ZONING ORDINANCE

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

PREVIOUS ZONING ORDINANCES ADOPTED:
1957
1952
1925

Adopted April 28, 1987
AS AMENDED
(See next pages)

Printed: February 2009

This Zoning Ordinance can also be found on the City's web site located at www.shorelinecity.com.

AMENDED:

(Dates shown reflect City Commission approval)

November 1988

- *Articles I, IV, and VI-IX, Sections 401, 601, and 701-901: Special Land Uses Permitted*
  (Added restricted parking areas as special uses subject to provisions of Section 2302.1.)
- *Article XXIII "General Provisions", Section 2302.1: Restricted Parking Areas*
  (Added regulations for establishment and operation of restricted parking areas.)
- *Article XXIII "General Provisions", Section 2318: Yard Fences, #a*
  (Amended size requirements for fences in residential districts.)

January 1989

- *Article XIII "B-4", Section 1301: Special Land Uses Permitted, #(10)*
  (Added language regarding non-accessory signs.)
- *Articles XIV "I-1" and IV "I-2", Sections 1400, 1500: Principal Land Uses Permitted*
  (Added language regarding non-accessory signs.)
- *Article XXIII "General Provisions", Section 2308 (1) (f): Signs*
  (Added language regarding regulations for non-accessory signs.)

August 1995

- *Article XXIV "Administration and Enforcement", Section 2407: Violations and Penalties*
  (Provided for civil infractions for violation of the zoning ordinance.)

May 1996

- *Article IV "R", Section 402: One Family Dwelling Regulations, #6*
  (Amended storage space requirements in dwelling units in R-1 districts.)
- *Article VI "RT", Section 603: Area and Bulk Requirements, #1*
  (Amended storage space requirements in dwelling units in RT districts.)
- *Article X "B-1", Section 1001: Principal Uses Permitted, #5*
  (Deleted automated car washes as a permitted use in B-1 districts.)
- *Article XIII "B-4", Section 1301: Special Land Uses Permitted, #8*
  (Added commercial kennels as a special use in B-4 districts.)
- *Article XXIII "General Provisions", Section 2301: Accessory Buildings, #4, #7*
  (Amended requirements for accessory buildings and added restriction that only one accessory building is permitted per lot.)
- *Article XXIII "General Provisions", Section 2302: Off-Street Parking Requirements, #1, #3*
  (Amended restrictions against front-yard parking in any residential districts.)
- *Article XXIII "General Provisions", Section 2303: Off-Street Parking…, #2, #7*
  (Amended requirements for off-street parking spaces.)
- *Article XXIII "General Provisions", Section 2307: Plant Materials and Landscaping*
  (Amended title of the section, renumbered paragraph 1 and added a new paragraph requiring landscaping in yard areas around buildings and parking areas.)
- *Article XXIII "General Provisions", Section 2308: Signs, #1-g*
  (Amended requirements for temporary signs.)
- *Article XXIII "General Provisions", Section 2311: Storage of Vehicles, #1*
  (Amended requirements parking areas for boats, trailers, motor vehicles and recreation equipment.)
- *Article XXIII "General Provisions", Section 2312: Reduction of Parcels…*
  (Added section to prohibit reduction of parcels below the minimum required size, width or depth.)
- *Article XXIII "General Provisions", Section 2320: Corner Clearance*
  (Amended regulations on corner clearance.)

March 1997

- *Table I: Heights, Areas and Yards, "LR", "WM"*
  (Changed lot coverage limits to percentages in LR and WM zoning districts.)
- *Article XXIII "General Provisions", Section 2308: Signs, #1-b, #1-g*
  (Added regulations for special event signage and changed some wording about sign encroachment on City rights-of-way.)
- *Article XXIII "General Provisions", Section 2315: Special Land Uses…, #2*
  (Changed specific fees shown to reflect the City's Master Fee Schedule instead.)
- *Article XXIV "Administration and Enforcement", Section 2405: Petitions, Fees*
  (Changed specific fees shown to reflect the City's Master Fee Schedule instead.)
- *Article XXV "Board of Zoning Appeals", Section 2502: Appeals, Applications…*
  (Changed specific fees shown to reflect the City's Master Fee Schedule instead.)

August 1997

- *Error Correction*
  (Made several minor corrections and small amendments to remove inconsistencies from the ordinance.)
- *Article XI "B-2", Section 1100: Principal Uses Permitted, #8*
  (Allowed social halls and private clubs as permitted uses in B-2 districts.)
- *Article XX "H", Section 2001: Special Land Uses Permitted, #7*
  (Allowed multiple family as a special use in the H district, under certain conditions.)
- *Article II "Definitions", relating to daycare*
  (Added definitions relating to daycare.)
- *Article XXIII "General Provisions", Section 2314: Day Care/Child Care Facilities*
  (Added language to allow daycare homes and centers under certain conditions.)

December 1997

- *Article IV "R", Section 403: Planned Unit Development Option*
  (Added Planned Unit Developments as an option in the R-1 zoning district under certain conditions.)
- *Article XXIII "General Provisions", Section 2321: Wireless Communication Service…*
  (Added new section to deal with wireless towers and antenna.)
- *Article II "Definitions", relating to wireless communication facilities*
  (Added definitions relating to wireless communication towers and antenna.)

March 1998

- *Article I "Short Title"*
  (Amended the short title of the Zoning Ordinance.)
- *Article II "Definitions"*
  (Replaced definitions article and added graphics.)
- *Article XXIII "General Provisions"*
  (Made many updates, changes and additions to sections in General Provisions.)
- *Article XIII "B-4": 'B-5 Governmental Service District'*
  (Added new zoning district for governmental types of services.)

May 1998

- *Article XXIV "Administration and Enforcement", Section 2407: Violation and Penalties*
  (Permitted the issuance of civil infraction tickets to anyone in violation of the zoning ordinance.)

July 1998

- *Article IV "R", Section 402: One Family Dwelling Regulations, #15*
  (Stipulated that single-family dwelling construction cannot commence until a building permit has been issued.)
- *Article XXIII "General Provisions", Section 2319: Outdoor Lighting*
  (Provided for clarification of night sky regulations for outdoor lighting.)

August 1998

- *Article II "Definitions": 'Sign', #8*
  (Added definition for Electronic Message Board.)
- *Article XXIII "General Provisions", Section 2334: Signs*
  (Replaced entire section with new regulations for signs.)

October 1998

- *Article XIII "B-4", Section 1307: Signs*
  (Repealed the sign requirements for the B-5 zoning district, as these were included in the new sign ordinance, and renumbered the rest of the sections in the article.)
- *Articles VI - XX, Sections 602 - 2002 respectively: Planned Unit Developments, Section 1603: Area and Bulk Requirements*
  (Eliminated minimum acreage requirements for planned unit developments and created new section for schedule of regulations in OSC district language.)
- *Article II "Definitions": 'Mini Storage (Warehouse) Facilities'*
  (Added definition for mini storage facilities.)
- *Article XIII "B-4", Section 1301: Special Land Uses Permitted, #9*
  (Added mini storage facilities as a special use in the B-4 district.)

August 1999

- *Article II "Definitions": 'Family Day Care Home', 'Group Day Care Home'*
  (Replaced definitions associated with daycare, which had been removed in 3/98 amendment of "Definitions".)

September 1999

- *Article XI "B-2", Section 1101: Special Land Uses Permitted, #5*
  (Added language allowing hotels/motels/sleeping inns as special uses in B-2, under certain conditions.)

December 1999

- *Article IV "R", Section 401: Special Land Uses Permitted, #6*
  (Added new language allowing previously existing commercial buildings to operate as special uses in R-1.)
- *Article VI "RT", Section 601: Special Land Uses Permitted, #9*
  (Added new language allowing previously existing commercial buildings to operate as special uses in RT.)
- *Article VII "RM-1", Section 701: Special Land Uses Permitted, #6*
  (Added new language allowing previously existing commercial buildings to operate as special uses in RM-1.)
- *Article VIII "RM-2", Section 801: Special Land Uses Permitted, #3*
  (Added new language allowing previously existing commercial buildings to operate as special uses in RM-2.)
- *Article VIX, "RM-3", Section 901: Special Land Uses Permitted, #2*
  (Added new language allowing previously existing commercial buildings to operate as special uses in RM-3.)

January 2000

- *Article XXIII "General Provisions", Section 2330: Site Plan Review*
  (Replaced section with new regulations for Site Plan Review.)

April 2000

- *Article XV "I-2": 'WI-PUD Waterfront Industrial Planned Unit Development Districts'*
  (Added new zoning district for port activities.)
- *Article II "Definitions": 'Lightering', 'Marine Cargo Handling', 'Stevedore'*
  (Added definitions related to the new WI-PUD zoning district.)
- *Article IV "R", Section 404: Area and Bulk Requirements*
  (Added area and bulk requirements for the R-1 district to that district's language.)
- *Articles VI - XX, Sections 603 - 2003 respectively: Area and Bulk Requirements*
  (Added area and bulk requirements for each other district to that district's language.)
- *Table I: Heights, Areas, and Yards*
  (Changed area and bulk requirements for all districts. Added minimum building heights, waterfront setback…)

- *Article XXIII "General Provisions", Section 2331: Landscaping, Fencing, Walls, Screens…*
  (Replaced section with new regulations for Landscaping; incorporated language for fencing, walls, screens and lighting into same section as Landscaping.)
- *Article XXIII "General Provisions", Sections 2308, 2310, 2313, 2314, 2315, 2319, 2333*
  (Reserved these sections since language was incorporated into Section 2331.)

August 2000

- *Article XXIII "General Provisions", Section 2307: Permitted Yard Encroachments, #3, #4*
  (Added Zoning Administrator waiver for setback requirements for handicap ramps; changed lot coverage to reflect previous Table I changes.)

October 2000

- *Article XXIII "General Provisions", Section 2331: Landscaping, Fencing, Walls…, #8*
  (Amended requirements for parking lot landscaping to add a sliding scale for the number of landscape islands required & to give the Zoning Administrator some flexibility to allow bump-outs, etc. on a case-by-case basis.)

November 2000

- *Article IV "R-1, Single-Family Residential", Section 400: Principal Uses Permitted, #2b*
  (Amended requirements for home occupation signage to reflect the requirements in the sign ordinance.)
- *Article VI "RT, Two-Family Residential", Section 600: Principal Uses Permitted, #4b*
  (Amended requirements for home occupation signage to reflect the requirements in the sign ordinance.)
- *Article VII "RM-1, Low-Density Multiple-Family Residential", Section 700: Principal Uses Permitted, #7b*
  (Amended requirements for home occupation signage to reflect the requirements in the sign ordinance.)
- *Article XXIII "General Provisions", Section 2326: Off-Street Parking Requirements, #12*
  (Amended the requirement for minimum parking space size to reflect the size described in the parking space definition in the Definitions section of the ordinance.)
- *Article XXV "Board of Zoning Appeals"*
  (Amended language and standards for the Zoning Board of Appeals and added standards for the review of use variances by the ZBA.)
- *Article II "Definitions"*
  (Deleted the definition of 'Variance' and added definitions of 'Variance, Use" and "Variance, Nonuse or Dimensional".)
- *Article XXIII "General Provisions", Section 2321: Wireless Communication Service Facilities, #4 under <u>Overlay District Established for Wireless Communication…</u>*
  (Added a 60' x 60' portion of the Muskegon Community College campus to the overlay district for wireless communication support facilities.)

August 2001

- *Article IV "R-1, Single-Family Residential", Section 402: One Family Dwelling Regulations*
  (Repealed and reserved this section since language was incorporated into Section 2319.)
- *Article XXIII "General Provisions", Section 2319: Residential Design Criteria*
  (Added design criteria for all one and two-family homes in any zoning district.)
- *Article XXIII "General Provisions", Section 2311: Accessory Structures & Buildings, #4*
  (Added requirement for accessory structures to be of residential construction, properly sided and painted, and prohibits pole style storage buildings in all residential zones or developments.)

December 2001

- *Article XXIII "General Provisions", Section 2334: Signs, #6c*
  (Amended home occupation signage requirements to restrict signage to one wall sign.)
- *Article XI "B-2, Convenience and Comparison Business", Section 1101: Special Land Uses Permitted*
  (Added secondhand stores as special uses, under certain conditions.)
- *Articles VII - XX, Sections 703 - 2003 respectively, also Sections 1308 & 1507, all: Area and Bulk Requirements*

(Changed landscaping requirement for front setback to require 50% be landscaped, with conditions.)

- *Table I "Heights, Areas, and Yards", Table Notes, #9*
  (Changed landscaping requirement for setbacks to refer to landscaping requirements.)
- *Article XXIII "General Provisions", Section 2331: Landscaping, Fencing, Walls…, #5*
  (Changed landscaping requirement for front setback to require 50% be landscaped, with conditions.)

January 2002

- *Article XII "B-3, Central Business", Section 1201: Special Land Uses Permitted*
  (Added specialized adult educational programs as special uses, under certain conditions.)

February 2002

- *Article XXIII "General Provisions", Section 2326: Off-Street Parking and Loading*
  (Amended standards and requirements for parking areas and parking spaces)
- *Article XXIII "General Provisions", Section 2327: Restricted Parking Areas*
  (Repealed and reserved this section)
- *Article XXIII "General Provisions", Section 2328: Off-Street Parking Space Layout, Standards, Construction and Maintenance*
  (Repealed and reserved this section since language was incorporated into Section 2326.)
- *Article IV "R One Family Residential Districts", Section 401: Special Land Uses Permitted, #1(e)*
  (Deleted since language was incorporated into Section 2326.)
- *Articles IV & VII, Sections 401 & 701 respectively, both: Special Land Uses Permitted, #9*
  (Deleted since language was incorporated into Section 2326.)
- *Article VI "RT Two Family Residential Districts", Section 601: Special Land Uses Permitted, #12*
  (Deleted since language was incorporated into Section 2326.)
- *Article VIII "RM-2 Medium Density Multiple-Family Residential Districts", Section 801: Special Land Uses Permitted, #6*
  (Deleted since language was incorporated into Section 2326.)
- *Article IX "RM-3 High Density Multiple-Family Residential Districts", Section 901: Special Land Uses Permitted, #5*
  (Deleted since language was incorporated into Section 2326.)
- *Article V "MHP Mobile Home Park Districts", Section 511: Off-Street Parking*
  (Repealed and reserved this section since language was incorporated into Section 2326.)
- *Article XIII "B-4 General Business Districts", Section 1301: Special Land Uses Permitted, #4(b)*
  (Deleted since language was incorporated into Section 2326.)

April 2002

- *Article XXIII "General Provisions", Section 2319: Residential Design Criteria*
  (Added minimum floor sizes for apartment units.)
- *Article XXIII "General Provisions", Section 2334: Signs*
  (Added signage requirements for legal businesses in residential zoning districts.)
- *Article XXIII "General Provisions", Section 2321: Wireless Communication Service Facilities*
  (Changed the height requirements for WCAs placed on existing buildings.)

May 2002

- *Article XI "B-2 Convenience and Comparison Business", Section 1101: Special Land Uses Permitted*
  (Added private schools operated for profit, as special uses.)
- *Article XIII "B-4 General Business", Section 1300: Principal Uses Permitted*
  (Added private schools operated for profit, as principal permitted uses.)

June 2002

- *Article XI "B-2 Convenience and Comparison Business", Section 1100: Principal Uses Permitted & Section 1101: Special Land Uses Permitted*
  (Added contractors' offices with associated indoor storage - special uses if storage exceeds 5,000 sq. ft.)

July 2002

- *Article XXIII "General Provisions", Section 2323: Flood Hazard Areas, #3*
  (Changed minimum floor elevation requirements to reflect State requirements.)

August 2002

- *Article XXIII "General Provisions", Section 2318: Keeping of Animals*
  (Repealed and reserved this section since the language was incorporated into a separate City ordinance.)
- *Article XI "B-2 Convenience and Comparison Business", Section 1100 Principal Uses Permitted*
  (Added recording studios.)
- *Articles XI - XIII (B-2, B-3, & B-4), Sections 1101 - 1301 respectively: Special Land Uses Permitted*
  (Added live music concert halls as special uses, under certain conditions.)

October 2002

- *Article XXIII "General Provisions", Section 2324: Temporary Buildings, Structures & Uses*
  (Amended the regulations regarding temporary uses, structures and buildings.)
- *Article II "Definitions"*
  (Amended the definitions of 'building line', 'carport', 'lot lines', 'setback' and 'yard'.)
- *Article II "Definitions", Section 201: Diagrams, Graphics and Illustrations Pertinent to the Definitions in This Ordinance*
  (Added a new graphic as Figure 2.9 to help show front building lines and other definitions for corner lots.)
- *Article IV "R One Family Residential Districts", Section 404: Area & Bulk Requirements*
  (Amended the regulations regarding setback measurement, and zero lot line option to clarify their meaning regarding yards and setbacks.)
- *Articles VI - XX (RT, RM-1, RM-2, RM-3, B-1, B-2, B-3, B-4, I-1, I-2, OSC, OSR, LR, WM, H), Sections 603 - 2003 respectively: Area & Bulk Requirements*
  (Amended the regulations regarding setback measurement, and zero lot line option to clarify their meaning regarding yards and setbacks.)
- *Article XIII "B-4 General Business Districts", Section 1308: Area & Bulk Requirements*
  (Amended the regulations regarding setback measurement, and zero lot line option to clarify their meaning regarding yards and setbacks.)
- *Article XV "I-2 General Industrial Districts", Section 1507: Area & Bulk Requirements*
  (Amended the regulations regarding setback measurement, and zero lot line option to clarify their meaning regarding yards and setbacks.)
- *Table I "Heights, Areas, and Yards", Table Notes, #7*
  (Changed the explanation of how setbacks are measured.)
- *Article XXIII "General Provisions", Section 2306: Allocation of Lot Areas & Configuration of Lots*
  (Amended the regulations for determining setbacks for corner lots.)
- *Article XXIII "General Provisions", Section 2307: Permitted Yard Encroachments*
  (Amended the reference to 'setback' to remove the word 'yard'.)
- *Article XXIII "General Provisions", Section 2311: Accessory Structures & Buildings; Section 2316: Storage of Vehicles; Section 2317: Exterior Swimming Pools & Hot Tubs*
  (Amended the references to 'yard' to remove the word 'setback'.)
- *Article XXIII "General Provisions", Section 2331: Landscaping, Fencing, Walls, Etc.*
  (Amended the regulations for fencing to clarify the words 'yard' and 'setback' and the regulations for corner lots.)

November 2002

- *Article II "Definitions"*
  (Amended the definitions dealing with adult foster care facilities.)
- *Article IV "R One Family Residential Districts", Section 400: Principal Uses Permitted*
  (Amended the regulations regarding adult foster care facilities.)
- *Articles VI - IX, and XX (RT, RM-1, RM-2, RM-3, H), Sections 600 - 900, 601 - 801 and 2000 respectively: Principal Uses Permitted*
  (Amended the regulations regarding adult foster care facilities.)
- *Articles IV, VI, VII, and XX (R-1, RT, RM-1, H), Sections 400, 600, 700 and 2000 respectively: Principal Uses Permitted*
  (Amended the regulations regarding home occupations and added the language to the H district.)

February 2003

- *Article XXIII "General Provisions", Section 2326: Off-Street Parking and Loading*
  (Added downtown parking overlay district)
- *Article VI "RT Two-Family Residential Districts", Section 601: Special Land Uses Permitted, #4*
  (Deleted home offices for physicians and other professionals)
- *Article VII "RM-1 Low Density Multiple Family Residential Districts", Section 701: Special Land Uses Permitted, #4 & #5*
  (Deleted home offices for physicians and other professionals and hospitals)
- *Article VIII "RM-2 Medium Density Multiple Family Residential Districts", Section 801: Special Land Uses Permitted, #2*
  (Deleted hospitals)
- *Article IX "RM-3 High Density Multiple Family Residential Districts", Section 901: Special Land Uses Permitted, #1*
  (Deleted hospitals)
- *Article XXIII "General Provisions", Section 2322: Day Care/Child Care Facilities*
  (Added daycares as uses in the MC district)
- *Article VII "RM-1": 'MC Medical Care Districts'*
  (Added new zoning district for medical care activities and facilities)
- *Article II "Definitions"*
  (Added definition of 'campus')
- *Article XXIII "General Provisions", Section 2334: Signs*
  (Added #10, 'Campus Signage')

April 2003

- *Article XXIII "General Provisions", Section 2326: Off-Street Parking and Loading, #4*
  (Removed #4, correction related to previous downtown parking overlay amendment.)

June 2003

- *Article XXIII "General Provisions", Section 2334: Signs*
  (Moved banners from 'Prohibited' signs to 'Exempt' signs, under certain conditions.)

July 2003

- *Article XXIII "General Provisions", Section 2307: Permitted Yard Encroachments, #2*
  (Clarified setback requirements for patios, porches and decks.)
- *Article II "Definitions"*
  (Added definitions of 'patio', 'porch' and 'deck'. Amended the definition of 'tourist home' and moved it to 'bed and breakfast facilities'.)
- *Article VII "RM-1 Low Density Multiple Family Residential Districts", Section 700: Principal Permitted Uses, #4*
  (Amended the requirements for tourist homes – bed and breakfast facilities.)

November 2003

- *Article II "Definitions"*
  (Added definitions of 'assisted living facility', 'hospice care', 'hospice care facility' and 'nursing home'. Amended definitions of 'commercial kennel', 'loading space', 'convalescent home', 'parking space' and 'street'. Deleted definition of 'parking exempt district'.

January 2004

- *Article XXIII "General Provisions", Section 2334: Signs*
  (Amended nonconforming sign maintenance language. Added Multi-suite signage requirements. Amended to regulate signage for lots with corner frontage, parallel frontage or water frontage.)

