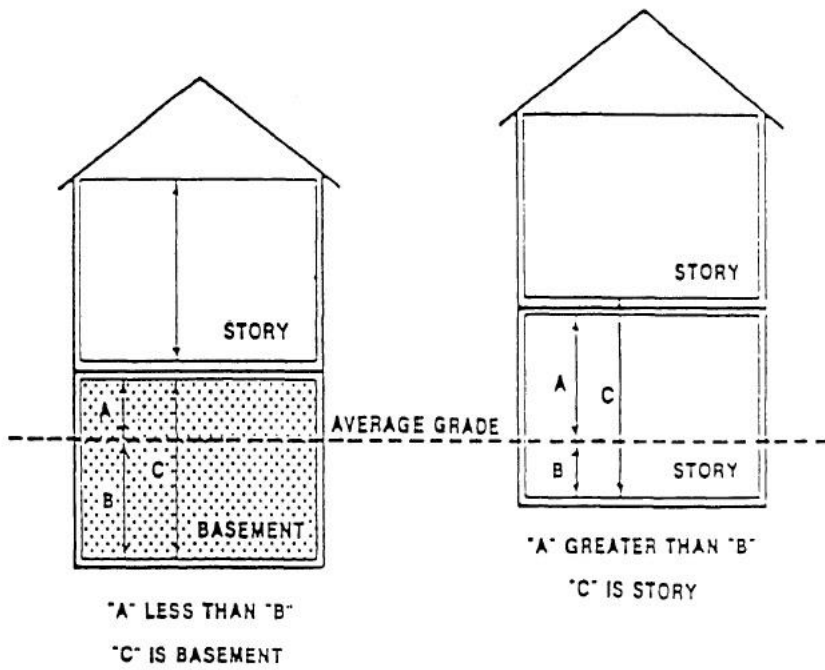
(C) Any violation of the provisions of this chapter shall constitute a nuisance per se and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(D) Nothing herein shall be construed or interpreted to limit the authority of the city or its officers, bodies or commissions to revoke any approvals previously granted to the extent permitted by law.

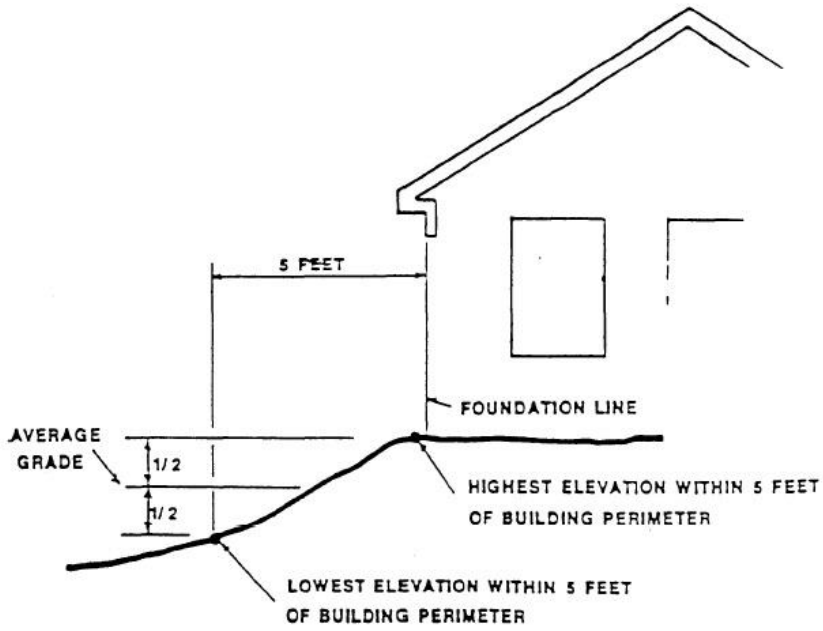
(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