February 2004

- *Article XXIII "General Provisions", Section 2334: Signs*
  (Created provisions regarding the installation of "Community Promotional" banners on poles located on City owned property)

April 2004

- *Article XXIII "General Provisions", Section 2311: Accessory structures and Buildings*
  (Created provisions regarding permits)

May 2004

- *Article XI "B-2, Convenience and Comparison Business", Section 1101: Special Land Uses*
  (added Indoor Theaters as a Special Use)
- *Article XIII "B-4, General Business", Section 1301: Special Land Uses*
  (added Taxi/Limousine services under Special Uses)

August 2004

- *Article IV "R", Section 401: Special Land Uses Permitted, #6*
  (Added new language allowing previously existing commercial buildings to sell alcohol as a special use in R-1.)
- *Article VI "RT", Section 601: Special Land Uses Permitted, #9*
  (Added new language allowing previously existing commercial buildings to sell alcohol as a special use in RT.)
- *Article VII "RM-1", Section 701: Special Land Uses Permitted, #6*
  (Added new language allowing previously existing commercial buildings to sell alcohol as a special use in RM-1.)
- *Article VIII "RM-2", Section 801: Special Land Uses Permitted, #3*
  (Added new language allowing previously existing commercial buildings to sell alcohol as a special use in RM-2.)
- *Article VIX, "RM-3", Section 901: Special Land Uses Permitted, #2*
  (Added new language allowing previously existing commercial buildings to sell alcohol as a special use in RM-3.)

January 2005

- *Article XXIII "General Provisions", Section 2331: Landscaping, Fencing, Walls, Screens, and Lighting, #19*
  (Amended the outdoor light in all districts language to be "Outdoor lighting" from "Street lighting".)
- *Article IV, "R-1, One Family Residential Districts". Section 404: Area and Bulk Requirements, #7*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)

- *Article VI, "R-T, Two Family Residential Districts". Section 603: Area and Bulk Requirements, #7*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)

- *Article VII, "RM-1, Low Density Multiple-Family Residential Districts". Section 703: Area and Bulk Requirements, #9*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article VIII, "RM-2, Medium Density Multiple Family Residential Districts". Section 803: Area and Bulk Requirements, #9*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article IX, "RM-3, High Density Multiple Family Residential Districts". Section 903: Area and Bulk Requirements, #9*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article IX, "MC, Medical Care Districts". Section 907: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article X, "B-1, Limited Business Districts". Section 1003: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XI, "B-2, Convenience and Comparison Business Districts". Section 1103: Area and Bulk Requirements, #18*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XII, "B-3, Central Business Districts". Section 1203: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XIII, "B-4, General Business Districts". Section 1303: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XIII, "B-5, Governmental Service District". Section 1308: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XIV, "I-1, Light Industrial Districts". Section 1403: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XV, "I-2, General Industrial Districts". Section 1503: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XV, "WI-PUD, Waterfront Industrial Planned Unit Development Districts". Section 1507: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XVI, "OSC, Open Space Conservation Districts". Section 1603: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XVII, "OSR, Open Space Recreation Districts". Section 1703: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XVIII, "LR, Lakefront Recreation Districts". Section 1803: Area and Bulk Requirements, #8*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XIX, "WM, Waterfront Marine Districts". Section 1903: Area and Bulk Requirements, #9*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)
- *Article XX, "H, Heritage Districts". Section 2003: Area and Bulk Requirements, #6*
  (Amended the front setback requirement for a major street to be the same as a collector street, to match Table I)

March 2005

- *Article XXIII, "General Provisions". Section 2319: Residential Design Criteria, #9*
  (Amended the minimum storage space in multi-family dwelling units)

April 2005

- *Article XXIII, "General Provisions". Section 2334: Signs (#10)*
  (Amended the sign ordinance regarding campus signage)
- *Article II, "Definitions"*
  (Added definitions for 'Informational Sign')
- *Article II, "General Provisions"*
  (Amended definition of 'Setback-Front')

May 2005

- *Article XI, "B-2 Convenience and Comparison Business", Section 1101: Special Land Uses Permitted*
  (Added veterinary clinics, without outdoor kennels, as special use)

June 2005

- *Article XXIII, "General Provisions". Section 2334: Signs (#4)*
  (Amended the sign ordinance regarding "Prohibited Signs (all districts", added "A-frame" language)

August 2005

- *Article XXIII, "General Provisions". Section 2334: Signs (#5)*
  (Amended the sign ordinance regarding "Exempt Signs" to allow "One additional flag per premise".)

- *Article XXIII, "General Provisions". Section 2331: Landscaping, Fencing, Walls, Screens and Lighting (#16)*
  (Amended the ordinance regarding "Corner Clearance" to include "driveways".)

September 2005

- *Article II, "Definitions"*
  (Amended definitions for 'Hotel' and 'Motel')
- *Article XXV, "Zoning Board of Appeals". Section 2501*
  (Amended the language on 'Creation and Membership' to require 2/3 concurring vote of the members to grant a use variance.)

October 2005

- *Article XXIII, "General Provisions". Section 2334: Signs (#7)*
  (Amended the sign ordinance to add MC in 'Permitted Signs')
- *Article XI, "B-2 Convenience and Comparison Business", Section 1101: Special Land Uses Permitted* (Added 'Antique Shops', as special use)
- *Article II, "Definitions"*
  (Added definition for 'Antique Shop')

January 2006

- *Article XXIII, "General Provisions". Section 2311: Accessory Structures & Buildings (#9)*
  (Amended to prohibit 'Solid Fuel Heating Appliances')
- *Article II, "Definitions"*
  (Added definition for 'Solid Fuel Heating Appliance')

March 2006

- *Article XX, "H, Heritage Districts". Section 2000: Principal Uses Permitted (#5) and Section 2001, Special Land Uses Permitted (#7, 8, & 9)*
  (Amended to include additional principal uses for properties fronting on W. Western Avenue between 4th and 9th Streets and additional special uses for the entire H, Heritage District)

April 2006

- *Article XXIII, "General Provisions". Section 2334: Signs (#5)*
  (Amended to allow a building wrap for a building undergoing construction or major renovation)
- *Article II, "Definitions"* (Added definition for 'Building Wrap)
- *Article XXIII, "General Provisions". Section 2323: Flood Hazard Areas (#3)*
  (Amended regarding reference numbers for the Michigan Residential Code and Michigan Building Code)
- *Article XXII, "Nonconforming Lots, Uses, and Structures". Sections 2200, 2201, 2202, 2203)*
  (Amended and updated the entire Section with the exception of Section 2005)

June 2006

- *Article XXIII, "General Provisions". Section 2321: Wireless Communication Service Facilities (#2)* (Amended substitute 2301 Harvey Street for 1350 E. Keating Avenue as Wireless Communication Service Facility)

July 2006

- *Article XXIII, "General Provisions". Section 2334: Signs (#6, b)* (Amended to add wall signage for lawful institutional uses such as churches and schools)

August 2006

- *Article XXIII, "General Provisions". Section 2319:Residential Design Criteria (#2)*
  (Amended regarding roof pitch of additions to correspond to the principal structure)
- *Article XXIII, "General Provisions". Section 2334: Signs (#5,hb)*
  (Amended to clarify window signage allotments)

November 2006

- *Article XXIV, "Administration and Enforcement". Section 2405: Petitions, Fees (paragraph #2)* (Amended regarding Planning Commission notices in areas within 300 feet)
- *Article XXV, "Zoning Board of Appeals". Section 2503: Appeals, filing Procedure and Fees (paragraph #1)* (Amended regarding "aggrieved parties" language)
- *Article XXV, "Zoning Board of Appeals". Section 2504: Appeals, filing Hearings, Notices, and Adjournments (#1)* (Amended regarding newspaper notice for ZBA)
- *Amendment to the Preamble.* (Amended reference to the Michigan Zoning Enabling Act of 2006)
- *Article XII, "B-3, Central Business District". Section 1200: Principal Uses Permitted #9.*
  (Amended requirement for minimum lot size for residential uses as part of a building)
- *Article XII, (B-3, Central Business District). Section 1202: Special Land Uses Permitted, #7.*
  (Added multi-family residential uses as special use)
- *Article XXV, "Zoning Board of Appeals". Section 2501: Creation and Membership (paragraph 4)* (Amended regarding the removal of a ZBA member for malfeasance)

January 2007

- *Article XXV, "Zoning Board of Appeals". Section 2501: Creation and Membership (paragraph 1)* (Amended regarding the appointment of a successor ZBA member within one month)

- *Article XXV, "Zoning Board of Appeals". Section 2504: Appeals, filing Hearings, Notices, and Adjournments (#1)* (Amended regarding newspaper notice for ZBA, removed weekend & holiday language)

March 2007

- *Article XXIII, "General Provision"s, Section 2308: Outdoor Seating* (Amended allowing outdoor seating for restaurants, and similar uses)
- *Article XXIII, "General Provisions", Section 2319, (#22): Residential Design Criteria* *(Amended to require native vegetative ground cover.)*

May 2007

- *Article XX, "H, Heritage District".* (Amended to remove the H, Heritage District from the ordinance)
- *Article IV, "R, One Family Residential District, Section 401: Special Land Uses Permitted* *(Added bed and breakfast facilities as a special land use with conditions.)*
- *Article XII, "B-3, Central Business", Section 1200: Permitted Uses* (Amended to clarify retail sales in a B-3 zoning district)
- *Article XII, "B-3, Central Business", Section 1201: Special Land Uses Permitted* (Amended to allow additional special land uses)

June 2007

- *Article XXIII, "General Provisions", Section 2326:Off-Street Parking and Loading* (Amended to reduce the number of residential parking spaces in the Downtown Parking Overlay District)

July 2007

- *Article XXIII "General Provisions", Section 2331: Landscaping, Fencing, Walls, Screens, and Lighting, #20, d* (Amended to clarify "horizontal plane")

December 2007

- *Article XXIII "General Provisions", Section 2334: Signs, #5, o* (Amended to add "sidewalk signs" as exempt signs in all zoning districts)
- *Article XXIII "General Provisions", Section 2334: Signs, #4,io* (Amended to remove "A-frame signs" from "Prohibited signs")
- *Article II "Definitions",* (Amended to add a definition for "Sidewalk Signs")

February 2008

- *Article XIII "B-4, General Business", Section 1301: Special Land Uses Permitted, #14; Article XIV, "I-1, Light Industrial", Section 1400: Special Land Uses Permitted, #13; and Article XV, "I-2, General Industrial", Section 1500, #9* (Amended to remove reference to Section 2308)

May 2008

- *Article XXIII "B-4, General Business, Section 1301: Special Land Uses Permitted, #12",* (Amended to add "Craft Shops" as a special land use)

September 2008

- *Article IV"R, One Family Residential, Section 404: Area and Bulk Requirements, #6",* (Amended to allow homes in established Historic Districts to be up to 3 stories or 45 feet in height)

- *Table I "Heights, Area, and Yards", Table Notes, #10.* (Noted special accommodation for 3 stories in R-1.)
- *Article XIX "WM, Waterfront Marine Districts, Section 1901: Special Land Uses Permitted", (Amended to add "Museums" as a special land use)*

October 2008

- *Article XXIII, "General Provisions", Section 2308: Outdoor Seating* (Amended requiring 6 feet of paved area for pedestrian circulation)

January 2009

- *Article XXIII, "General Provisions", Section 2324, #1: Temporary Buildings, Structures, and Uses* (Amended to include "movie production" structures as permitted temporary buildings)

October 2009

- *Article XXIII, "General Provisions", Section 2311, #10: Temporary Buildings, Structures, and Uses* (Amended to include "wind turbines" as permitted temporary structures.)

- *Article XXIII, "General Provisions", Section 2310* (Amended to include "Wind Turbine Facilities (WTF)".)

- *Article II "Definitions",* (Amended to add definitions for "Wind Turbine" and "Wind Turbine Facility.)

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ZONING ORDINANCE
CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

TITLE

AN ORDINANCE, enacted under Act 207, Public Acts of 1921, as amended, governing the incorporated portions of the City of Muskegon, Muskegon County, Michigan, to regulate and restrict the location and use of buildings, structures and land, for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings, and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; and for said purposes to divide the Municipality into districts and establish boundaries thereof; provide for changes in the regulations, restrictions and boundaries of such districts; define certain terms used herein; provide for enforcement; establish a Board of Appeals; and impose penalties for the violation of this Ordinance.

PREAMBLE
[amended 12/06]

An ordinance enacted under the provisions and authority of the Public Acts of the State of Michigan to establish districts and zones within which the use of land and structures, the height, area, size, and location of buildings are regulated, and within which districts, zone regulations are established for the light and ventilation of such buildings, and within which districts, density of population is regulated; to provide for the acquisition by purchase, condemnation, or otherwise, of private property which does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this Ordinance; to provide for amendments, supplements, or changes hereto; all in accordance with an adopted Land Use Plan and Housing Plan as provided in Public Act 110, of 2006, the Municipal Planning Act, as amended, being the Michigan Zoning Enabling Act, M.C.L. 1253101, et seq. hereinafter referred to as the “Zoning Act”.

ENACTING CLAUSE

The City of Muskegon Ordains:

ARTICLE I - SHORT TITLE [Amended 3/98]

SECTION 100: SHORT TITLE:

This Ordinance shall be known and may be cited as the City of Muskegon Zoning Ordinance.

ARTICLE II – DEFINITIONS [Amended 3/98]

For the purposes of this Ordinance, certain terms, or words used herein shall be interpreted as follows:

1. All words used in the present tense shall include the future; all words in the singular number include the plural number, and all words in the plural number include the singular number; and the word "building" includes the word "structure", and the word "dwelling" includes "residence"; the word "person" includes "corporation", "association", as well as an "individual"; the word "shall" is mandatory and the word "may" is permissive; the word "lot" includes the words "plot" or "parcel"; the words "used" or "occupied" includes the words "intended", "designed" or "arranged to be used or occupied".

2. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.

3. Unless the context clearly indicates to the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:

    a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

    b. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.

    c. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

4. Terms not herein defined shall have the meaning customarily assigned to them in the Webster New Collegiate Dictionary.

5. Terms defined:

Abutting (lot or parcel): A lot or parcel which shares a common border with the subject lot or parcel.

Accessory Building: A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building. Does not include any building or structure designed to be used for human habitation.

Accessory Use: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Adult: A person eighteen (18) years of age or older or a person who is placed in an adult foster care family home or an adult foster care small group home pursuant to Section 5 (6) or (8) of 1973 PA 116, MCL 722.115. [amended 11/02]

Adult Bookstore: An establishment wherein more than twenty (20) percent of its stock in trade is comprised of books, magazines, and other publications having as dominant theme, matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in this Article, or an establishment with a segment or section devoted to the sale or display of such material.

Adult Foster Care Home or Facility: (See Foster Care Facilities - Adult) [amended 11/02]

Adult Motion Picture Theater: An enclosed building or outdoor area used for presenting filmed material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined in this Article for observation by patrons therein.

Agriculture: The carrying on of any agricultural activity, including the raising of trees, crops, plants, livestock, small animals or fowl.

Alley: Any dedicated public way affording a secondary means of access to abutting property.

Antique Shop; A retail establishment which sells objects having special value because of age, especially domestic items, or a piece of furniture or handicraft esteemed for its artistry, beauty or period of origin. [amended 10/05]

Apartment: A room or suite of rooms, including bath and kitchen facilities, in a two-family or multiple family dwelling intended and designed for use as a residence by a single family.

Apartment House: (See dwelling, multiple-family).

Amusement Center: Any establishment providing recreation or entertainment games for pay including, but not limited to, pinball, video games, pool, bowling, bingo, miniature golf, and other like activities involving active participation by the customer.

Asphalt batching facilities: A temporary facility for the production and manufacture of asphalt paving material.

Assisted Living Facility: A combination of housing, personalized supportive services and health care designed to meet the individual needs of persons who need help with the activities of daily living, but do not need the skilled medical care provided in a nursing home. The 'activities of daily living' are generally considered to include eating, bathing, dressing, getting to and using the bathroom, getting in or out of bed or chair, and mobility. [amended 11/03]

Automobile Repair:

1. Major automobile repair: General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers; collision service, including body frame, or fender straightening or repair; overall painting or paint shops; vehicle steam cleaning.

2. Minor automobile repair: Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks not exceeding one and one-half (1-1/2) ton capacity, but not including any operation specified under "major automobile repair".

Automobile or Trailer Sales Area: An open area other than a street used for the display, sale, or rental of new or used automobiles or other motor vehicles.

Automobile Wrecking: The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.

Base Flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement: That portion of a building which is partly or wholly below 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 a story (see Figure 2-1).

Bed & Breakfast Facilities: A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit in which transient guests are provided a sleeping room and board in return for payment and which does not provide separate cooking facilities to such guests. Tourist Homes and Bed & Breakfast Facilities are identical for the purposes of this ordinance.

Bedroom: A room used exclusively for sleeping.

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 to provide a transition between uses of differing intensity.

Block: The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or stream or corporate boundary lines of the Municipality.

Board of Appeals: The Zoning Board of Appeals of the City of Muskegon (as provided for in this Ordinance).
Buffer Zone: A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts. Landscaping, berms, fencing or open space can also be used to buffer noise, light and related impacts from abutting properties.

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. This definition includes but is not limited to: mobile homes, sheds, garages, greenhouses, and other principal or accessory structures.

Building Lines: A line which defines the minimum distance (as determined by the minimum front, side, or rear setback) which any building shall be located from a property line, existing street right-of-way line, or ordinary high water mark. [amended 10/02]

Building Official: Any individual established by the City of Muskegon to administer and enforce the provisions of all building codes as adopted and amended.

Building Permit: A permit issued by the city signifying that a proposed repair, reconstruction, or construction complies with the construction codes of the city and other ordinances.

Building, Principal: A building in which is conducted the main or principal use of the lot on which it is located.

Cabaret: Any place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, singers, comics, or similar entertainers.

Caliper: The diameter of a tree trunk four feet (4') from the ground.

Campus: The grounds of a school, college, university, hospital, or governmental entity, when said grounds contain more than one principal building and drive entrances (or access) onto more than one road. [amended 2/03]

Carport: A partially open structure of any construction type (including temporary carports), intended to shelter one or more vehicles. Such structures shall comply with all setback requirements applicable to garages. [amended 10/02]

Cellar: See definition of Basement.

Cemetery: Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

Certificate of Compliance: See certificate of occupancy.

Certificate of Occupancy: A document signed by the Building Inspector as a condition precedent to the commencement of a use after the construction/reconstruction of a structure or building which acknowledges that such use, structure or building complies with the provisions of this Ordinance.

Change of Use: A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance or in the Building Code, as amended.

Child Care Center or Day Care Center: A facility other than a private residence, receiving 1 or more minor children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center does not include a facility that provides care for less than 2 consecutive weeks, regardless of the number of hours or care per day. The facility is generally described as child care center, day care center, day nursery, nursery school, parent cooperative pre-school, play group, or drop-in center. Child care center or day care center does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such services are attending religious activities. [amended 8/97]

Child Day Care (Home): As defined in PA 116 of 1973, MCL 722.111, or successor amendments or acts, means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

City Commission: The governing body of the city as provided in Chapter IV of the City of Muskegon Charter.

Clearing (Land): The removal of vegetation from any site, parcel or lot except when land is cleared and cultivated for bona fide agricultural or garden use in a district permitting such use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

Clinic: An establishment where human patients who are not lodged over night are admitted for examination and treatment by a group of physicians, dentists, other health care professionals, or similar professions.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, hobbies, politics, or the like, but not operated for profit.

Cluster Subdivision (PUD): A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Colocation: The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider. [amended 12/97]

Condominium Project: Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978), as amended or a successor act.

Condominium Project (Subdivision): A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended, or successor act. 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 ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

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

Condominium Unit: Is defined as that portion of a condominium project or condominium subdivision project which is 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, 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.

Any "condominium unit" consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of a condominium subdivision project with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

Condominium Documents: The master deed, recorded pursuant to the Condominium Act, P.A. 59 of 1978 as amended, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner of the condominium.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Convalescent Home: An installation other than a hospital where two (2) or more persons afflicted with illness, injury or an infirmity are housed or lodged, and furnished with nursing care. [amended 11/03]

Correction Facility: A jail, prison, lock-up, or other building for the incarceration and residence of prisoners, offenders, persons arrested or persons committed by a court or other lawful authority.

Correctional Facility, Secured**:** A correctional facility which is constructed, altered or designed to prevent an inmate or resident from leaving at any time except under the authority of the committing court or authority.

Correctional Facility, Non-Secure**:** A correctional facility which is constructed, altered or designed to provide supervised residence and coming in and leaving at scheduled or supervised times or under supervised circumstances, of persons who are committed or assigned to the facility by a court or other lawful authority, such as a parole or probation department.

Craft Shop: Any business establishment which produces articles for sale on the premises of artistic quality or effect, or handmade workmanship. Examples include candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other associated activities.

dBA: A measurement for sound pressure or the relative loudness of sound in decibels as measured on a sound level meter using the A- weighting network. A decibel (dB) is a unit for measuring the volume of a sound equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (20) micronewtons per square meter. All sound measurements shall be made on a sound level meter which meets American National Standards Institute (ANSI) specifications S1.4-1983; S1.4A-1985 or successor documents for type I or type II equipment. The sound level meter must include a peak/hold circuit when measuring impulsive sound.

Deck: A floored structure that adjoins a house.

Development: The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use. Development also means any man-made change to improved or unimproved real estate, including but not limited to parking, fences, pools, signs, temporary uses, clearing of land, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Development Permit: A permit signifying compliance with the provisions of this Ordinance as to design, use, activity, height, setbacks, density, site planning, special use status, and/or planned unit development status.

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 on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, undevelopable lands (e.g., wetlands) and the area in rights-of-way for streets and roads (See Figure 2-6).

District: A portion of the incorporated area of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Drive-In: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Driveway: A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any requirements of the City or State of Michigan.

Dry Cleaning Plant: A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

Dwelling Unit: A building, or structure of portion thereof, designed for occupancy by one (1) family for residential purposes as a single housekeeping unit. In no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a dwelling.

Dwelling, One Family: A building designed exclusively for and occupied exclusively by one (1) family.

Dwelling, Two Family: A building designed exclusively for occupancy by two (2) families living independently of each other.

Dwelling, Multiple Family: A building, or portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

ECHO Housing Unit: A single, complete, self contained living unit created within an existing single family dwelling. It has its own kitchen, bath, living area, sleeping area, usually a separate entrance and is intended to provide accommodations for up to two (2) family members, as defined in the ordinance, of the family occupying the dwelling.

Easement: A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, driveways, roads, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage or access purposes.

Erected: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction excavation, fill, drainage, and the like, shall be considered a part of erection.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution system, collection, public communication, supply or disposal systems, including, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare.

Excavation: Any breaking of ground, except common household gardening and ground care.

Family: means one of the following:

> Family, Domestic: One or more persons living together and related by the bonds of blood, marriage, guardianship, foster relation, or adoption, and not more than two additional unrelated persons, with all such individuals being domiciled together as a single, domestic, housekeeping unit in the dwelling.
>
> Functional Family: The following persons shall be considered a functional family: Persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional family must be cooking and otherwise housekeeping as a single, nonprofit unit. At least one person in the functional family must be the record or equitable owner of the property or dwelling unit, or the primary tenant under a written lease having a least one year's duration. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, rooming house, rooming units, or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. The definition of functional family shall not include a living arrangement where there exists less than 225 square feet of living space in the dwelling unit per person residing therein, or insufficient off-street parking located entirely on the property for all vehicles used by the said residents.
>
> Applicability: Living arrangements which would otherwise comply with the description of a family shall not constitute a family if the said arrangements have occurred as a result of commercial or other advertising, or the offering of rooms for rent. Any financial arrangement, except a true sharing of the expenses of all the facilities in the single household unit shall be presumed to constitute renting a room or rooms, and to have resulted from the offering of rooms for rent or commercial or other advertising. Where rooms have been rented, or persons live in the house in response to commercial

advertising or the offering of rooms for rent, the living arrangement shall be presumed to constitute a rooming house and not a family. A person claiming the status of family shall have the burden of proof of each of the elements set forth in the relevant definitions of this ordinance.

Family Day Care Home: A private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, guardianship or adoption. Family day care home does not include a home that gives care to an unrelated minor child for less than 4 weeks during a calendar year [amended 8/99].

Fence: An accessory structure artificially constructed as a barrier and made of wood, metal, stone, brick, or any manufactured materials erected for the enclosure of yard areas.

Fence, Obscuring: A barrier of at least five (5) feet in height and located so as to serve as a screen or barrier providing at least eighty (80) percent visual block.

Filling: Filling shall mean the depositing or dumping of any matter onto or into the ground, except common household gardening and general ground care.

Flood or Flooding: A general and temporary complete inundation of normally dry land area from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Area: That area subject to flooding, on the average of at least once in every hundred years as established by the Federal Emergency Management Agency.

Flood Hazard Boundary Map (FHBM): An official map of the community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

Flood Insurance Rate Map (FIRM): An official map of the community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study: The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

Floor Area, Residential: The area in a dwelling unit included in the determination of occupancy restrictions. It includes the sum of floor areas of bedrooms, and common living areas. The floor area of storage areas and closet, basements without a second egress, attached garages, breezeways, and enclosed and unenclosed porches shall be excluded.

Floor Area, Usable (for the purpose of computing parking): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area". Measurement of usable floor area shall be the product of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Footing: That portion of the foundation of a structure which spreads and transmits loads directly to the soil or the pilings.

Foster Care Facilities - Adult: [per State Law] [amended 11/02]

Adult Foster Care Facility: A governmental or nongovernmental establishment that provides foster care to adults, subject to the Michigan Foster Care Facility Licensing Act, Act 218 of 1979.

Adult Foster Care Family Home: A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

Adult Foster Care Small Group Home: An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.

Adult Foster Care Large Group Home: An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

Adult Foster Care Congregate Facility: An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

Foster Care Facilities - Family: [amended 11/02]

Foster Family Home: A private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood, marriage, guardianship or adoption, are given care and supervision for 24 hours a day, or 4 or more days a week, of 2 or more consecutive weeks, unattended by a parent or legal guardian.

Foster Family Group Home: A private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood, marriage, guardianship or adoption, are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

Adult Foster Family Home: Any facility licensed by the State to provide foster care.

Fraternity House or Sorority House: A dwelling maintained exclusively for members affiliated with an academic or professional college or university, or any other recognized institution of higher learning.

Freight Transportation: Establishments primarily engaged in the transportation of freight as defined by standard industrial codes 4424 and 4432. [amended 4/00]

Garage, Private: An accessory building or portion of a main building designed or used solely for the storage of motor driven vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage, Service: Any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Gasoline, Service Station (Automobile Service Station): A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

Golf Course/Country Club: Any golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as a principal use.

Grade: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

Greenbelt: A strip of land of definite width and location reserved for the planting of shrubs, trees, or plants to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

Group Day Care Home: A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, guardianship or adoption. Group day care home does not include a home that gives care to an unrelated minor child for less than 4 weeks during a calendar year [amended 8/99].

Gun Club: Any organization whether operated for profit or not, and whether public or private, which caters to or allows the use of firearms.

Height: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). The measurement of height of an

accessory building or structure shall be determined as the vertical distance from the average finished grade to the midpoint of the roof surface.

Home Occupation: An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Hospice Care: The combination of active and compassionate therapies intended to comfort and support terminally ill patients (and their families) at the end of a person's life. [amended 11/03]

Hospice Care Facility: A physical structure operated for the purpose of providing more than one hospice patients with hospice care. [amended 11/03]

Hospital: A building, structure or installation in which mentally ill, or sick or injured persons are given medical or surgical treatment and operating under license by the Health Department and the State of Michigan, including such related facilities as laboratories, out-patient departments, central service facilities, and staff offices.

Hotel: A building or part of a building, with a common entrance or entrances, in which lodging is provided and offered to the public for compensation and which is open to transient guests (as distinguished from a boarding house or lodging house, apartment hotel, fraternity or sorority house), and in which one or more of the following services are offered:

1. Maid service.

2. Furnishing of linen.

3. Telephone, secretarial, or desk service.

4. Room service.

A restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms may be located in the same building as a hotel.[amended 9/05]

Housekeeping unit: A dwelling unit which provides common living quarters including cooking, eating, sanitation facilities, living areas and separate bedrooms.

Junk: For the purpose of this Ordinance the term junk shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing or scrap metals or other trash, solid waste, refuse or scrap materials that are damaged or deteriorated, except if in a completely enclosed building. It includes any inoperable or abandoned motor vehicle which is not licensed for use upon the highways of the State of Michigan for a period in excess of thirty (30) days and shall also include whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of thirty (30) days and which is not in a completely enclosed building.

Junk Yard (Salvage Yard): An open area where salvage, used or second hand material, is bought and sold, exchanged, stored, baled, packed, dissembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

Kennel, Commercial: Any premises on which more than three dogs or more than four cats, older than four (4) months old, are kept or any premises which offers cats or dogs for sale on a reoccurring basis (more than once per year). [amended 11/03]

Landfill: Any disposal area or tract of land, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain solid waste as herein defined.

Lattice Tower: A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure which often tapers from the foundation to the top.

Lightering: A barge used to load or unload ships anchored in a harbor. [amended 4/00]

Livestock: Horses, cattle, sheep, goats, and other useful animals normally kept or raised on a farm or range.

Loading Space: A minimum ten by fifty foot (10' x 50') off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials. [amended 11/03]

Lot Coverage: The part or percent of the lot occupied by buildings and structures including accessory buildings or structures.

Lot: Land described in a recorded plat or condominium unit in or condominium project, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on a private road approved by the City (see Figure 2-6).

> Lot Area, Gross: The area contained within the lot lines or property boundary including street right-of-way, floodplains, wetlands, and waterbodies (see Figure 2-6).
>
> Lot Area, Net: The total area of a horizontal plane within the lot lines of a lot, exclusive of street right-of-way, floodplains, wetlands, waterbodies, any public street right-of-way or access easement abutting any side of the lot (see Figure 2-6).
>
> Lot, Corner: A lot which has at least two contiguous sides abutting upon a public street for their full length (see Figure 2-9).

Lot, Depth of: The average distance from the front lot line (i.e., road frontage) of the lot to its opposite rear lot line measured in the general direction of the side lines of the lot (see Figure 2-5).

Lot, Flag: A lot 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 and does not meet the frontage requirements of the district in which it is located (see Figure 2-7).

Lot Frontage: The unbroken length of the front lot line which is contiguous to a public street or private road.

Lot, Interior: A lot other than a corner lot which, with the exception of a "through lot", has only one lot line fronting on a street (see Figure 2-7).

Lot Lines: The lines bounding a lot or parcel (see Figure 2-7). [amended 10/02]

Lot Line, Front: The line(s) separating the lot from any street right-of-way, private road or other access easement. Such line shall be continuous at least a sufficient length to conform with the minimum lot width requirement of the district.

Front Lot Line, Principal: For a corner lot, the front lot line adjacent to the street which the front door of the home faces (or is proposed to face).

Front Lot Line, Secondary: For a corner lot, the front lot line which is not considered to be the principal front lot line.

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 (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. In the case of a corner lot, the lot line opposite the principal front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by city officials, and which has not been combined in use with another parcel or lot, which lawfully existed prior to the enactment of this or a zoning ordinance previously in effect .

Lot, Through: An interior lot having frontage on two (2) more or less parallel streets (see Figure 2-4).

Lot Width: The horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines.

Marina: A boat basin which contains docks, boat sales, on shore storage, repair facilities, and stores intended for sale primarily for the use of the marina patrons.

Marine Cargo Handling: Establishments primarily engaged in activities directly related to marine cargo handling from the time cargo, for or from a vessel, arrives at shipside, dock, pier, terminal, staging area, or in transit area until cargo loading or unloading operations are completed. [amended 4/00]

Master Deed: The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan and all other documents required by law to be attached or incorporated.

Master Land Use Plan: The statement of policy by the City Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner creating desirable community living conditions.

Mezzanine: An intermediate floor in any story occupying not more than one-third (1/3) of the floor area of such story.

Mini Storage (Warehouse) Facilities: A building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are not used on a daily basis.

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. The term mobile home shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.

Mobile Home Park: A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, nontransient basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

Modular (Pre-Manufactured) Housing Unit: A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported to a site where they are assembled on a permanent foundation to form a dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Motel: A building or group of buildings, whether detached or in connecting units, which shall provide for overnight or resort lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle. The term motel shall include buildings designated as hotels, auto courts, tourist courts, motor courts, motor hotel, and similar appellations which are designed as integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple family dwelling.

Municipal Sewage Treatment Facility: A sewage treatment system owned by a township, charter township, village, city, county, the State of Michigan, or an authority or commission comprised of such governmental units.

Municipal Water Supply: A water supply system owned by a township, charter township, village, city, county, the State of Michigan, or an authority or commission comprised of such governmental units.

Municipality: The City of Muskegon.

Natural Features: Natural features shall include soils, wetlands, woodlots, landmark and specimen trees, overgrown fence rows, floodplains, water bodies, topography, vegetative cover, and geologic formations.

New Construction: Structures or development for which the "start of construction" commenced on or after the effective date of adoption of this Ordinance.

Nonconforming Structure: A structure or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance in the district in which it is located.

Nonconforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nonconforming Lot of Record (Substandard Lot): A lot lawfully existing at the effective date of this zoning ordinance or a successor or amending ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

Nursery, Plant Materials: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

Nursing Home: See Convalescent Home. [amended 11/03]

Occupied: The word "occupied" includes arranged, designed, built, altered, converted to, rented, leased, or intended to be occupied.

Open Front Store: A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "Open Front Store" shall not include automobile repair stations or automobile service stations.

Open Space, Common: Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

Open Space Development: A type of residential development option permitted in this Ordinance, and administered as a planned unit development, which is based upon a portion of a parcel set aside as permanent open space with the balance of the parcel used at higher densities than would otherwise be permitted without the open space. See also “clustered subdivision”.

Open Space, Dedicated: Common open space dedicated as a permanent recorded easement.

Open Space, Usable: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation.

Ordinary High Water Mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

Owner: The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

Park: A parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

Parking Area, Off-Street: 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 (3) or more automobiles or trucks.

Parking Space: A minimum eight by eighteen foot (8’ x18’) area of land provided for vehicles off of a street exclusive of drives, aisles, or entrances giving access thereto, which is fully accessible for parking of permitted vehicles. [amended 11/03]

Patio: An uncovered, paved outside area used for several purposes including leisure, social gatherings, etc. Patios may be attached to a home or a separate area; they may be made from concrete, paving bricks or created from other similar products.

Planning Commission: The Planning Commission of the City of Muskegon as provided in Act 285 of 1931, as amended, and appointed pursuant to the City Code of Ordinances.

Planned Unit Development: A tract of land or lot, developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, commercial and industrial uses, common open space and other land uses as provided in this Ordinance.

Plat: A map of a subdivision of land recorded with the Register of Deeds pursuant to the Subdivision Control Act of 1967 or a prior statute.

Porch: A covered entrance to a building, projecting from the wall.

Poultry: Domestic fowl such as chickens, turkeys, ducks, and geese.

Principal Building: The main building on a lot in which the principal use exists or is served by.

Principal Use: The main use to which the premises are devoted and the main purpose for which the premises exist.

Private Road: A private way or means of approach which meets the requirements of this Ordinance to provide access to two (2) or more abutting lots, and which is constructed and maintained by the owner or owners and is not dedicated for general public use.

Prohibited Use: A use of land which is not explicitly permitted within a particular zoning district.

Public Water Course: A stream or creek which may or may not be serving as a drain as defined by Act 40 of Public Acts of 1956, as amended, being Sections 280.1 to 280.623 of the Compiled Laws of 1948 or successor act: or any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

Public Service: Public service facilities within the content of this Ordinance shall include such uses and services as election polling places, pumping stations, fire halls, police stations, public health activities, and similar uses including essential services.

Public Utility: A person, firm, or corporation, municipal department, board, or commission duly authorized to furnish, and furnishing under Federal, State, County, or Municipal regulations to the public: gas, steam, electricity, sewage, disposal, communication, transportation, or water services.

Replacement Cost: Cost of replacing a structure or building at current costs at the time of the loss, identical to the one that was destroyed, without application of depreciation.

Room: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area.

Recreational Vehicle Park: All lands and structures which are owned and operated by private individuals, a business or corporation which are predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

Recreational 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 (Act 96, Michigan Public Acts of 1987, as amended or successor acts).

Repair: The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

Restoration: The reconstruction or replication of an existing building's original architectural features.

Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Rooming House: A dwelling structure having single rooms for rent and having no common areas except common places for the taking of meals, or baths, or laundry facilities, and not defined as a tourist home, or state licensed residential facility.

Rubbish: See Solid Waste.

Scrap Metal Processor: Any person, firm, or corporation who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or non-ferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel, or non-ferrous metallic scrap for remelting purposes.

School: An educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan; but excluding schools involving outside traffic or commercial activity.

Screen: A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.

Secondary containment: A device and/or measures taken to prevent regulated substances that can be spilled at a loading or unloading facility from entering a public sewer, groundwater, surface water, subsurface soils or the impoundment area for the tanks.

Setback: The minimum unoccupied distance between the lot line and the principal and accessory buildings, as required herein. [amended 10/02]

Setback, Front: Minimum unoccupied distance, extending the full lot width, between the principal building and any lot line abutting a public street or private road.

Setback, Rear: The minimum required unoccupied distance, extending the full lot width, between the principal and/or accessory buildings and the lot line opposite the front lot line, or in the case of a corner lot, the setback opposite the principal front lot line.

Setback, Side: The minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line. In the case of a corner lot, the setback opposite the secondary front lot line.

Sign: Sign shall mean and include every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained to the out of doors in view of the general public for identification, advertisement or promotion of the interests of any person. This definition shall include billboard signs, signs painted directly on walls of structures, and temporary signs.

1. Area: The total square footage of a sign face exposed to public view.

2. Awning Sign: A sign which is part of, hung from the underside of, or attached to, a marquee, canopy, or other covered structure projecting from and supported by a building and does not project horizontally beyond or vertically above said marquee, canopy, or covered structure. (see Figure 2-8).

3. Banner: An unsecure, sign made of natural, flexible, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flag.

4. Billboard: A sign structure which exceeds one hundred (100) square feet advertising a service, commodity or establishment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, also known as "off-premise sign" or "outdoor advertising structure".

5. Building Wrap – A large “banner-type” display typically composed of pictorial and text elements which is constructed of reinforced vinyl or porous mesh-like material and is temporarily attached to one or more exterior walls of a building. [amended 3/06]

6. Bulletin Board: A sign which identifies an institution or organization on the premises where it is located and which contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.

7. Directional: Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance" and "exit" (see Figure 2-8).

8. Double-Face Sign: A sign, both sides of which are visible and used as signs. A "V" type sign shall be considered a double-face sign provided the least angle of intersection does not exceed ninety (90) degrees.

9. Electronic Message Board: A sign on which copy changes automatically on a lampbank or through mechanical means, e.g., electrical or electronic time and temperature units [amended 8/98].

10. Flag: A sign made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem.

11. Flashing Sign: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times while in use.

12. Free-Standing: Any non-movable sign not affixed to a building (see Figure 2-8).

13. Height: The height of sign shall mean the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.

14. Illuminated Sign: Any sign designed to give forth artificial light, or designed to reflect any such light given from any source which is intended to cause such light or reflection.

15. Informational Sign: A single or double-faced sign not exceeding six (6) square feet in surface area, intended primarily for the convenience of the public or to ensure the orderly operation of the site, including but not limited to signs designating restrooms, address numbers, hours of operations, public telephone, and instructions regarding parking. [amended 4/05]

16. Monument sign: A sign affixed to the ground with a full footing where the display surface is less than two (2) feet above the grade to the bottom of the display area (see Figure 2-8).

17. Name Plate: A two square foot sign located on premises, giving the name or address, or both, of the owner or occupant of a building or premises.

18. Off-Premise Sign: A sign located on a different parcel of land or lot or premise than where the business, product, service, event, or person or subject is being advertised.

19. On-Premise: A sign located on the parcel of land or lot advertising a business, product, service, event, person or subject being offered on said parcel of land or lot.

20. Pennant: A small, often triangular, tapering flag used in multitudes as a device to call attention to a land use or activity.

21. Pole Sign: An advertising structure which is supported by one or more uprights in permanent footings with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign (see Figure 2-8).

22. Portable (Temporary): A sign which is not permanently affixed to a building (wall sign), structure (pole sign) or the ground (monument sign). Portable or temporary signs include without limitation signs supported on wooden posts, mobile chassis, motor vehicle, banners, flags, and pennants.

23. Projecting (Braquet): A sign which is attached directly to and perpendicular with a building wall and extends more than twelve (12) inches from the face of said wall (See Figure 2-8).

24. Residential Entranceway Sign: A permanent structure including but not limited to walls, columns and gates, marking entrances to single-family subdivisions or multiple housing projects by name, symbol, or otherwise.

25. Real Estate Sign: A sign advertising that the premises on which it is located is for sale, lease, or rent.

26. Roof: A sign which is erected, constructed and maintained upon or above the roof, or parapet wall of a building which is wholly or partially supported by said building (see Figure 2-8).

27. Setback: The minimum linear distance as measured from the road right-of-way line to the nearest part of the sign or advertising structure.

28. Sidewalk Sign**:** A temporary sign placed on the sidewalk or private property adjacent to the commercial activity it advertises, that is of either an A-frame or T design and may be no larger than 10 square feet in display area. [amended 12/07]

29. Window: A sign that is applied or attached to the exterior or interior of a window or located in such a manner within a building that it can be seen from the exterior of the structure through a window (see Figure 2-8).

30. Wall: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from said building or structure (see Figure 2-8).

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a street. Used in this ordinance as a reference for unobstructed street visibility.

Solid Fuel Heating Appliance: Heating appliances that are intended to burn solid fuels, such as wood, coal, or any other biomass fuel. Solid fuel Heating Appliance does not include sold fuel fired cooking appliances. [amended 1/06]

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 Ordinance. Approval for establishing a special land use is indicated by issuance of a Special Use Permit.

Specified Anatomical Areas: For the purposes of this Ordinance shall be defined as follows:

1. Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttock, and (c) female breast below a point immediately above the top of the areola.

2. Human male genitals in a discernibly turgid state, even if completely opaquely covered.

Specified Sexual Activities: For the purposes of this Ordinance shall be defined a follows:

1. Human genitals in a state of sexual stimulation or arousal.

2. Acts of human masturbation, sexual intercourse, or sodomy.

3. Fondling or other erotic touching or human genitals, pubic region, buttock, or female breast.

Stable: A structure for the housing of domestic animals. For the purpose of determining the permitted capacity of a stable, one (1) horse shall be considered the equivalent of one (1) self-propelled vehicle.

Stevedore: One whose work is loading or unloading ships. [amended 4/00]

Site Plan: A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A plot plan depicts a subset of the information required by this Ordinance for a site plan.

Solid Waste: Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludges, and solid commercial and solid industrial waste, animal waste,

but does not include human body waste, liquid waste regulated by statute, ferrous or nonferrous scrap immediately directed to a scrap metal processor or to a reuser of ferrous or nonferrous products, and slag or slag products immediately directed to a slag processor or to a reuser of slag or slag products.

Stop Work Order: An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

Storage Yard: Any exterior area used for the placement of any materials, products or equipment. Parking areas as regulated by Section 2327 shall not be considered a storage yard.

Story: That part of a building, except a mezzanine as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the level of the adjoining ground (See Figure 2-1).

Story, Half: An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7' 6").

Street: A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property. [amended 11/03]

> Expressway: Those streets designed for high speed, high volume traffic, with full or partially controlled access, some grade crossings but no driveway connections (U.S. 31).
>
> Arterial Street: Those streets of considerable continuity which are used or primarily for fast or heavy traffic (Seaway Dr., M-46, Shoreline Dr.).
>
> Major Street: Those streets in the City that are classified as primary hard-surfaced roads (Getty St., Laketon Ave., Henry St. (south of Laketon Ave.), Sherman Blvd.)
>
> Collector Street: Those streets used to carry traffic from minor streets to arterial streets classified by the City (Hackley Ave., Barclay St., Lakeshore Dr. (south of Laketon Ave.), Marquette Ave., Wood St.).
>
> Minor Street: A street, which is intended primarily for access, for abutting properties (All streets except those named above).