APPENDIX A: FIGURES AND DRAWINGS

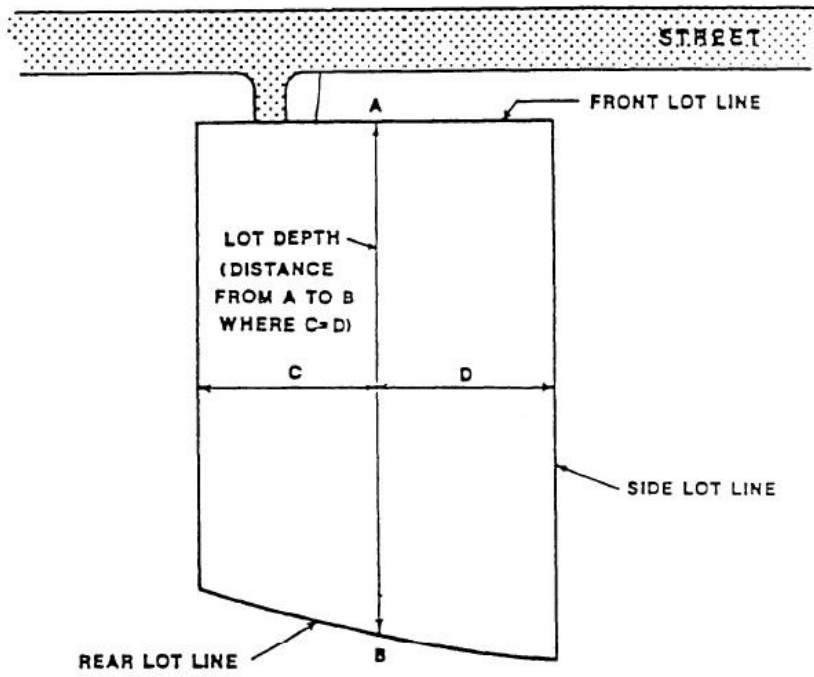
Figure 1: Basement and Story



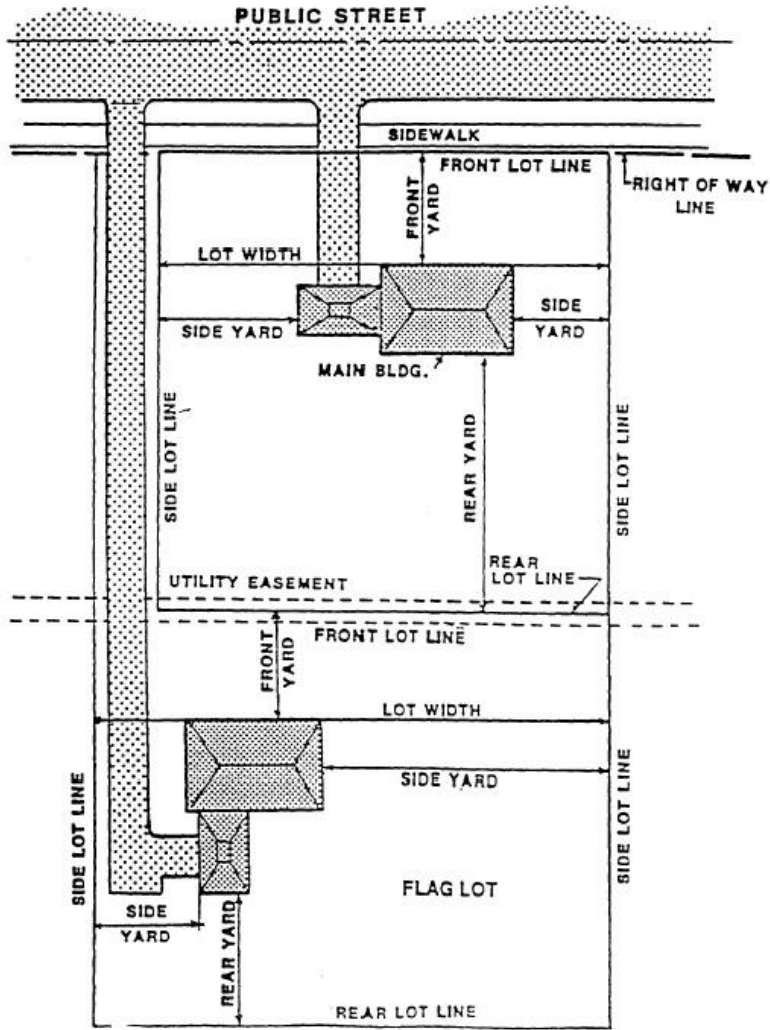
(Ord. 02-02, passed 2-11-2002)
Figure 3: Average Grade



(Ord. 02-02, passed 2-11-2002)
Figure 5: Lot Depth



(Ord. 02-02, passed 2-11-2002)
Figure 7: Lot Lines and Yards



(Ord. 02-02, passed 2-11-2002)