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Satellite dishes over 24 inches in diameter and antennas shall be considered as structures.

Structural Alterations: Any change in the supporting members of a building such as the bearing walls, columns, beams or girders, or any change in the dimensions or configuration of the roof, exterior walls or foundation.

Swimming Pool: Means any structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing.

Tents: A portable shelter of canvas, course cloth, or similar material supported by one (1) or more poles, but not including those used solely for children's recreational purposes or noncommercial purposes.

Travel Trailer: See Recreational Vehicle.

Travel Trailer Park: See Recreational Vehicle Park.

Underground Storage Tank: A tank or combination of tanks, including underground pipes connected to the tank or tanks or underground ancillary equipment containment systems, if any, which is, was, or may have been, used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to the tank or tanks is 10% or more beneath the surface of the ground.

Trailer (Utility): A vehicle that is not self propelled which is licensed by the State of Michigan and used for transporting materials in tow with a motor vehicle.

Use: The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Utility Room: A room used primarily for storage, for housing a heating unit, or for laundry purposes.

Variance, Use: A modification of the literal provisions of the zoning ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the ordinance would cause unnecessary hardship for the property owner due to circumstances unique to the property. A use variance permits a use of land that is otherwise not allowed in that district. [amended 11/00]

Variance, Nonuse or Dimensional: A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulty owing to circumstances unique to the individual property. The crucial points of a nonuse or dimensional variance are practical difficulty and unique circumstances applying to the property. A nonuse or dimensional variance is not justified unless both elements are present in the case. [amended 11/00]

Walls, Obscuring: An obscuring barrier (not associated with a building) of definite height and location constructed of wood, masonry, concrete, or similar material, and which provides one hundred (100) percent opacity.

Wild Animal: Any living member of the animal kingdom, including those born or raised in captivity, except the following:

1. Domestic dogs (excluding hybrids with wolves, coyotes, or jackals)

2. Domestic cats (excluding hybrids with ocelots or margays)

3. Ferrets

4. Rodents

5. Caged, nonvenomous snakes

6. Captive-bred species of common cage birds.

Wind Turbine: A rotating machine which converts the kinetic energy in wind into mechanical energy. For the purpose of this ordinance, an anemometer is not classified as a wind turbine. [amended 10/09]

Wind Turbine Facility: An electric generating facility, whose main purpose is to supply electricity to sell to the grid, consisting of more than one wind turbine and other accessory structures and buildings. [amended 10/09]

Wireless Communication Antenna (WCA): Any antenna used for the transmission or reception of wireless communication signals excluding those used exclusively for dispatch communications by public emergency agencies, amateur radio antennas, satellite antennas, those which receive video programming services via multipoint distribution services which are one meter (39 inches) or less in diameter and those which receive television broadcast signals. [amended 12/97]

Wireless Communication Equipment Shelter: The structure, shelter, cabinet or vault in which the electronic receiving and relay equipment necessary for processing wireless telecommunications is housed together with necessary related equipment such as radios, cable, conduit, connectors, air conditioning units and emergency generators. [amended 12/97]

Wireless Communication Facilities (WCF): All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to radio towers, television towers, telephone devices and exchanges, micro-wave towers, telephone transmission equipment building and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, amateur radio facilities, and satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition. [amended 12/97]

Wireless Communication Support Facilities (WCSF): A monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas. [amended 12/97]

Yards: The open spaces on the same lot with a main building, unoccupied and unobscured from the ground upward except as otherwise provided in this Ordinance, and as defined herein. [amended 10/02]

> Front Yard: An open unoccupied space extending the full width of the lot, the depth of which is the horizontal distance between the front lot line and the nearest point of the building. In the case of lots abutting lakes, rivers, and canals, the front yard shall be that side of the lot or parcel on the street side.
>
> Rear Yard: A space extending the full width of the lot the depth of which is the horizontal distance between the rear lot line and the nearest point of the main building.
>
> Side Yard: An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the distance from the nearest point of the main building.

Zoning Administrator: The person appointed by the City to administer and enforce the provisions of this Ordinance.

SECTION 201: DIAGRAMS, GRAPHICS AND ILLUSTRATIONS PERTINENT TO THE DEFINITIONS IN THIS ORDINANCE:

FIGURE 2-1

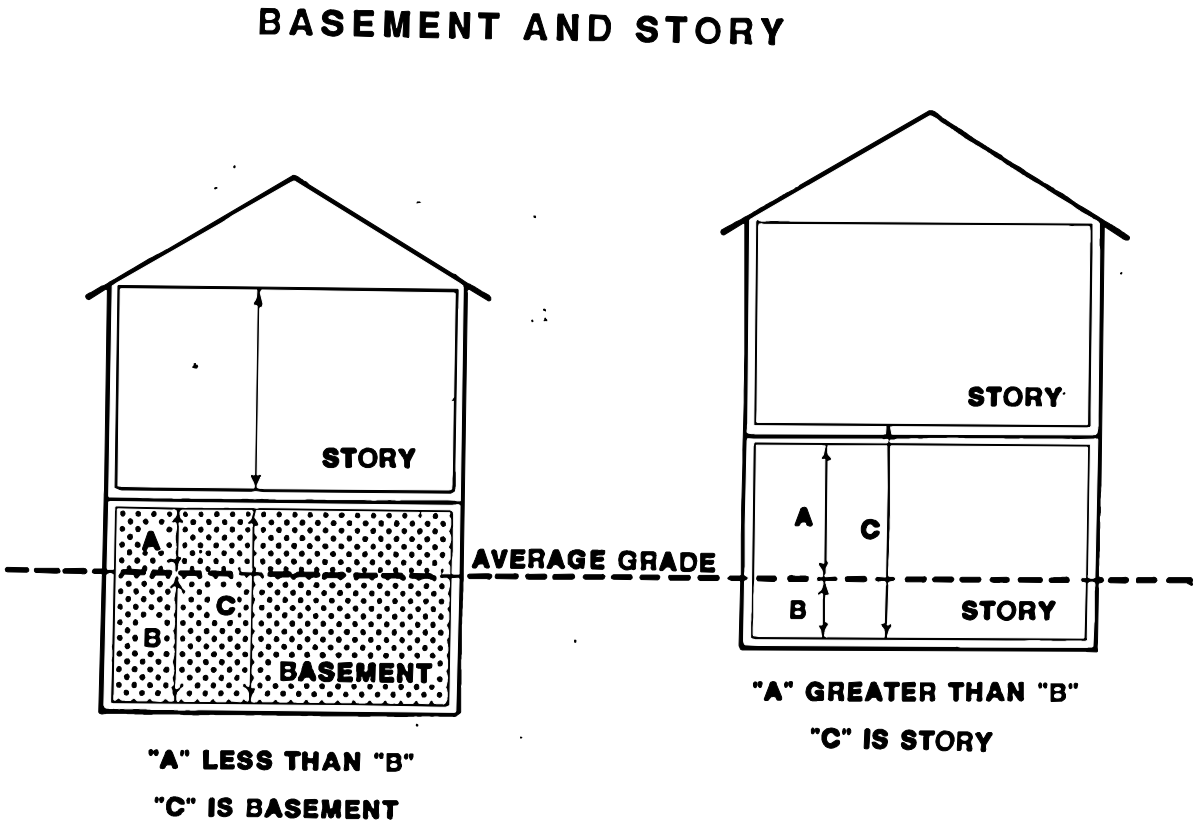


FIGURE 2-2

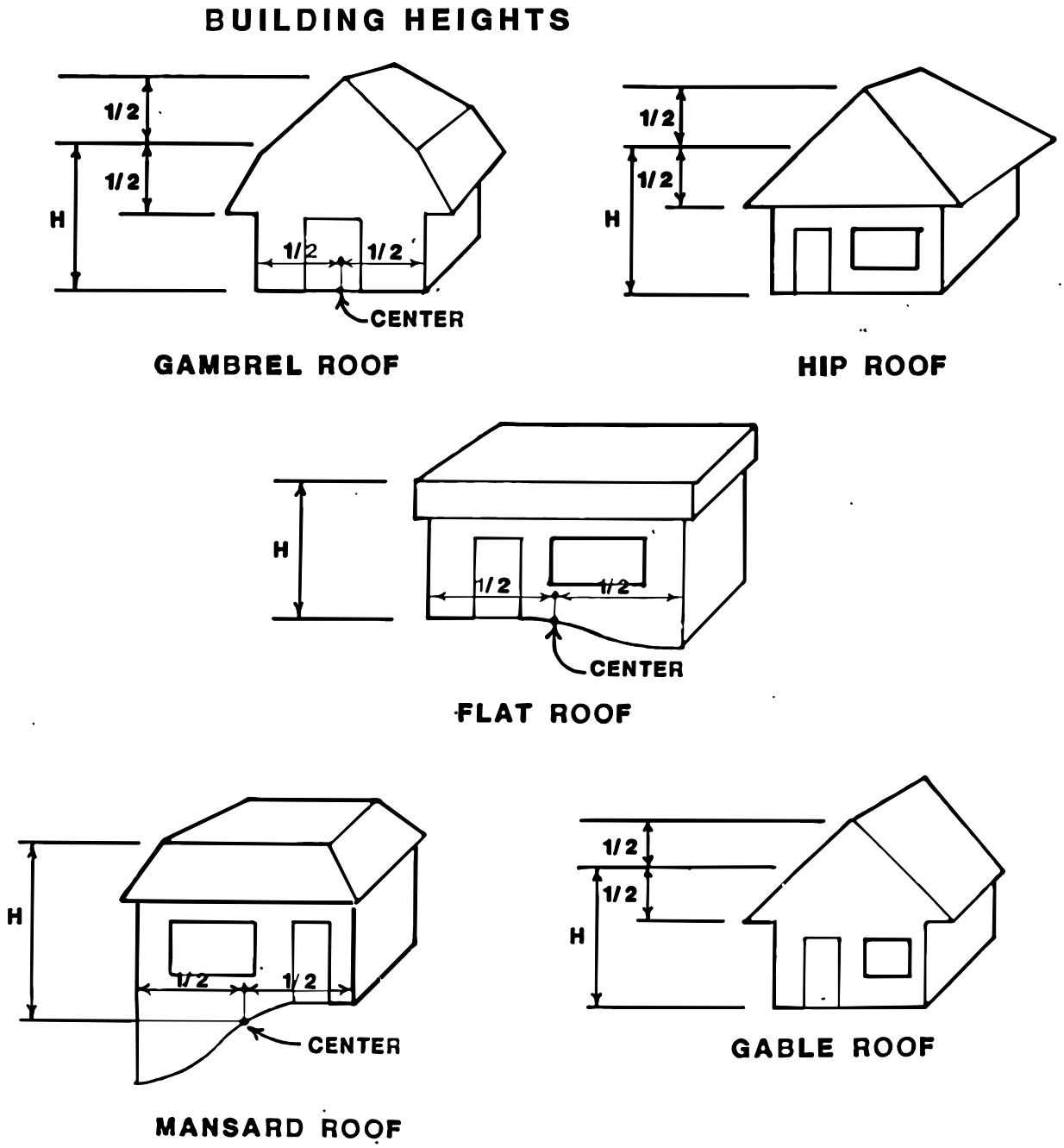

BUILDING HEIGHTS
1/2
1/2
H
1/2
1/2
CENTER
GAMBREL ROOF
1/2
1/2
H
HIP ROOF
H
1/2
1/2
CENTER
FLAT ROOF
H
1/2
1/2
CENTER
MANSARD ROOF
1/2
1/2
H
GABLE ROOF

FIGURE 2-3

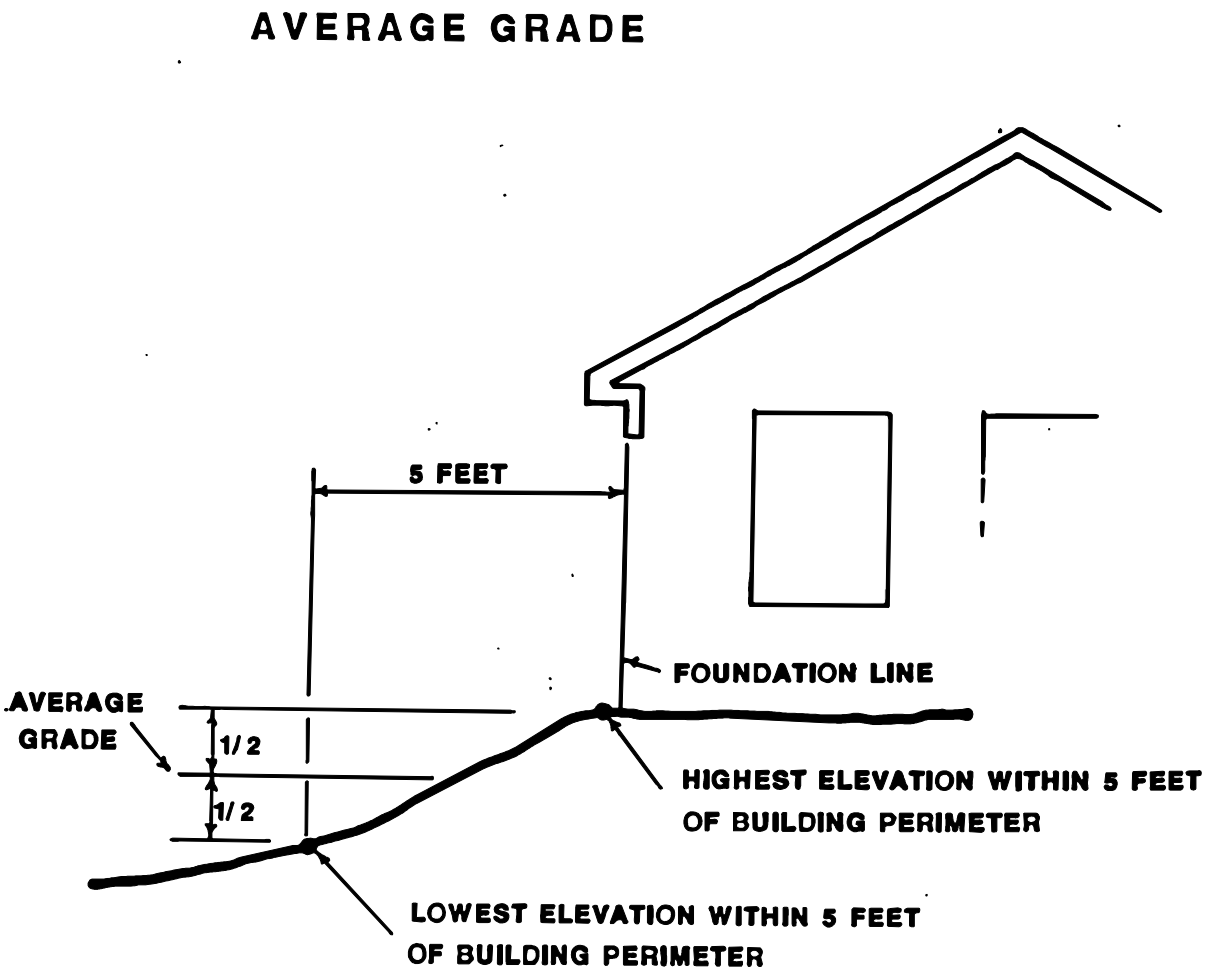

AVERAGE GRADE
5 FEET
FOUNDATION LINE
AVERAGE GRADE
1/2
1/2
HIGHEST ELEVATION WITHIN 5 FEET OF BUILDING PERIMETER
LOWEST ELEVATION WITHIN 5 FEET OF BUILDING PERIMETER

FIGURE 2-4

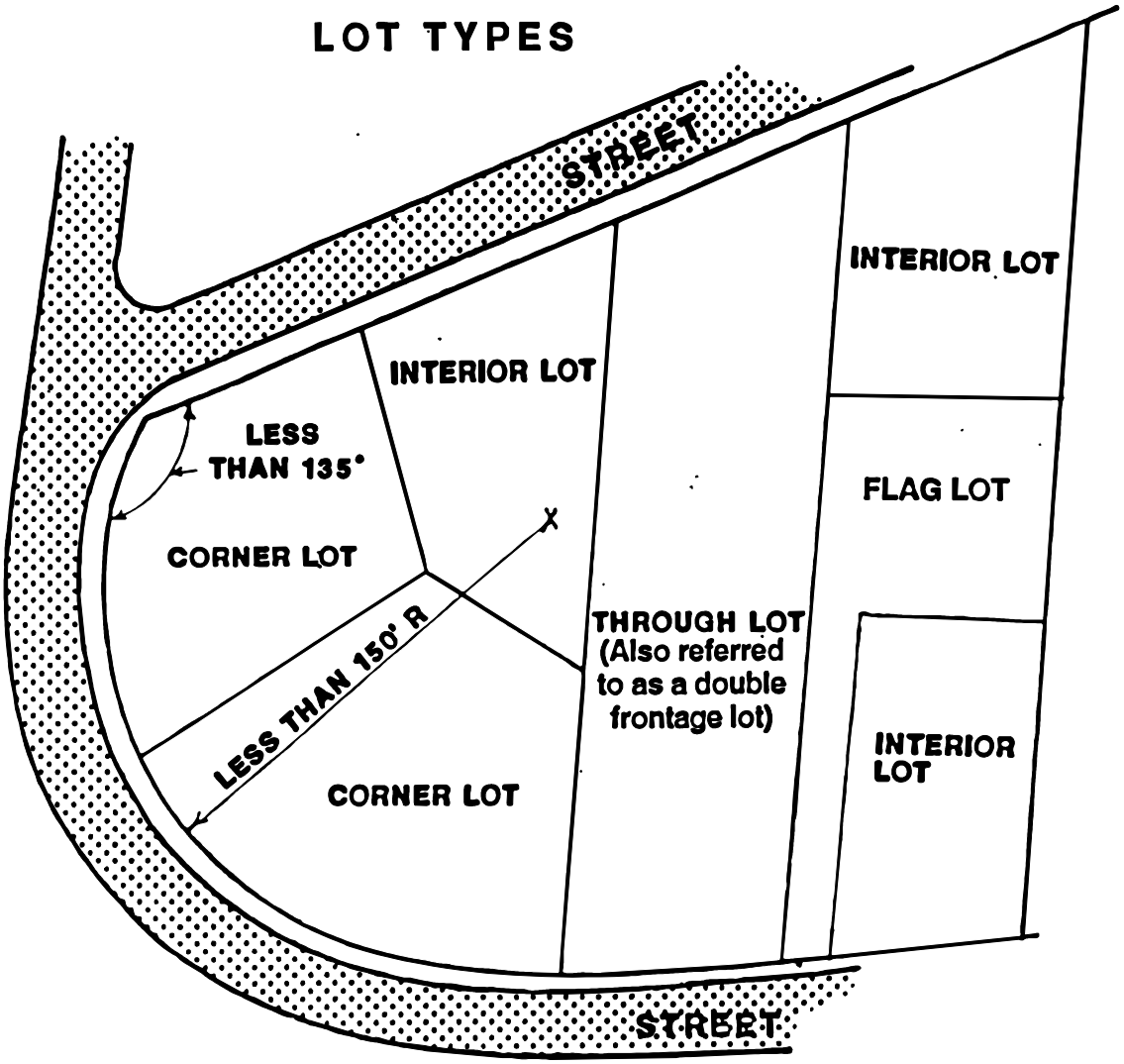

LOT TYPES
STREET
INTERIOR LOT
INTERIOR LOT
LESS THAN 135°
FLAG LOT
CORNER LOT
THROUGH LOT (Also referred to as a double frontage lot)
LESS THAN 150' R
INTERIOR LOT
CORNER LOT
STREET

FIGURE 2-5

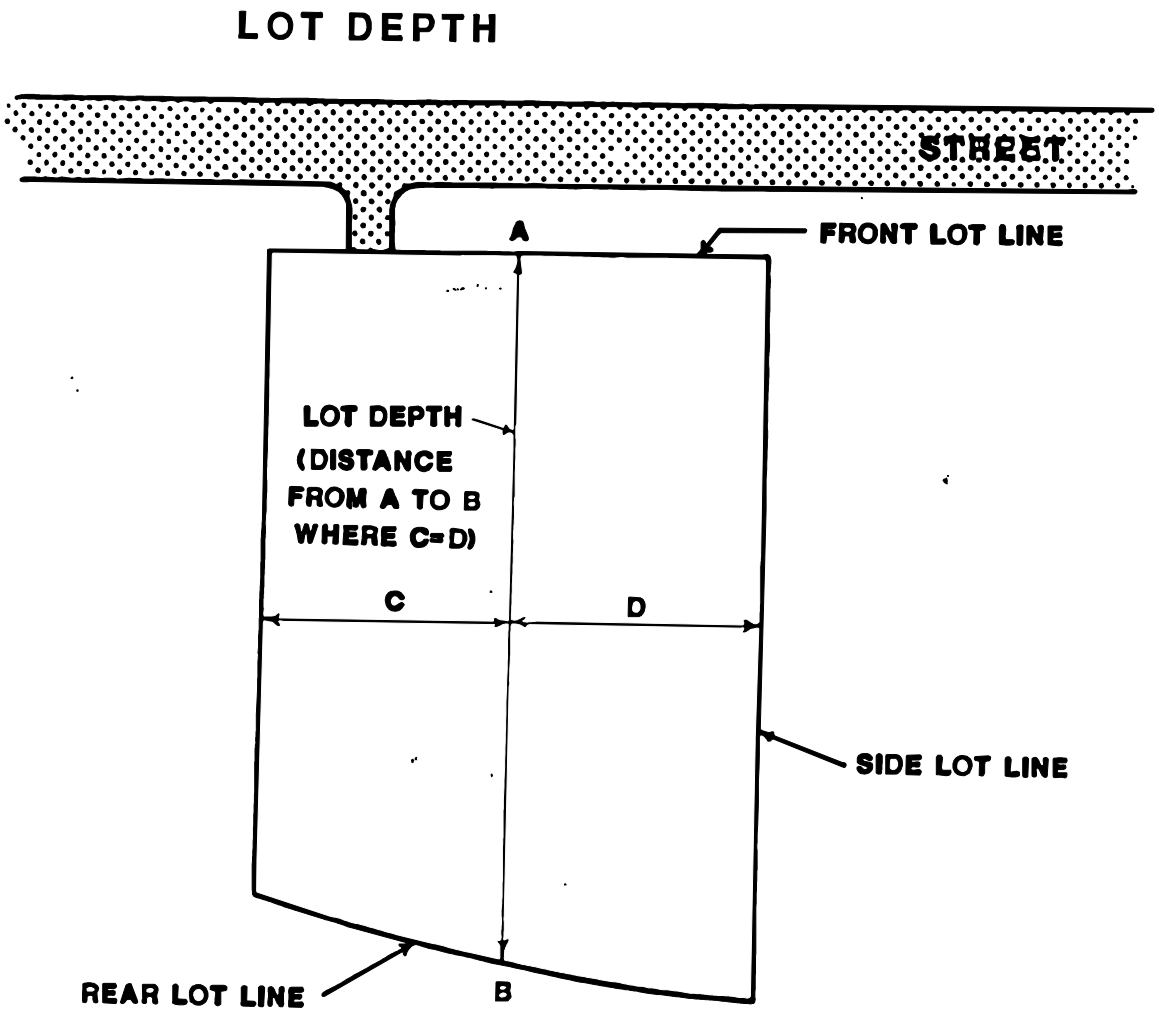

LOT DEPTH
STREET
A
FRONT LOT LINE
LOT DEPTH
(DISTANCE
FROM A TO B
WHERE C=D)
C
D
SIDE LOT LINE
REAR LOT LINE
B

FIGURE 2-6

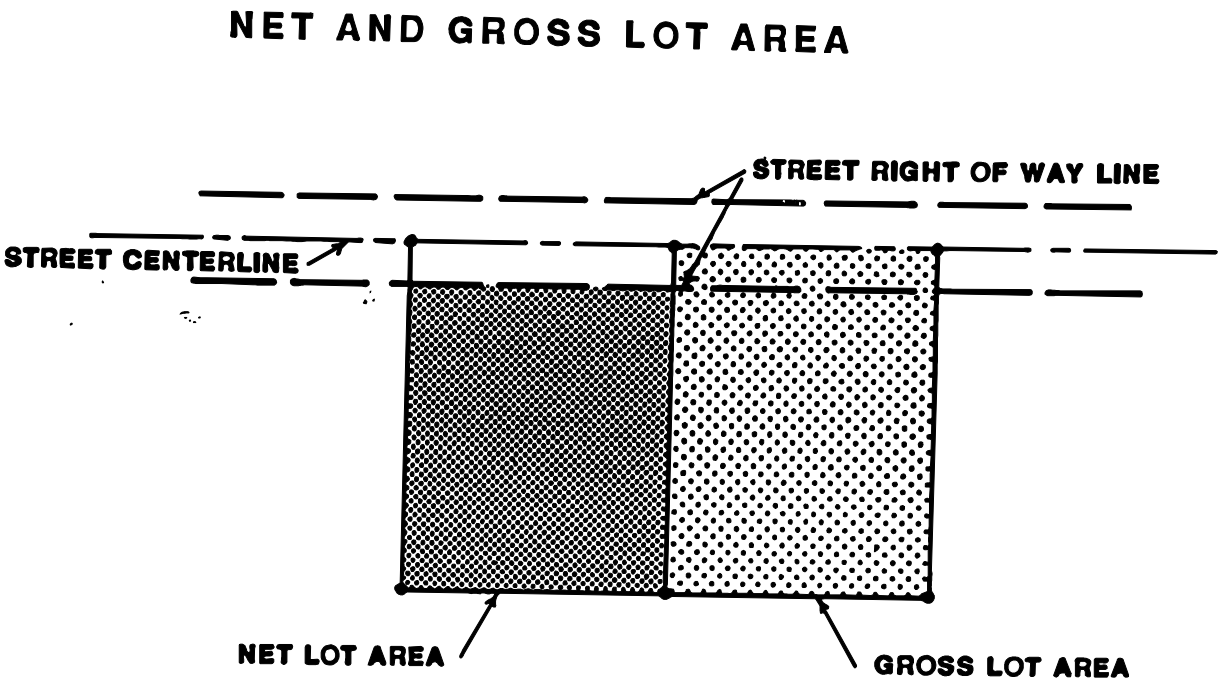

NET AND GROSS LOT AREA
STREET RIGHT OF WAY LINE
STREET CENTERLINE
NET LOT AREA
GROSS LOT AREA

FIGURE 2-7

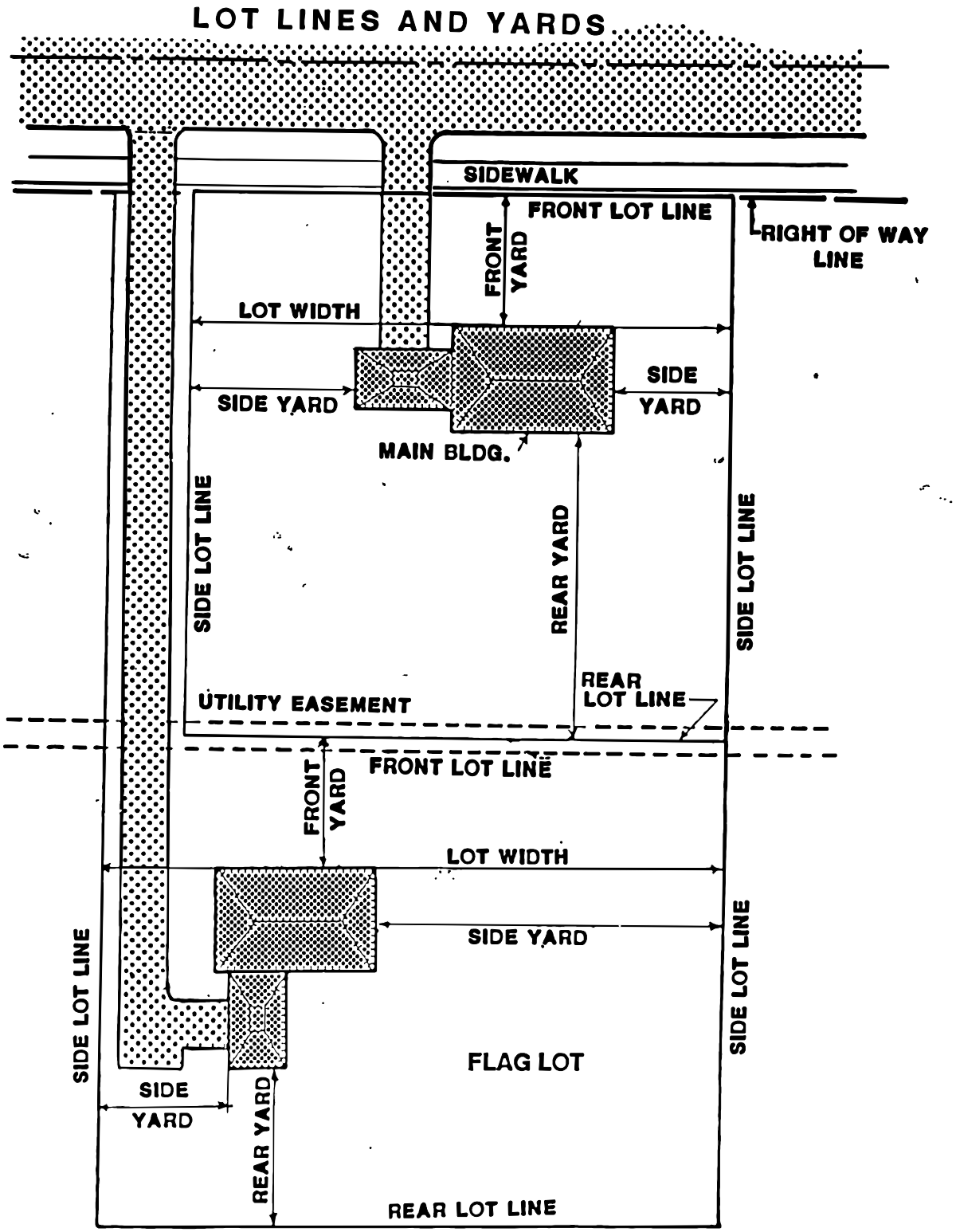

LOT LINES AND YARDS
SIDEWALK
FRONT LOT LINE
RIGHT OF WAY LINE
FRONT YARD
LOT WIDTH
SIDE YARD
SIDE YARD
MAIN BLDG.
SIDE LOT LINE
REAR YARD
SIDE LOT LINE
REAR LOT LINE
UTILITY EASEMENT
FRONT LOT LINE
FRONT YARD
LOT WIDTH
SIDE YARD
SIDE LOT LINE
SIDE LOT LINE
FLAG LOT
SIDE YARD
REAR YARD
REAR LOT LINE

FIGURE 2-8

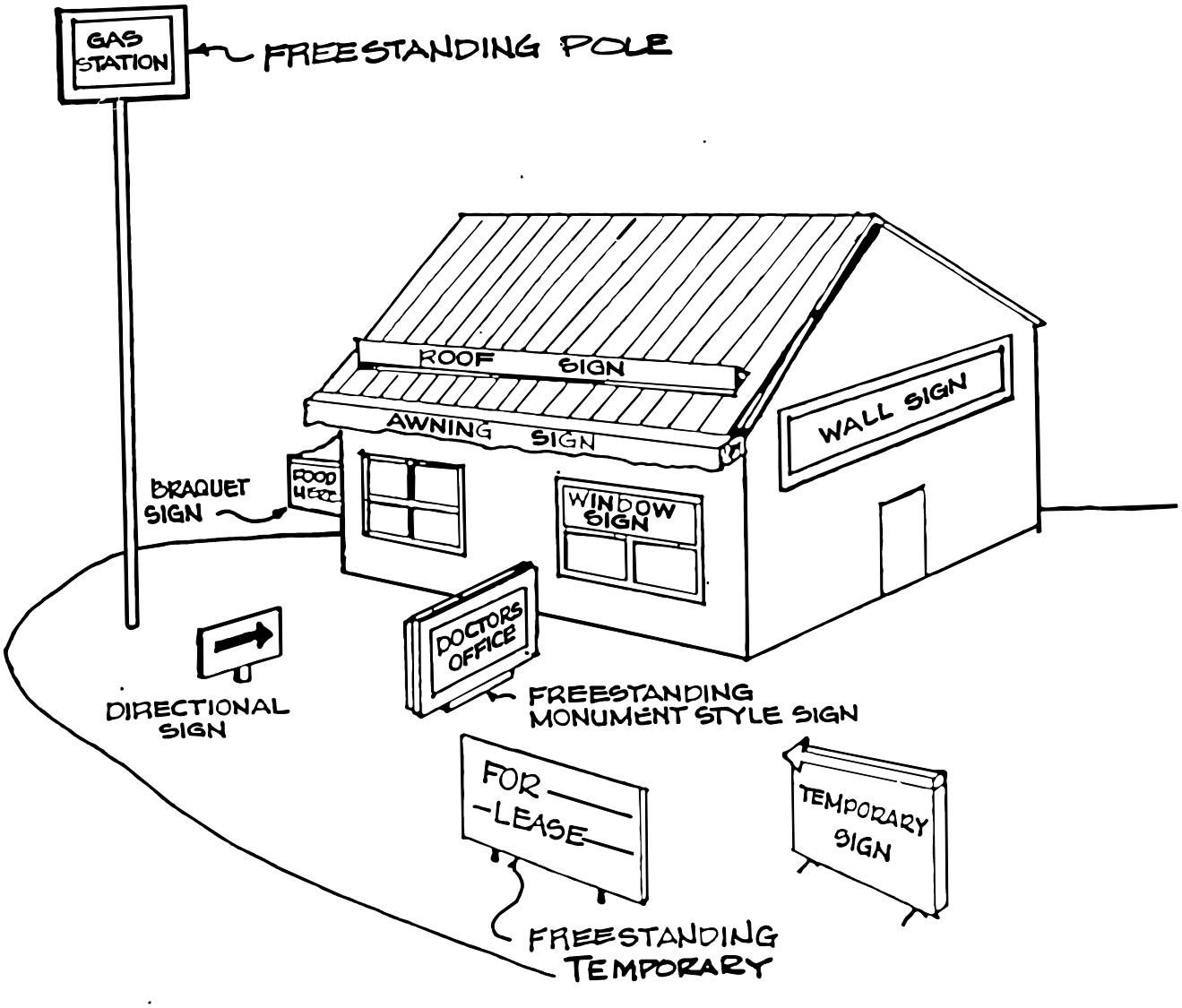
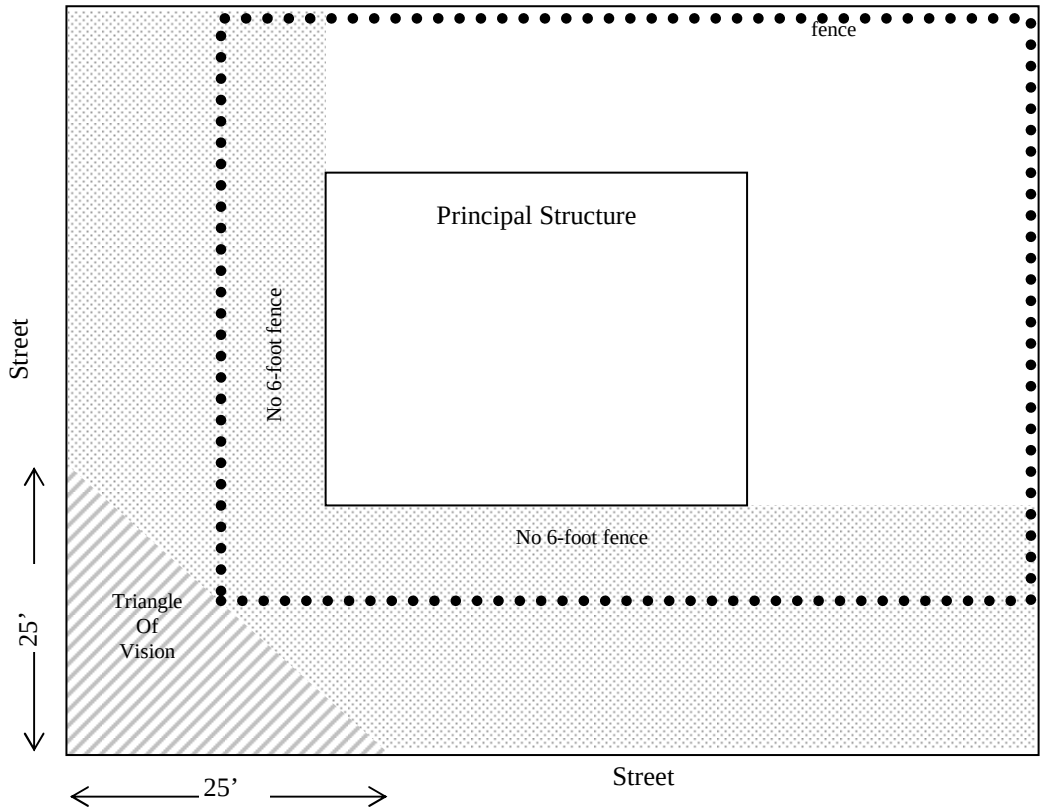

GAS STATION
FREESTANDING POLE
ROOF SIGN
AWNING SIGN
WALL SIGN
BRAQUET SIGN
FOOD HERE
WINDOW SIGN
DOCTORS OFFICE
DIRECTIONAL SIGN
FREESTANDING MONUMENT STYLE SIGN
FOR LEASE
TEMPORARY SIGN
FREESTANDING TEMPORARY

FIGURE 2.9

Corner Lots:



ARTICLE III - ZONING DISTRICTS AND MAP

SECTION 300: DISTRICTS

For the purposes of this Ordinance, the City of Muskegon is hereby delineated in the following Districts:

R	One Family Residential
MHP	Mobile Home Park
RT	Two Family Residential
RM-1	Low Density Multiple Family Residential
RM-2	Medium Density Multiple Family Residential
RM-3	High Density Multiple Family Residential
MC	Medical Care
B-1	Limited Business
B-2	Convenience and Comparison Business
B-3	Central Business
B-4	General Business
B-5	Central Governmental Service
I-1	Light Industrial
I-2	General Industrial
WI-PUD	Waterfront Industrial Planned Unit Development
OSC	Open Space Conservation
OSR	Open Space Recreation
LR	Lakefront Recreation
WM	Waterfront Marine

SECTION 301: BOUNDARIES

The boundaries of these Districts are hereby established as shown on the Official Zoning Map which accompanies this Ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein.

1. Unless shown otherwise, the boundaries of the Districts are lot lines, section lines, the centerlines of streets, alleys, roads, or such lines extended, and the Corporate Limits of the City of Muskegon.

2. Where, due to the scale, lack of detail, or illegibility of the Zoning Map accompanying this Ordinance, if there is any uncertainty, contradiction or conflict as to the intended location of any District boundaries, shown thereon, interpretation concerning the exact location of District boundary lines shall be determined by the Board of Appeals, upon written application.

SECTION 302: ZONING OF VACATED AREAS:

Whenever any street, alley or other public way within the City of Muskegon shall have been vacated by official government action, and when the lands within the boundaries thereof attach to and become a part of the land formerly abutting such vacated street, alley or public way shall automatically, and without further governmental actions, thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach, and the same shall be used for that same use as is permitted under this Ordinance for such adjoining lands.

SECTION 303: ZONING OF ANNEXED AREAS:

In every case where property has not been specifically included within a District, the same is hereby declared to be in the R One Family Residential District. All property annexed to the City shall likewise be and is hereby declared to be in the R One Family Residential District unless otherwise classified.

SECTION 304: DISTRICT REQUIREMENTS:

All buildings and uses in any District shall be subject to the provisions of Article XXIII "General Provisions".

ARTICLE IV - R ONE FAMILY RESIDENTIAL DISTRICTS

PREAMBLE

These districts are designed to be composed of low density residential development. The regulations are intended to stabilize, protect, and encourage the residential character of the district and prohibit activities not compatible with a residential neighborhood. Development is limited to single family dwellings and such other uses as schools, parks, churches, and certain public facilities which serve residents of the district. It is the intent of these districts to recognize that the City of Muskegon has been developed and platted with some lots that are smaller than those found in recently urbanized communities, and the standards in Section 2100 reflect residential development standards that the citizens of Muskegon find to be compatible.

SECTION 400: PRINCIPAL USES PERMITTED

In R, One Family Residential, Districts no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one or more of the following specified uses, unless otherwise provided in this Ordinance;

1. One Family detached dwellings.

2. Home occupations of a non-industrial nature may be permitted. Permissible home occupations include, but are not limited to the following: [amended 11/02]

    a. Art and craft studios, lessons may be given to one client at a time

    b. Hair and nail salons, limited to one client at a time

    c. Dressmaking and tailoring

    d. Tutoring, limited to one student at a time

    e. Typing or clerical services

    f. Teaching of music or dancing or similar instruction, limited to one client at a time

    g. Offices located within the dwelling for a writer, consultant, member of the clergy, lawyer, physician, architect, engineer or accountant, limited to one client/family at a time.

    h. All home occupations are subject to the following:

        i) The businessperson operating the home occupation shall reside in the dwelling and only members of the immediate family residing on the premises may be employed.

ii) The business shall have a local business license and any other appropriate licensing or registrations required by local, state or federal law.

iii) No equipment or process shall be used in home occupations which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

iv) Explosives, flammable liquids or combustible liquids shall only be used in compliance with the applicable fire and building codes.

v) Activities involving kilns or welding equipment shall comply with the applicable fire and building codes.

vi) The outside appearance of the premises shall have no visible evidence of the conduct of a home occupation.

vii) Home occupations may not serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations.

viii) All activity must be conducted within a preexisting structure. The home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings.

ix) There shall be no exterior display or signage other than that signage allowed for home occupations under the sign requirements of this ordinance. [amended 11/00]

x) No goods shall be kept, or sold which are made or assembled off-site, except as incidental to services rendered.

xi) The primary function of the premises shall be that of the residence of the family, and the occupation shall not exceed twenty-five (25) percent of the principal building.

xii) There shall be no outside storage or processing.

xiii) The home occupation shall not involve the routine use of commercial vehicles for delivery of materials to and from the premises. There shall be no commercial vehicles associated with the home occupation, nor parking of more than one (1) business car, pickup truck or small van on the premises.

xiv) Activities specifically prohibited (but not limited to) include:

(1) A service or repair of motor vehicles, appliances and other large equipment

(2) A service or manufacturing process which would normally require industrial zoning

(3) A commercial food service requiring a license

(4) A limousine service

(5) A lodging service including but not limited to, a tourist home, motel or hotel

(6) A tattoo parlor

(7) An animal hospital or kennel

(8) A lawn service

xv) No activity legally excluded by any deed restriction or other tenant or owner restrictions shall be permitted.

2. Adult Foster Care Family Homes, provided that such facilities shall be at least one thousand five hundred (1,500) feet from any other similar facility. [amended 11/02]

3. Accessory buildings and accessory uses customarily incidental to any of the above Principal Uses Permitted.

4. Uses similar to the above Principal Uses Permitted.

SECTION 401: SPECIAL LAND USES PERMITTED [amended 2/02, 6/07]

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Private recreational areas, and institutional recreational centers when not operated for profit, and nonprofit swimming pool clubs, all subject to the following conditions: [amended 2/02]

   a. In those instances where the proposed site is not to be situated on a lot or lots of record, the proposed site shall have one property line abutting a major thoroughfare and the site shall be so planned as to provide ingress and egress directly onto said major thoroughfare.

b. Front, side, and, rear yards shall be at least fifty (50) feet wide, except on those sides adjacent to nonresidential districts, and shall be landscaped in trees, shrubs, grass, and terrace areas. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.

c. Buildings erected on the premises shall not exceed one (1) story or fourteen (14) feet in height.

d. Whenever a swimming pool is constructed under this Ordinance, said pool area shall be provided with a protective fence six (6) feet in height, and entry shall be protected by means of a controlled gate or turnstile.

e. The off-street parking and general site layout and its relationship to all adjacent lot lines shall be reviewed by the Planning Commission who may impose reasonable restrictions or requirements so as to insure that contiguous residential areas will be adequately protected.

2. Colleges, universities, and other such institutions of higher learning, public and private, offering courses in general, technical, or religious education not operated for profit, all subject to the following conditions:

a. Any use permitted herein shall be developed only on sites of at least five (5) acres in area.

b. All ingress to and egress from said site shall be directly onto a major thoroughfare.

c. No building other than a structure for residential purposes shall be closer than seventy-five (75) feet to any property line.

3. Churches and other facilities normally incidental thereto subject to the following conditions:

a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

c. Buildings of greater than the maximum height allowed in Section 2100, may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of building that exceeds the maximum height allowed.

4. Elementary, intermediate, and/or secondary schools offering courses in general education, provided such uses are set back thirty (30) feet from any lot in a residential zone.

5. Cemeteries.

6. Previously existing or established commercial uses not already converted to a residential use may be authorized under Special Use Permit for the following [amended 12/99]:

   a. Retail and/or service establishments meeting the intent of the neighborhood Limited Business Zone (B-1) dealing directly with consumers including:

      1) Any generally recognized retail business which supplies new commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.

      2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: shoe repair, drop-off dry cleaning shops, tailor shops, beauty parlors, barber shops, dressmaker, tailor, pharmacist, or an establishment doing radio, television, or home appliance repair, and similar establishments that require a retail character no more objectionable than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the sale, repair, or other processing of goods.

      3) Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, architects, engineers, accountants, and similar or allied professions.

      4) Restaurants, or other places serving food, except drive-in or drive-through restaurants.

   b. Prohibited uses: Activities specifically prohibited include repair or service of motor vehicles and other large equipment; manufacturing processes which would normally require industrial zoning; any activity which may become a nuisance due to noise, unsightliness or odor; and any activity which may adversely affect surrounding property.

   c. Conditions:

      1) Outdoor storage is prohibited.

      2) The area devoted to approved uses shall not exceed 2,500 square feet.

      3) All goods produced on the premises shall be sold at retail on the premises where produced.

4) All business, servicing, or processing shall be conducted within a completely enclosed building, or in an area specifically approved by the Planning Commission.

5) Parking shall be accommodated on site or with limited street parking.

6) Hours of operation may be limited by the Planning Commission.

7) Signs must comply with those set forth for the residential zoning district.

8) The Planning Commission may allow a use to sell alcohol, however the Commission may limit the type of license applied for or obtained for the sale of alcohol to an SDM, hours of operation, and any other restrictions intended to stabilize, protect, and encourage the residential character of the area. The use must gain approval from the Michigan Liquor Control Commission before alcohol can be or sold.

7. Bed & Breakfast facilities, under the following conditions:

a. The home must be located in the Clay-Western or National Register Historic District, as identified by the City of Muskegon Historic District Commission map.

b. The owner or operator of the tourist home shall live full-time on the premises.

c. No structural additions or enlargements shall be made to accommodate the tourist home use and no exterior alterations to the structure shall be made which will change the residential appearance of the structure.

d. Breakfast may be served on the premises, only for guests of the facility, and no other meals shall be provided to guests.

e. No long-term rental of rooms for more than fourteen (14) consecutive days shall be permitted. No guest may stay for more than twenty-eight (28) nights in any given year.

f. There shall be a maximum of five (5) guestrooms. No more than two (2) adults are permitted to stay in any guestroom.

g. Signage shall conform to that which is permitted for home occupation businesses only.

h. Rental of the tourist home for special gatherings such as wedding receptions and parties shall be prohibited.

i. The property shall meet all local and state code requirements regarding bed and

breakfast facilities.

8. Accessory buildings and accessory uses customarily incidental to any of the above Special Land Uses Permitted.

9. Uses similar to the above Special Land Uses Permitted.

SECTION 402: [RESERVED] [amended 8/01]

SECTION 403: PLANNED UNIT DEVELOPMENT OPTION [amended 12/97]

Planned unit developments (PUDs) may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the single family residential district is to allow for flexibility in the design of housing developments, including but not limited to condominium developments and cluster subdivisions, to allow for the preservation of open space; allow for economies in the provision of utilities and public services; provide recreational opportunities; and protect important natural features from the adverse impacts of development.

1. Determination: The Planning Commission, in reviewing and approving a proposed PUD may allow lots within the PUD to be reduced in area and width and setbacks below the minimum normally required by this ordinance in return for common open space where it is determined that the benefits of the cluster approach will decrease development costs, increase recreational opportunities, or prevent the loss of natural features. The Planning Commission, in its determination, shall consider the densities permitted in the Zoning Ordinance and, if applicable, the land's capability to bear the higher density.

2. Basic Requirements:

   a. The net residential acreage including improvements and occupied land shall be calculated by taking the total area of the tract and subtracting, in order, the following:

      1) Portions of the parcel(s) shown to be in a floodplain.

      2) Portions of the parcel(s) which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to; slopes greater than 15%; organic, poorly drained soils, and wetlands.

      3) Portions of the parcel(s) covered by surface waters.

      4) Portions of the tract utilized for storm water management facilities.

   b. Undevelopable areas may be used for common open and recreational areas.

c. No building shall be sited on slopes steeper than 15%, within 100 feet of any ordinary high water mark, wetland, or on soil classified as being very poorly drained.

3. Density determination: To determine the maximum number of dwelling units permitted on the parcel(s) of land, the net residential acreage shall be divided by the minimum lot size required by the zoning ordinance.

4. Open space requirement: At least 15% of the site shall be set aside as dedicated common open space. At least one third (1/3) of the common open space shall be usable open space. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach such recreational or common open spaces.

5. Spacing: The distance between buildings shall not be less than 10 feet and front setbacks shall not be less than 10 feet. In no case shall an individual dwelling lot be less than 4,000 square feet.

6. Waterfront: Where a cluster development abuts a body of water, at least 50% of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.

7. Utility of common open space: Common open space in any one residential cluster shall be laid out, to the maximum extent feasible, to connect with other open space existing or proposed.

8. Size: Minimum parent parcel size is 21,780 square feet (one-half acre).

9. Bonus units: Where the developer provides additional open space or amenities within the development, additional density may be granted. A maximum of a 10% unit bonus may be granted to the development for additional amenities such as: public trail easements, additional open space, additional common waterfront area, and additional landscaping.

SECTION 404: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 6,000 sq. feet

2. Density (see definition in Article II): 7 dwelling units per buildable acre.

3. Maximum lot coverage:
   Buildings: 50%
   Pavement: 10%

4. Lot width: 50 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

5. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

6. Height limit: 2 stories or 35 feet. Exception: Homes located in an established Historic District may be up to 3 stories or 45 feet, if found to be compatible with other homes within 600 feet. [amended 9/08]

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

7. Front Setbacks: [amended 1/05]

   Minimum:

   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 25 feet
   Minor Street: 15 feet

   Note: For minimum front setbacks new principal structures on minor streets may align with existing principal structures in the immediate area even if the front setback is below the minimum required.

8. Rear setback: 30 feet

9. Setback from the ordinary high water mark or wetland: 30 feet (principal structures only).

10. Side setbacks:

    1-story: 6 feet and 10 feet
    2-story: 8 feet and 12 feet

    Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

11. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

ARTICLE V - MHP MOBILE HOME PARK DISTRICTS

PREAMBLE

The MHP Mobile Home Park Districts are established primarily to provide for higher density single family detached, residential dwelling units, and assist in meeting adopted Master Land Use Plan Residential Goals and Objectives of providing diversified housing types in the City of Muskegon. Also, because mobile home parks are much higher in density than an otherwise typical single family subdivision, and because they are developed with private street systems, thereby creating an interruption in the continuity of the local public street system, they are otherwise not totally compatible with lower density single family subdivision. In this Ordinance, mobile homes are intended to serve as an alternative housing type to other forms of residential development.

SECTION 500: HEIGHT REGULATIONS

In the Mobile Home Park District, no structure shall exceed a height of twenty-five (25) feet or two (2) stories.

SECTION 501: AREA REGULATIONS

The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

SECTION 502: SETBACK

All setback requirements of public Act No. 419 of the Public Acts of 1976, as amended shall be adhered to. No building or mobile home shall be located closer than twenty-five (25) feet from any existing or proposed local street right-of-way, nor less than thirty-five (35) feet from any existing or proposed collector street right-of-way.

SECTION 503: LANDSCAPING

The mobile home park site shall, within the mobile home park, provide a masonry wall four feet six inches (4' 6") in height abutting single family residential properties and public rights-of-way or a greenbelt in compliance with the following.

1. Quality: Plant and grass materials shall be of acceptable varieties and species, free of pests and diseases, hardy in Muskegon County, and shall conform to standards of the American Association of Nurserymen and inspections required under State Regulations.

No plant materials used to satisfy some or all planting requirements of the Ordinance shall be comprised of nonliving materials, such as petrochemical plants. No polyethylene film shall be used under nonliving, decorative landscape materials such as stone, wood chips, and gravel in a manner which will cause erosion of the decorative materials.

2. Deciduous trees shall be species having an average mature crown spread of greater than fifteen (15) feet in Muskegon County, and having trunk(s) which can be maintained with over five (5) feet of clear stem, if conditions of visibility require, except, however, at intersections where the requirement of eight (8) feet of clear stem shall be followed. Trees having an average mature crown spread of less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot down spread. Deciduous tree species shall be a minimum of ten (10) feet overall height, and a minimum caliper of two (2) inches, and a burlapped ball size of at least ten (10) times the caliper size, immediately after planting.

3. Evergreen trees shall be a minimum of five (5) feet in height, with a minimum spread of three (3) feet and burlapped ball size of at least ten (10) times the caliper immediately after planting.

4. Shrubs and Hedges. Shrubs shall be a minimum of two (2) feet in height when measured immediately after planting, or two (2) feet in spread if plants are low growing evergreens. Hedges, where provided, shall be planted and maintained so as to form a continuous, unbroken visual screen within a maximum of two (2) years after time of planting.

5. Vines shall be a minimum of thirty (30) inches in length after one (1) growing season, and may be used in conjunction with fences, screens, or walls to meet physical buffer requirements so specified.

6. Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season with at least three (3) plants per square foot.

7. Lawn Grass: Grass areas shall be planted in species normally grown as permanent lawns in Muskegon County. Grass may be plugged, sprigged, seeded or sodded except that rolled sod, erosion reducing net or suitable mulch, shall be used in swales or other areas subject to erosion. Grass, sod, and seed shall be clean and free of weed and noxious pests or diseases. Establishment of a reasonably dense weed-free turf and complete ground coverage, actively growing shall be provided.

8. Landscape Elements shall be as follows:

   a. Earth Mounds and Berms. Berms and mounds shall be constructed with slopes no greater than one (1) foot vertical for each three (3) feet horizontal with at least two (2) foot flat on the top, and with adequate protection.

b. Mulches. Mulching material for planted trees, shrubs, and vines shall be a minimum of three (3) inch deep wood chip mulch. Straw or other mulch shall be used to protect seeded areas.

SECTION 504: YARDS

Yard Requirements of Public Act 419 of the Public Acts of 1976, as amended, shall be adhered to.

SECTION 505: SERVICE DRIVES AND SIDEWALKS

Service drives and walkways shall meet the following minimum requirements:

1. The mobile home park shall have access to a public thoroughfare.

2. Parking spaces on service drives shall be clearly marked.

3. All other requirements of Public Act 419 of the Public Acts of 1976, amended, shall be adhered to.

SECTION 506: WATER AND SANITARY SEWER

All mobile home parks shall meet the water and sanitary sewer requirements of Public Act 419 of the Public Acts of 1976, as amended.

SECTION 507: STORM WATER

Storm drainage facilities shall meet the requirements of Public Act 419 of the Public Acts of 1976, as amended.

SECTION 508: FUEL OIL AND GAS STORAGE

Any fuel oil and/or gas storage shall meet the requirements of Public Act 419 of the Public Acts of 1976, as amended.

SECTION 509: DISPOSAL OF GARBAGE AND TRASH

All garbage and trash removal shall meet the requirements of Public Act 419 of the Public Act of 1976, as amended.

SECTION 510: UNDERGROUND WIRING

1. All local distribution lines for telephone or electric services, exclusive of main supply and perimeter feed lines when located on section or quarter section lines shall be places entirely underground throughout the mobile home park area, provided, however, that when a mobile home park overlaps a section or quarter section line, main supply and

perimeter feed lines located on such section or quarter section lines shall be places underground.

The Board of Appeals may waive or modify this requirement where, in its judgment, circumstances exist which render compliance impractical

2. Conduits or cables shall be placed within private easements granted to the service companies by the proprietor and/or developer or within public ways. These telephone and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephone and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.

SECTION 511: [RESERVED] [amended 2/02]

SECTION 512: FIRE PROTECTION

Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size, and number, and so located within the park to satisfy regulations of Public Act 419 of the Public Acts of 1976, as amended. No open fires shall be left unattended at any time. A central water system and fire hydrants must be on the park site. All streets shall be designated as fire lanes.

SECTION 513: OTHER REQUIREMENTS

1. There shall be not less than five hundred (500) square feet of floor space within each mobile home.

2. The front yard, and any side yard adjacent to a street shall be landscaped within one (1) year of occupancy, and the entire mobile home park shall be maintained in a good, clean presentable condition at all times.

3. No business of any kind shall be conducted in any mobile home park except for separate, permanent structures that contain facilities such as the Management's Office, laundry and dry cleaning facilities or similar uses that are designated to serve only the residents of the park, except for business allowed under the home occupation Section 400.

4. All mobile homes shall be skirted.

5. All fences, other than the greenbelt surrounding the mobile home park, shall be uniform in height, and shall not exceed thirty-six (36) inches in height, and shall be constructed in such a manner as to provide fire fighters access to all sides of each mobile home.

6. Mobile home foundations shall meet the requirements of Act 419 of the Public Acts of 1976, as amended.

7. The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home development is prohibited. New or used mobile homes located on lots within the mobile home development to be used and occupied on that site may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a used mobile home by residents of the mobile home development provided the development permits the sale.

8. All mobile homes shall be anchored with an approved anchoring system in compliance with Public Act 419 of the Public Acts of 1976, as amended.

9. No personal property shall be stored under any mobile home. Storage sheds may be utilized for any such storage, but need not be supplied by the owner of the mobile home development.

SECTION 514: SITE PLAN REVIEW

A site plan shall be submitted to the Planning Commission for recommendation to the City Commission and in accordance with the following:

1. Every site plan submitted to the Planning Commission shall be in accordance with the requirements of this Ordinance. No site plan shall be approved until same has been reviewed by the Building Official, Zoning Administrator, Fire Department, Police Department, Sewer and Water Department, and where necessary, the Muskegon County Health Department for compliance with the standards of their respective departments.

2. The following information shall be included on the site plan:

    a. A scale of not less than one (1) inch equals one hundred (100) feet.

    b. The area of the site in acres.

    c. Date and north point.

    d. The dimension of all property lines, showing the relationship of the subject property to abutting properties.

    e. The location of all existing and proposed structures on the subject property and all existing structures within fifty (50) feet of the subject property.

    f. The location of all existing and proposed service drives, sidewalks, parking areas, greenbelts, (specify type of planting), and individual mobile home sites.

    g. The locations and existing and proposed right-of-way widths of all abutting streets and alleys.

    h. Topography at no greater than two (2) foot contour intervals.

i. A vicinity sketch at a scale of at least one inch equals two thousand feet (1" = 2,000').

j. The names and addresses of the architect, planner, designer, or person responsible for the preparation of the site plan.

k. Trash receptacle locations, and method of screening.

l. A landscape plan must be submitted.

3. In the process of reviewing the site plan, the Planning Commission shall consider:

a. The location and design of driveways providing vehicular ingress to and egress from the site in relation to streets giving access to the site, and in relation to pedestrian traffic.

b. The traffic circulation features within the site and the location of automobile parking areas. The Planning Commission may recommend such requirements with respect to any matter as will assure:

1) Safety and convenience of both vehicular and pedestrian traffic within the site and in relation to access streets.

2) Satisfactory and harmonious relationship between development on the site and existing and prospective development of contiguous land and adjacent neighborhoods.

4. Actual construction of the mobile home park shall be in accordance with Section II of Public Act 419 of Public Acts 1976, as amended, and with the approved site plan.

SECTION 515: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, may be permitted under the purview of Section 2332 upon the review and approval of the special land use or activity by the Planning Commission (after site plan review if required) and subject further to such other reasonable conditions which, in the opinion of the Planning Commission, are necessary to provide adequate protection to the neighborhood and to abutting properties:

1. Utility and public service substations.

ARTICLE VI - RT TWO FAMILY RESIDENTIAL DISTRICTS

PREAMBLE

The RT Two Family Residential Districts are designed to be compatible with one (1) family residential densities, and to be located along major thoroughfares so as to provide transition between the thoroughfare and one (1) family district. The RT zones of transition between higher density RM and MHP Districts, or nonresidential districts, and low density one (1) family residential districts.

SECTION 600: PRINCIPAL USES PERMITTED

In an RT Two Family Residential District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

1. One and two family detached dwellings.

2. Municipal, county, state, or federal buildings or properties of public service types, not including storage yards, warehouses, or garages, provided that no such building shall be located less than thirty (30) feet from any other lot in a residential district.

3. Cemeteries adjacent to, or an extension of, existing cemeteries.

4. Home occupations of a non-industrial nature may be permitted. Permissible home occupations include, but are not limited to the following: [amended 11/02]

    a. Art and craft studios, lessons may be given to one client at a time

    b. Hair and nail salons, limited to one client at a time

    c. Dressmaking and tailoring

    d. Tutoring, limited to one student at a time

    e. Typing or clerical services

    f. Teaching of music or dancing or similar instruction, limited to one client at a time

    g. Offices located within the dwelling for a writer, consultant, member of the clergy, lawyer, physician, architect, engineer or accountant, limited to one client/family at a time.

    h. All home occupations are subject to the following:

i) The businessperson operating the home occupation shall reside in the dwelling and only members of the immediate family residing on the premises may be employed.

ii) The business shall have a local business license and any other appropriate licensing or registrations required by local, state or federal law.

iii) No equipment or process shall be used in home occupations which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

iv) Explosives, flammable liquids or combustible liquids shall only be used in compliance with the applicable fire and building codes.

v) Activities involving kilns or welding equipment shall comply with the applicable fire and building codes.

vi) The outside appearance of the premises shall have no visible evidence of the conduct of a home occupation.

vii) Home occupations may not serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations.

viii) All activity must be conducted within a preexisting structure. The home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings.

ix) There shall be no exterior display or signage other than that signage allowed for home occupations under the sign requirements of this ordinance. [amended 11/00]

x) No goods shall be kept, or sold which are made or assembled off-site, except as incidental to services rendered.

xi) The primary function of the premises shall be that of the residence of the family, and the occupation shall not exceed twenty-five (25) percent of the principal building.

xii) There shall be no outside storage or processing.

xiii) The home occupation shall not involve the routine use of commercial vehicles for delivery of materials to and from the premises. There shall be no commercial vehicles associated with the home occupation, nor parking

of more than one (1) business car, pickup truck or small van on the premises.

xiv) Activities specifically prohibited (but not limited to) include:

(1) A service or repair of motor vehicles, appliances and other large equipment

(2) A service or manufacturing process which would normally require industrial zoning

(3) A commercial food service requiring a license

(4) A limousine service

(5) A lodging service including but not limited to, a tourist home, motel or hotel

(6) A tattoo parlor

(7) An animal hospital or kennel

(8) A lawn service

xv) No activity legally excluded by any deed restriction or other tenant or owner restrictions shall be permitted.

5. Adult Foster Care Family Homes, provided that such facility shall be at least one thousand five hundred (1,500) feet from any other similar facility. [amended 11/02]

6. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

7. Uses similar to the above Principal Uses Permitted.

SECTION 601: SPECIAL LAND USES PERMITTED [amended 2/02] [amended 2/03]

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions and any other reasonable conditions imposed by the Planning Commission.

1. Accredited fraternity or sorority houses, when located not less than twenty (20) feet from any other lot in any R District.

2. Access driveway or walk connecting premises in a B or M District with one or more public streets provided no part of such driveway shall be located at a distance greater than thirty (30) feet from any boundary line of any said districts nor at a distance less than ten (10) feet of the side lot line of an adjoining lot, which lot is in any residential district, and provided that between such driveway and any such side lot line, but not within ten (10) feet of the front lot line, there shall be maintained a solid wall or front fence, or a compact evergreen hedge not less than five (5) feet high.

3. Tourist homes having not more than two (2) guest rooms, provided the premises front on a street which is officially designated as a major thoroughfare or collector thoroughfare.

4. Schools and colleges for academic instruction, provided that no principal building shall be located less than thirty (30) feet from any other lot in an R District.

5. Private noncommercial recreation areas, institutional or community recreation centers provided that any principal building used therefor shall be located not less than thirty (30) feet from any other lot in any R District, subject to provisions of Section 401 - 1 (a through f).

6. Churches and other facilities normally incidental thereto subject to the following conditions:

    a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

    b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

    c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of building that exceeds the maximum height allowed.

8. Adult Foster Care Small Group Homes, provided that such facility shall be at least one thousand five hundred (1,500) feet from any other similar facility. [amended 11/02]

9. Previously existing or established commercial uses not already converted to a residential use may be authorized under Special Use Permit for the following [amended 12/99]:

    a. Retail and/or service establishments meeting the intent of the neighborhood Limited Business Zone (B-1) dealing directly with consumers including:

        1) Any generally recognized retail business which supplies new commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.

2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: shoe repair, drop-off dry cleaning shops, tailor shops, beauty parlors, barber shops, dressmaker, tailor, pharmacist, or an establishment doing radio, television, or home appliance repair, and similar establishments that require a retail character no more objectionable than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the sale, repair, or other processing of goods.

3) Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, architects, engineers, accountants, and similar or allied professions.

4) Restaurants, or other places serving food, except drive-in or drive-through restaurants.

b. Prohibited uses: Activities specifically prohibited include repair or service of motor vehicles and other large equipment; manufacturing processes which would normally require industrial zoning; any activity which may become a nuisance due to noise, unsightliness or odor; and any activity which may adversely affect surrounding property.

c. Conditions:

1) Outdoor storage is prohibited.

2) The area devoted to approved uses shall not exceed 2,500 square feet.

3) All goods produced on the premises shall be sold at retail on the premises where produced.

4) All business, servicing, or processing shall be conducted within a completely enclosed building, or in an area specifically approved by the Planning Commission.

5) Parking shall be accommodated on site or with limited street parking.

6) Hours of operation may be limited by the Planning Commission.

7) Signs must comply with those set forth for the residential zoning district.

8) The Planning Commission may allow a use to sell alcohol, however the Commission may limit the type of license applied for or obtained for the sale of alcohol to an SDM, hours of operation, and any other restrictions intended to stabilize, protect, and encourage the residential character of the

area. The use must gain approval from the Michigan Liquor Control Commission before alcohol can be or sold.

10. Accessory buildings and accessory uses customarily incidental to the above Special Land Use Permitted.

11. Uses similar to the above Special Land Uses Permitted.

SECTION 602: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the Two Family Residential districts is to allow mixed land uses which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 603: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 8,712 sq. feet.
2. Density (see definition in Article II): 10 dwelling units per buildable acre.

3. Maximum lot coverage:
   Buildings: 50 %
   Pavement: 10 %

4. Lot width: 75 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

5. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

6. Height limit: 2 stories or 35 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

7. Front Setbacks: [amended 1/05]
   Minimum:
   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 25 feet
   Minor Street: 15 feet

Note: For minimum front setbacks new principal structures on minor streets may align with existing principal structures in the immediate area even if the setback is below the minimum required.

8. Rear setback: 30 feet

9. Setback from the ordinary high water mark or wetland: 40 feet (principal structures only).

10. Side setbacks:
    1-story: 8 feet and 12 feet
    2-story: 10 feet and 14 feet

    Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

11. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.
    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

12. The dwelling shall have a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to at least ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever shall be more, exclusive of storage space for automobiles.

ARTICLE VII - RM-1 LOW DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

PREAMBLE

The RM-1 Low Density Multiple Family Residential Districts are designed to provide sites for multiple family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and the lower density One Family and Two Family Residential Districts, and MHP Mobile Home Park Districts.

SECTION 700: PRINCIPAL USES PERMITTED

In an RM-1 Low Density Multiple Family Residential District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. All Principal Uses Permitted in the R One Family and RT Two Family Residential Districts with the lot area, yard, and floor area requirements for one (1) and two (2) family dwellings equal to at least the requirements of the immediately abutting residential district.

2. Multiple dwellings and row houses for any number of families.

3. Accredited fraternity and sorority houses when located not less than twenty (20) feet from any other lot in any residential district.

4. Bed & Breakfast facilities, under the following conditions: [amended 7/03]

    a. The owner or operator of the tourist home shall live full-time on the premises.

    b. No structural additions or enlargements shall be made to accommodate the tourist home use and no exterior alterations to the structure shall be made which will change the residential appearance of the structure.

    c. Breakfast may be served on the premises, only for guests of the facility, and no other meals shall be provided to guests.

    d. No long-term rental of rooms for more than fourteen (14) consecutive days shall be permitted. No guest may stay for more than twenty-eight (28) nights in any given year.

    e. There shall be a maximum of five (5) guestrooms. No more than two (2) adults are permitted to stay in any guestroom.

    f. Signage shall conform to that which is permitted for home occupation businesses only.

g. Rental of the tourist home for special gatherings such as wedding receptions and parties shall be prohibited.

h. The property shall meet all local and state code requirements regarding bed and breakfast facilities.

5. Rooming houses with a capacity of not more than three (3) roomers.

6. Churches and other facilities normally incidental hereto subject to the following conditions:

a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of building that exceeds the maximum height allowed.

7. Home occupations of a non-industrial nature may be permitted. Permissible home occupations include, but are not limited to the following: [amended 11/02]

a. Art and craft studios, lessons may be given to one client at a time

b. Hair and nail salons, limited to one client at a time

c. Dressmaking and tailoring

d. Tutoring, limited to one student at a time

e. Typing or clerical services

f. Teaching of music or dancing or similar instruction, limited to one client at a time

g. Offices located within the dwelling for a writer, consultant, member of the clergy, lawyer, physician, architect, engineer or accountant, limited to one client/family at a time.

h. All home occupations are subject to the following:

i) The businessperson operating the home occupation shall reside in the dwelling and only members of the immediate family residing on the premises may be employed.

ii) The business shall have a local business license and any other appropriate licensing or registrations required by local, state or federal law.

iii) No equipment or process shall be used in home occupations which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

iv) Explosives, flammable liquids or combustible liquids shall only be used in compliance with the applicable fire and building codes.

v) Activities involving kilns or welding equipment shall comply with the applicable fire and building codes.

vi) The outside appearance of the premises shall have no visible evidence of the conduct of a home occupation.

vii) Home occupations may not serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations.

viii) All activity must be conducted within a preexisting structure. The home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings.

ix) There shall be no exterior display or signage other than that signage allowed for home occupations under the sign requirements of this ordinance. [amended 11/00]

x) No goods shall be kept, or sold which are made or assembled off-site, except as incidental to services rendered.

xi) The primary function of the premises shall be that of the residence of the family, and the occupation shall not exceed twenty-five (25) percent of the principal building.

xii) There shall be no outside storage or processing.

xiii) The home occupation shall not involve the routine use of commercial vehicles for delivery of materials to and from the premises. There shall be no commercial vehicles associated with the home occupation, nor parking of more than one (1) business car, pickup truck or small van on the premises.

xiv) Activities specifically prohibited (but not limited to) include:

(1) A service or repair of motor vehicles, appliances and other large equipment

(2) A service or manufacturing process which would normally require industrial zoning

(3) A commercial food service requiring a license

(4) A limousine service

(5) A lodging service including but not limited to, a tourist home, motel or hotel

(6) A tattoo parlor

(7) An animal hospital or kennel

(8) A lawn service

xv) No activity legally excluded by any deed restriction or other tenant or owner restrictions shall be permitted.

8. Foster Care Small Group Homes. [amended 11/02]

9. Accessory buildings and accessory uses customarily incidental to the above Principal Permitted Uses.

10. Uses similar to the above Principal Permitted Uses.

SECTION 701: SPECIAL LAND USES PERMITTED [amended 2/02] [amended 2/03]

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Offices and clinics of physicians, dentists, architects, engineers, attorneys, accountants, real estate appraisers, or other professional persons; real estate, insurance, credit service (other than loan) offices and similar businesses supplying services instead of products when determined by the Planning Commission upon application to it, to be consistent with the nature and condition of neighboring uses and structures.

2. Buildings to be used exclusively to house the offices of civic, religious or charitable organizations, the activities of which are conducted by mail, and which are not displaying or handling merchandise or rendering service on the premises.

3. Schools and colleges not involving the use of mechanical equipment except such as is customarily found in dwellings or professional offices provided that any such building shall be located not less than thirty (30) feet from any other lot in any residential district.

4. Adult Foster Care Large Group Homes, provided that such facility shall be at least one thousand five hundred (1,500) feet from any other similar facility. [amended 11/02]

5. Previously existing or established commercial uses not already converted to a residential use may be authorized under Special Use Permit for the following [amended 12/99]:

   a. Retail and/or service establishments meeting the intent of the neighborhood Limited Business Zone (B-1) dealing directly with consumers including:

      1) Any generally recognized retail business which supplies new commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.

      2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: shoe repair, drop-off dry cleaning shops, tailor shops, beauty parlors, barber shops, dressmaker, tailor, pharmacist, or an establishment doing radio, television, or home appliance repair, and similar establishments that require a retail character no more objectionable than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the sale, repair, or other processing of goods.

      3) Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, architects, engineers, accountants, and similar or allied professions.

      4) Restaurants, or other places serving food, except drive-in or drive-through restaurants.

   b. Prohibited uses: Activities specifically prohibited include repair or service of motor vehicles and other large equipment; manufacturing processes which would normally require industrial zoning; any activity which may become a nuisance due to noise, unsightliness or odor; and any activity which may adversely affect surrounding property.

   c. Conditions:

      1) Outdoor storage is prohibited.

      2) The area devoted to approved uses shall not exceed 2,500 square feet.

      3) All goods produced on the premises shall be sold at retail on the premises

where produced.

4) All business, servicing, or processing shall be conducted within a completely enclosed building, or in an area specifically approved by the Planning Commission.

5) Parking shall be accommodated on site or with limited street parking.

6) Hours of operation may be limited by the Planning Commission.

7) Signs must comply with those set forth for the residential zoning district.

8) The Planning Commission may allow a use to sell alcohol, however the Commission may limit the type of license applied for or obtained for the sale of alcohol to an SDM, hours of operation, and any other restrictions intended to stabilize, protect, and encourage the residential character of the area. The use must gain approval from the Michigan Liquor Control Commission before alcohol can be or sold.

6. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

7. Uses similar to the above Special Land Uses Permitted.

SECTION 702: PLANNED UNIT DEVELOPMENT [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Development in the RM-1 Low Density Multiple Family Residential District is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 703: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 10,890 sq. feet.

2. Density (see definition in Article II): 16 dwelling units per buildable acre.

3. Dedicated open space requirement: 15 %

4. Maximum lot coverage:
   Buildings: 60 %
   Pavement: 20 %

5. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

6. Maximum building width: 50% (as a portion of the lot width).

7. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

8. Height limit: 3 stories or 50 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

9. Front Setbacks: [amended 1/05]

   Minimum:

   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 25 feet
   Minor Street: 20 feet

10. Rear setback: 30 feet
11. Setback from the ordinary high water mark or wetland: 50 feet (principal structures only).

12. Side setbacks:

   1-story: 8 feet and 12 feet
   2-story: 10 feet and 14 feet
   3-story: 12 feet and 16 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

13. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

   a. The building has an approved fire rating for zero-lot line development under the building code.

   b. The building has adequate fire access preserved pursuant to fire code requirements.

   c. The zero lot line side is not adjacent to a street.

   d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning

administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

14. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE VIII - RM-2 MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

PREAMBLE

The RM-2 Medium Density Multiple Family Residential Districts are intended to be selectively planned at locations in the City so as to provide transition between nonresidential areas and One and Two Family Residential Districts, and between nonresidential areas and the RM-1 Low Density Multiple Family Residential.

SECTION 800: PRINCIPAL USES PERMITTED

In a RM-2 Medium Density Multiple Family Residential District no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. All Principal Uses Permitted in the R One Family Residential Districts, RT Two Family Residential Districts, and RM-1 Low Density Multiple Family Residential Districts, subject to the applicable regulations of this District.

2. Accessory uses and accessory buildings customarily incidental to the above Principal Uses Permitted.

3. Adult Foster Care Large Group Homes. [amended 11/02]

4. Uses similar to the above Principal Uses Permitted.

SECTION 801: SPECIAL LAND USES PERMITTED [amended 2/02] [amended 2/03]

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. All Section 601 and 701 Special Land Uses Permitted in the RT Two Family Residential Districts and RM-1 Low Density Multiple Family Residential Districts, subject to the applicable regulations of this District.

2. Adult Foster Care Congregate Facilities, provided that such facility shall be at least one thousand five hundred (1,500) feet from any other similar facility. [amended 11/02]

3. Previously existing or established commercial uses not already converted to a residential use may be authorized under Special Use Permit for the following [amended 12/99]:

    a. Retail and/or service establishments meeting the intent of the neighborhood Limited Business Zone (B-1) dealing directly with consumers including:

1) Any generally recognized retail business which supplies new commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.

2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: shoe repair, drop-off dry cleaning shops, tailor shops, beauty parlors, barber shops, dressmaker, tailor, pharmacist, or an establishment doing radio, television, or home appliance repair, and similar establishments that require a retail character no more objectionable than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the sale, repair, or other processing of goods.

3) Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, architects, engineers, accountants, and similar or allied professions.

4) Restaurants, or other places serving food, except drive-in or drive-through restaurants.

b. Prohibited uses: Activities specifically prohibited include repair or service of motor vehicles and other large equipment; manufacturing processes which would normally require industrial zoning; any activity which may become a nuisance due to noise, unsightliness or odor; and any activity which may adversely affect surrounding property.

c. Conditions:

1) Outdoor storage is prohibited.

2) The area devoted to approved uses shall not exceed 2,500 square feet.

3) All goods produced on the premises shall be sold at retail on the premises where produced.

4) All business, servicing, or processing shall be conducted within a completely enclosed building, or in an area specifically approved by the Planning Commission.

5) Parking shall be accommodated on site or with limited street parking.

6) Hours of operation may be limited by the Planning Commission.

7) Signs must comply with those set forth for the residential zoning district.

8) The Planning Commission may allow a use to sell alcohol, however the Commission may limit the type of license applied for or obtained for the sale of alcohol to an SDM, hours of operation, and any other restrictions intended to stabilize, protect, and encourage the residential character of the area. The use must gain approval from the Michigan Liquor Control Commission before alcohol can be or sold.

4. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

5. Uses similar to the above Special Land Uses Permitted.

SECTION 802: PLANNED UNIT DEVELOPMENT [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the RM-2 Medium Density Multiple Family Residential District is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 803: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 14,520 sq. feet.

2. Density (see definition in Article II): 24 dwelling units per buildable acre.

3. Dedicated open space requirement: 15%

4. Maximum lot coverage:
   Buildings: 70%
   Pavement: 20%

5. Lot width: 125 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

6. Maximum building width: 50% (as a portion of the lot width).

7. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

8. Height limit: 4 stories or 60 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure

2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

9. Front Setbacks: [amended 1/05]

Minimum:

Expressway or Arterial Street: 30 feet
Collector or Major Street: 25 feet
Minor Street: 20 feet

10. Rear setback: 30 feet

11. Setback from the ordinary high water mark or wetland: 50 feet (principal structures only).

12. Side setbacks:

1-story: 8 feet and 12 feet
2-story: 10 feet and 14 feet
3-story: 12 feet and 16 feet
4-story: 16 feet and 20 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

13. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

a. The building has an approved fire rating for zero-lot line development under the building code.

b. The building has adequate fire access preserved pursuant to fire code requirements.

c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

14. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE IX - RM-3 HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

PREAMBLE

The RM-3 High Density Multiple Family Residential Districts are intended to be located in planned areas in and adjacent to the Muskegon Central Business District, in areas where satisfactory open space can be provided based upon District requirements, and yet maintain the harmony and integrity of adjacent residential uses, or in areas where the location can provide waterfront or other aesthetic vistas. Because of the density of population located in the RM-3 High Density Multiple Family Residential Districts, these Districts are placed where adequate thoroughfares and ancillary services are available.

SECTION 900: PRINCIPAL USES PERMITTED

In an RM-3 High Density Multiple Family Residential District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. Multiple dwellings.

2. Rooming house with a capacity of not more than five (5) roomers.

3. Churches and other facilities normally incidental thereto subject to the following conditions:

    a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

    b. The principal buildings on the site shall be set back from the abutting properties zoned for residential use not less than thirty (30) feet.

    c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of building that exceeds the maximum height allowed.

4. Adult Foster Care Family Homes, Adult Foster Care Small Group Homes, Adult Foster Care Large Group Homes, and Adult Foster Care Congregate Facilities. [amended 11/02]

5. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

6. Uses similar to the above Principal Uses Permitted.

SECTION 901: SPECIAL LAND USES PERMITTED [amended 2/02] [amended 2/03]

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to applicable conditions and any other reasonable conditions imposed by the Planning Commission:

1. Previously existing or established commercial uses not already converted to a residential use may be authorized under Special Use Permit for the following [amended 12/99]:

   a. Retail and/or service establishments meeting the intent of the neighborhood Limited Business Zone (B-1) dealing directly with consumers including:

      1) Any generally recognized retail business which supplies new commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.

      2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: shoe repair, drop-off dry cleaning shops, tailor shops, beauty parlors, barber shops, dressmaker, tailor, pharmacist, or an establishment doing radio, television, or home appliance repair, and similar establishments that require a retail character no more objectionable than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the sale, repair, or other processing of goods.

      3) Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, architects, engineers, accountants, and similar or allied professions.

      4) Restaurants, or other places serving food, except drive-in or drive-through restaurants.

   b. Prohibited uses: Activities specifically prohibited include repair or service of motor vehicles and other large equipment; manufacturing processes which would normally require industrial zoning; any activity which may become a nuisance due to noise, unsightliness or odor; and any activity which may adversely affect surrounding property.

   c. Conditions:

      1) Outdoor storage is prohibited.

      2) The area devoted to approved uses shall not exceed 2,500 square feet.

3) All goods produced on the premises shall be sold at retail on the premises where produced.

4) All business, servicing, or processing shall be conducted within a completely enclosed building, or in an area specifically approved by the Planning Commission.

5) Parking shall be accommodated on site or with limited street parking.

6) Hours of operation may be limited by the Planning Commission.

7) Signs must comply with those set forth for the residential zoning district.

8) The Planning Commission may allow a use to sell alcohol, however the Commission may limit the type of license applied for or obtained for the sale of alcohol to an SDM, hours of operation, and any other restrictions intended to stabilize, protect, and encourage the residential character of the area. The use must gain approval from the Michigan Liquor Control Commission before alcohol can be or sold.

2. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

3. Uses similar to the above Special Land Uses Permitted.

SECTION 902: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the RM-3 High Density Multiple Family Residential District is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 903: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 21,780 sq. feet.

2. Density (see definition in Article II): 48 dwelling units per buildable acre.

3. Dedicated open space requirement: 15%

4. Maximum lot coverage:
   Buildings: 70%
   Pavement: 20%

5. Lot width: 150 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

6. Maximum building width: 50% (as a portion of the lot width).

7. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

8. Height limit: 5 stories or 80 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

9. Front Setbacks: [amended 1/05]

   Minimum:

   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 25 feet
   Minor Street: 20 feet

10. Rear setback: 30 feet

11. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

12. Side setbacks:

   1-story: 8 feet and 12 feet
   2-story: 10 feet and 14 feet
   3-story: 12 feet and 16 feet
   4-story: 16 feet and 20 feet
   5-story: 20 feet and 24 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

13. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

   a. The building has an approved fire rating for zero-lot line development under the building code.

   b. The building has adequate fire access preserved pursuant to fire code requirements.

c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

14. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

MC MEDICAL CARE DISTRICTS [amended 2/03]

PREAMBLE

The MC Health Care districts are established to accommodate and direct the development of hospitals to serve as the nucleus of health care campuses. The uses permitted within these districts are intended to provide a convenient and efficient health care delivery system for the City and surrounding region. In addition to hospitals, MC districts permit development of closely related services such as medical offices, housing for the elderly and special needs groups; and, limited retail and various types of health care related services ancillary to principal district uses. It is the further intent of MC districts to assist and encourage the development of medical institutional land uses in a campus setting which includes not only the primary buildings and structures, but also, campus support systems involving pedestrian and vehicular circulation, parking, signs, exterior lighting, loading and materials handling, support facilities, interconnecting systems of above and below ground corridors, and related facilities. The districts are intended to support uses providing human care.

SECTION 904: PRINCIPAL USES PERMITTED

In an MC Medical Care District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. General medical, surgical hospitals and specialty hospitals, but not including animal hospitals.

2. Outpatient diagnostic and treatment centers, day surgery centers, rehabilitation clinics, and urgent care facilities.

3. Professional medical offices intended primarily for health care related professions or activities or hospital support services.

4. Offices for non-profit organizations related to or providing health care services.

5. Diagnostic and medical laboratories or research facilities.

6. Pharmacies without drive-up window service.

7. Medical appliance sales and servicing.

8. Educational facilities for the training of interns, nurses, and allied health care personnel.

9. Specialized congregate housing for the disabled and senior housing for the elderly at a density not to exceed the density standards of the RM-3, High Density Multiple Family Zone District. The density to be based on the area encompassed by the housing structure(s) and parking and open spaces specifically assigned to the specialized housing.

10. Conference facilities for events and activities related to the permitted MC district uses.
11. Ambulance services and associated maintenance facilities.

12. Parking decks (associated with uses permitted in the MC district) of up to two (2) levels above grade (roof parking is not counted as a deck) provided the setbacks for principal buildings are met.

13. Private, indoor, recreational facilities and fitness centers located within a hospital, provided such facilities are for employees and patients and not available to the general public.

14. Chapels, churches, places of worship, and related facilities, when located within a hospital building.

15. Accessory mobile medical technology units which will be stationed on the grounds of a hospital campus.

16. Establishments engaged in providing diagnostic services, extensive medical treatment (including surgical services) and other hospital services, as well as continuous nursing service.

17. Establishments primarily engaged in providing intermediate or long term nursing and health related care to individuals, typically classified as nursing homes, elder care facilities, and other such operations.

18. Dwellings affiliated with a hospital providing shelter and services for the elderly, which may include meals, housekeeping, personal care assistance and medical services.

19. Accessory buildings and accessory uses customarily incidental to the above Principal Permitted Uses.

20. Uses similar to the above Principal Permitted Uses.

SECTION 905: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Any permitted use, which includes provision for drive-up window services.

2. Pharmacies with drive-up window service.

3. Parking decks (associated with uses permitted in the MC district) exceeding two (2)

levels above grade (roof parking is not counted as a deck) provided the setbacks for principal buildings are met.

4. Specialized lodging facilities, including those with accessory conference centers and restaurants used for visitors and patients of hospitals.
5. Accessory mobile medical technology units which will be stationed outside the grounds of a hospital campus.

6. Interconnected systems of above and below ground corridors when traversing a public right-of-way.

7. Helipads, heliports, and helistops, under the following conditions:

    a. Helicopter access must be used for emergency transportation only.

    b. All helipads must be located within the boundaries of the hospital campus and shall be isolated from residential uses and screened from the street or adjoining residential uses.

    c. A specific hospital campus shall have only one primary functioning helipad, however, a back-up or secondary helipad may exist subject to Planning Commission approval.

    d. There must be demonstrated compliance with the standards of the Michigan Bureau of Aeronautics and the Federal Aviation Administration.

    e. All landing and take-off sites (pads) shall be located not less than 100 feet from all property lines, unless a lesser distance is approved by the Planning Commission.

    f. The landing and take-off site shall contain perimeter landscape, fencing, and/or other facilities or structures, or combinations thereof.

    g. The site shall be designed to ensure adequate separation between pedestrian circulation routes and the landing pad.

8. Power Plants – for hospital or medical facilities provided they are screened from off-site view of residential areas by use of walls, berms, landscaping, and/or other approved structures. Plants shall blend with the overall architectural character of attached and surrounding structures and the hospital campus as a whole.

9. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

SECTION 906: PLANNED UNIT DEVELOPMENTS

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the MC Health Care Districts is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 907: AREA AND BULK REQUIREMENTS

1. Minimum lot size: 10,890 sq. feet.
2. Maximum lot coverage:
   Buildings: 70 %
   Pavement: 25 %

3. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height Limit:
   Maximum height: 3 stores or 100 feet, provided, however, buildings of greater height may be approved by the Planning Commission subject to a Special Use Permit.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
      Expressway or Arterial Street: 30 feet
      Collector or Major Street: 20 feet
      Minor Street or campus access drive: 10 feet

   Maximum:
      Expressway, Arterial Street or Major Street: 50 feet
      Collector Street: 40 feet
      Minor Street or campus access drive: 30 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:

1-story: 8 feet and 12 feet
2-story: 10 feet and 14 feet

Note, setback measurement: The required front yard shall be measured from the right-of-way line to the nearest foundation or building wall of the building or structure. The required rear yard shall be measured from the property line to the nearest foundation or building wall of the building or structure. Side yard setbacks shall be measured from the property line to the determined drip line of buildings.

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side yard line provided:

a. The building has an approved fire rating for zero-lot line development under the building code.

b. The building has adequate fire access preserved pursuant to fire code requirements.

c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of the required front yard setback shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained.

12. Pedestrian Circulation:

a. Pedestrian systems connecting visitor and employee parking to building entrances shall be provided.

b. Whenever a hospital campus, or portion thereof, is located adjacent to public sidewalks or non-motorized pathways under the control of the City, the hospital's pedestrian and vehicular circulation systems shall be designed to link with these public systems in a safe and efficient manner.

ARTICLE X - B-1 LIMITED BUSINESS DISTRICTS

PREAMBLE

The B-1 Limited Business Districts are designed primarily for the convenience of persons residing in adjacent residential areas or neighborhoods, and to permit only such uses as are necessary to satisfy those limited basic, daily shopping and/or service needs, which by their very nature are not similar to the shopping patterns of the B-2 convenience and Comparison, B-3 Central Business District, and B-4 General Business Districts. B-1 Districts are also intended to be utilized at planned locations in the City as zones of transition between major thoroughfares and residential areas, and between intensive nonresidential areas and residential areas. In the B-1 District all business establishments shall be retail and/or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced. All business, servicing or processing, except off-street parking or loading, shall be conducted within a completely enclosed building, or in an area specifically approved by the City.

SECTION 1000: PRINCIPAL USES PERMITTED

In a B-1 Limited Business District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. Any generally recognized retail business which supplies new commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware. No individual uses, either freestanding or in a group of uses, shall exceed two thousand five hundred (2,500) square feet in area.

2. Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as: Shoe repair, dry cleaning shops, tailor shops, beauty parlors, barber shops, dressmaker, tailor, pharmacist, or an establishment doing radio, television, or home appliance repair, and similar establishments that require a retail character no more objectionable than the aforementioned, subject to the provision that no more than five (5) persons shall be employed at any time in the sale, repair, or other processing of goods.

3. Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, architects, engineers, accountants, and similar or allied professions. No individual use shall exceed two thousand five hundred (2,500) square feet in area.

4. Office buildings for any of the following types of occupations: executive, administrative and professional. No individual use shall exceed two thousand five hundred (2,500) square feet in area.

5. Residential uses as part of a building in this zone shall be allowed upon issuance of a Certificate of Occupancy from the Department of Inspections, provided that the minimum lot area requirements of the RM-1 District are met.

6. Accessory buildings and accessory uses customarily incidental to any of the above Principal Uses Permitted.

7. Uses similar to the above Principal Uses Permitted.

SECTION 1001: SPECIAL LAND USES PERMITTED

The following area, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions and any other reasonable conditions imposed by the Planning Commission. A site plan shall not be required when there are no external changes made to the buildings or properties.

1. Restaurants or other places serving food, except drive-in or drive-through restaurants.

2. Churches and other facilities normally incidental thereto subject to the following conditions:

    a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

    b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

    c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of building that exceeds the maximum height allowed.

3. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

4. Uses similar to the above Special Land Uses Permitted.

SECTION 1002: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the B-1 Limited Business Districts is to allow mixed land uses which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 1003: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 4,000 sq. feet.

2. Maximum lot coverage:
   Buildings: 50%
   Pavement: 25%
3. Lot width: 40 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height limit: 2 stories or 35 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
      Expressway or Arterial Street: 30 feet
      Collector or Major Street: 20 feet
      Minor Street: 10 feet
   Maximum:
      Expressway, Arterial Street or Major Street: 50 feet
      Collector Street: 40 feet
      Minor Street: 30 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:
   1-story: 8 feet and 12 feet
   2-story: 10 feet and 14 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

a. The building has an approved fire rating for zero-lot line development under the building code.

b. The building has adequate fire access preserved pursuant to fire code requirements.

c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XI - B-2 CONVENIENCE AND COMPARISON BUSINESS DISTRICTS

PREAMBLE

The B-2 Convenience and Comparison Business Districts are designed for the convenience and community shopping needs of residents in the Muskegon Area, and they are intended to be located in planned groups near the intersection of major thoroughfares. All business establishments shall be retail or service establishments dealing directly with consumers, and all goods produced on the premises shall be sold at retail on the premises where produced. All business, servicing or processing, except off-street parking or loading, shall be conducted within a completely enclosed building, unless otherwise provided by this Ordinance and specifically approved by the City.

SECTION 1100: PRINCIPAL USES PERMITTED

In a B-2 Convenience and Comparison Business District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. Any generally recognized retail business which supplies commodities such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.

2. Personal service establishments such as: shoe repair, dry cleaning shops, tailor shops, beauty parlors, barber shops, banks and savings and loan offices, pharmacist and laboratories, or any service establishment of an office-showroom or workshop nature of an electrician, decorator, dressmaker, tailor, shoemaker, baker, printer, upholsterer, appliance repair, photographic reproduction, and similar establishments that require a retail character no more objectionable than the aforementioned.

3. Restaurants, or other places serving food.

4. Professional offices of doctors, lawyers, dentists, chiropractors, architects, engineers, accountants, and similar or allied professions. Offices may be permitted for similar or allied professions. Offices may be permitted for applied technology, light technological research, research and development facilities with laboratories, but no industrially oriented production facilities shall be permitted.

5. Office buildings for any of the following types of occupations: executive, administrative and professional.

6. Post offices and other governmental office buildings.

7. Newspaper offices and printing offices.

8. Private clubs, lodge halls, social, and similar organizations, including assembly or rental halls. [amended 8/97]

9. Contractor's offices, with associated indoor storage: [amended 6/02]

   a. All associated storage must be contained within a structure, and such structure dedicated to storage shall not exceed five thousand (5,000) square feet in size.

   b. No toxic, hazardous or noxious materials shall be stored on the site.

10. Recording Studios. [amended 8/02]

11. Residential uses as part of a building in this business zone shall be allowed upon issuance of a Certificate of Occupancy from the Department of Inspections, but provided that the minimum lot area requirements of the RM-2 District are met.

12. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

13. Uses similar to the above Principal Uses Permitted.

SECTION 1101: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission. A site plan shall not be required when no external changes are made to the buildings or properties.

1. Automobile service stations for the sale of gasoline, oil, tires, muffler tune up, not including major repair such as engine rebuilding, undercoating, and similar industrially oriented activities, and subject further to the following:

   a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the roadway) or from adjacent residential property, and subject to other ordinances of the City.

   b. The minimum lot area shall be ten thousand (10,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait.

   c. There shall be provided, on those sides abutting or adjacent to a residential district, a four foot (4') completely obscuring wall or fence. The height of the wall or fence shall be measured from the surface of the ground.

d. All lighting shall be shielded from adjacent residential districts and from abutting streets.

e. All rest rooms doors shall be shielded from adjoining residential property.

2. Banks with drive-in facilities, when said drive-in facilities are incidental to the principal function.

3. Business in the character of a drive-in restaurant, or open front store, subject to the following:

a. A setback of at least sixty (60) feet shall be provided from the street right-of-way line of any existing or proposed major thoroughfare.

b. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets.

4. Churches and other facilities normally incidental thereto subject to the following conditions:

a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of buildings that exceeds the maximum height allowed.

5. Hotels, motels, sleeping inns and other facilities normally incidental thereto subject to the following conditions: [amended 9/99]

a. The maximum length of stay at the facility shall not be greater than fourteen (14) consecutive days.

b. Kitchen facilities may be allowed for some or all of the guest units, at the discretion of the Planning Commission, provided that not more than fifty percent (50%) of the units have such facilities.

c. The minimum floor area of each guest unit shall contain not less than two-hundred (200) square feet. Each guest unit shall contain a private rest room.

d. The minimum lot area shall be one-half (1/2) acre with a minimum width of seventy-five (75) feet. For any new development containing less than one (1) acre

there shall be at least sixteen hundred (1600) square feet of lot for each guest rental unit. In no case is a development to exceed 24 total units.

e. Parking shall be provided on-site.

f. The Planning Commission may require a common open space area of one hundred (100) square feet per unit with tables and seating. This area may be located in the required setback.

6. Stores selling second hand merchandise, subject to the following: [amended 12/01]

a. The site shall be located within or adjacent to an established, identifiable commercial corridor.

b. The store will be associated with a bona fied charitable organization, such as but not limited to 501(c)3 organizations.

7. Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios: [amended 5/02]

c. Parking is required to be provided on the same site as the building. Shared parking will be allowed, if it is irrevocable, and if it will not consume any parking needed for a separate use.

8. Contractor's offices, with associated indoor storage of over five thousand (5,000) square feet in size: [amended 6/02]

a. All associated storage must be contained within a structure.

b. No toxic, hazardous or noxious materials shall be stored on the site.

9. Live music concert halls, under the following conditions: [amended 8/02]

a. The business will operate in such a manner as to comply with the Noise Ordinance enacted by the City of Muskegon. No music (either live or piped) will be permitted outside the building.

b. The business will not be permitted to serve alcohol at any time to any person.

c. The business will maintain security staff, both inside and outside the building, at all times when open to customers. Loitering will not be permitted on or around the site.

d. The business will not operate between the hours of 3:00 a.m. and 8:00 a.m. No person of 16 years of age or younger will be permitted within the business after midnight and must directly exit the premises after that time.

e. The site and general vicinity will be maintained and litter-free, and will be checked for litter every day before opening.

f. Security lighting will be provided for the site.

10. Self-serve, coin operated, automobile car wash, enclosed in a building.

11. Indoor Theaters [amended 5/04]

a. Parking must be either on site or with an irrevocable shared parking agreement.

12. Veterinary clinics, without outdoor kennels. [amended 5/05]

13. Antique Shops [amended 10/05]

14. Accessory buildings and accessory uses customarily incidental to any of the above Special Land Uses Permitted.

15. Uses similar to the above Special Land Uses Permitted.

SECTION 1102: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the B-2 Convenience and Comparison Business Districts is to allow mixed land uses which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

SECTION 1103: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 10,890 sq. feet.

2. Maximum lot coverage:
   Buildings: 70 %
   Pavement: 25 %

3. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height Limit:
   Maximum height: 2 stories or 35 feet
   Minimum height: 2 stories or 35 feet.

Minimum heights are in the form of an "overlay district" on the following street corridors:

Western Avenue; from Ninth Street to Pine Street.
Clay Avenue; from Seventh Street to Fourth Street.
Pine Street; from Western Avenue to Apple Avenue.

Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]

Minimum:

Expressway or Arterial Street: 30 feet
Collector or Major Street: 20 feet
Minor Street: 10 feet

Maximum:

Expressway, Arterial Street or Major Street: 50 feet
Collector Street: 40 feet
Minor Street: 30 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:

1-story: 8 feet and 12 feet
2-story: 10 feet and 14 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

f. The building has an approved fire rating for zero-lot line development under the building code.

g. The building has adequate fire access preserved pursuant to fire code requirements.

h. The zero lot line side is not adjacent to a street.

i. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

j. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XII - B-3 CENTRAL BUSINESS DISTRICT

PREAMBLE

The City of Muskegon B-3 Central Business District is designed and intended to provide for and regulate land and building uses so as to continue to create a shopping, living, cultural, governmental, office, heritage, and institutional focal point for the City of Muskegon and the Muskegon Area. The District is designed to provide flexibility to encourage a diversity of uses, yet provide regulatory standards to create and maintain a safe and aesthetic environment.

SECTION 1200: PRINCIPAL USES PERMITTED [amended 6/07]

In the B-3 Central Business District, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Retail sales of new merchandise and commodities provided that all sales are made from a completely enclosed building except that this section shall not prohibit the sales of antique collector items, this section shall prohibit the operation of a store whose primary sales are previously used products, except as further regulated.

2. Professional and personal services of any type where any repair work done on the premises is incidental to the service rendered.

3. Banks, including those with drive-in windows, and other financial institutions.

4. Restaurants and cocktail lounges.

5. Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios.

6. Offices of business, government, and the professions.

7. Hotels and motels.

8. Indoor theaters.

9. Residential uses as part of a building in this business zone shall be allowed upon issuance of Certificate of Occupancy from the Department of Inspections. [amended 12/06]

10. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

11. Uses similar to the above Uses Permitted.

SECTION 1201: SPECIAL LAND USES PERMITTED [amended 6/07]

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions and any other reasonable conditions imposed by the Planning Commission.

1. Automobile service stations for the sale of gasoline, oil, and minor repair, not including major repair such as engine rebuilding, undercoating, and similar industrially oriented activities and subject further to the following:

    a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the roadway) or from adjacent residential property, and subject to other Ordinances of the City.

    b. The minimum lot area shall be ten thousand (10,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait.

    c. There shall be provided, on those sides abutting or adjacent to a residential district or residential uses a four foot (4') completely obscuring wall or fence. The height of the wall or fence shall be measured from the surface of the ground.

    d. All lighting shall be shielded from adjacent residential districts and from abutting streets.

2. Amusements and recreational facilities, including bowling alleys and skating rinks.

3. Commercial parking lots and parking structures.

4. Churches and other facilities normally incidental thereto subject to the following conditions:

    a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

    b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

    c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot of building that exceeds the maximum height allowed.

5. Specialized adult educational programs, under the following conditions: [amended 1/02]

a. The program must be associated with a school district.

b. No residency will be permitted in the facility.

c. The hours of operation will be limited to the regular school hours of the associated school district.

d. The facility must be located either on a major street or within two (2) blocks of regular bus service.

e. No more than 75 students can be associated with the program.

6. Live music concert halls, under the following conditions: [amended 8/02]

a. The business will operate in such a manner as to comply with the Noise Ordinance enacted by the City of Muskegon. No music (either live or piped) will be permitted outside the building.

b. The business will maintain security staff, both inside and outside the building, at all times when open to customers. Loitering will not be permitted on or around the site.

c. The business will not operate between the hours of 3:00 a.m. and 8:00 a.m. No person of 16 years of age or younger will be permitted within the business after midnight and must directly exit the premises after that time.

d. The site and general vicinity will be maintained and litter-free, and will be checked for litter every day before opening.

e. Security lighting will be provided for the site.

7. Multiple family residential uses of various types and densities. Any new multiple family construction shall be compatible and/or complementary to the character of the surrounding area as determined by the Planning Commission. [amended 12/06]

8. Private clubs, lodge halls, social and similar organizations, including assembly or rental halls.

9. Galleries and museums.

10. Antique shops.

11. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

12. Uses similar to the above Special Land Uses Permitted.

SECTION 1202: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the B-3 Central Business District is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings or other commercial uses. [revised 4/04 to reflect 10/98 changes]

SECTION 1203: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 4,000 sq. feet.

2. Maximum lot coverage:
   Buildings: 100 %
   Pavement: 25%

3. Lot width: 30 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height Limit:
   Maximum height: 6 stories or 90 feet
   Minimum height: 2 stories or 35 feet.

   Minimum heights are in the form of an "overlay district" on the following street corridors:
   Western Avenue from Ninth Street to Pine Street.
   Clay Avenue from Seventh Street to Fourth Street.
   Pine Street; from Western Ave. to Apple Avenue.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
   Expressway or Arterial Street: 30 feet
   Collector or Street: 20 feet
   Minor Street: 10 feet

Maximum:

Expressway, Arterial Street or Major Street: 50 feet
Collector Street: 40 feet
Minor Street: 30 feet

Note: For minimum front setbacks new principal structures on minor streets may align with existing principal structures in the immediate area even if the setback is below the minimum required.

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks: no requirement

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XIII - B-4 GENERAL BUSINESS DISTRICTS

PREAMBLE

The B-4 General Business District is designed to provide for a wide variety of business activities including automotive services and goods, and is generally incompatible with the uses in the B-1, B-2, and B-3 Business Districts. Placement along presently developed major traffic arteries prevents the conflict of traffic and pedestrian movement since the General Business District is characterized by a minimum of pedestrian flow. The B-4 General Business Districts have been located in areas designated on the adopted Land Use Plan.

SECTION 1300: PRINCIPAL USES PERMITTED

In the B-4 General Business District, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise providing in this Ordinance:

1. Veterinarian clinics, without outdoor kennels.

2. Bus passenger stations.

3. Stores selling second hand merchandise.

4. Funeral homes.

5. Automobile car wash, when completely enclosed in a building.

6. Auto service stations for the sale of gasoline, oil, and accessories, subject to the following:

    a. The curb for ingress and egress to a service station shall not be permitted at such location that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from adjacent residential districts.

    b. The minimum lot area shall be ten thousand (10,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait.

    c. Major automobile repair, engine and body repair, steam cleaning and undercoating may be allowed when conducted on the site, and said uses shall be within a completely enclosed building. The storage of wrecked automobiles on the site shall be obscured from public view. No automobile or vehicle of any kind shall be stored in the open for a period exceeding one (1) week.

d. All rest rooms doors shall be shielded from adjacent streets and residential districts.

e. Dispensing pumps shall be set back twenty (20) feet from the right-of-way line.

7. Self service laundry and dry cleaning establishments.

8. Amusement, entertainment, and recreational, including bowling alleys and skating rinks.

9. Storage of non-hazardous and non-toxic materials or goods provided such storage is within a building or is enclosed as not to be visible to the public from any abutting residential district or public street.

10. Theaters, when completely enclosed.

11. Banks, with or without drive-in facilities.

12. Restaurants and cocktails lounges.

13. Motels and hotels.

14. Residential uses as part of a building in this business zone shall be allowed upon issuance of a Certificate of Occupancy from the Department of Inspections, but provided that the minimum lot area requirements of the RM-3 District are met.

15. Assembly of small parts provided that there shall be no machining, painting, cutting, grinding, or welding of parts.

16. Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios: [amended 5/02]

    a. Parking is required to be provided on the same site as the building. Shared parking will be allowed, if it is irrevocable, and if it will not consume any parking needed for a separate use.

17. Principal Uses as permitted in B-2 Districts.

18. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

19. Uses similar to the above Principal Uses Permitted.

SECTION 1301: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission. A site plan shall not be required when there is no change to buildings or existing facilities.

1. Sales space for the sale of new and used automobiles, house trailers, travel trailers, and recreational vehicles, subject to the following.

    a. Ingress and egress to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets:

    b. No major repair or major refinishing shall be done on the lot, such use of land being only permitted in the I-1 or I-2 Industrial Districts.

2. Flea markets and auctions.

3. Business in the character of a drive-in restaurant or open front store, subject to the following:

    a. A setback of at least sixty (60) feet from the street right-of-way line of any existing or proposed major thoroughfare shall be maintained.

    b. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets.

4. Outdoor recreational space for amusement parks, miniature golf courses, and other outdoor recreation activities subject to the following: [amended 2/02]

    a. Amusement parks or amusement facilities must be fenced on all sides with a four foot six inch (4'-6") high wall or fence.

5. Outdoor theaters subject to the following conditions:

    a. Points of ingress and egress for the outdoor theater shall be on major thoroughfares and shall not be accessible from any residential street.

    b. All vehicles waiting or standing to enter the facility shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated road right-of way.

6. Private clubs, lodges, social and similar facilities.

7. Churches and other facilities normally incidental thereto subject to the following conditions:

   a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.

   b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.

   c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of building that exceeds the maximum height allowed.

8. Commercial Kennels [amended 5/96]

9. Mini Storage (warehouse facilities) [amended 10/98]:

   a. The parcel shall have direct access to a major thoroughfare.

   b. One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee on site.

   c. Between warehouses, there shall be a minimum of twenty five (25') feet for internal access drives. Traffic direction and parking shall be designated by signaling or painting.

   d. The lot area used for parking and access shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.

   e. All lighting shall conform to lighting standards of this ordinance.

   f. A ten foot landscaped berm shall be required in the front setback of areas adjacent to any residential zone or use.

   g. Retail, wholesale, fabrication, manufacturing, or service activities may not be conducted from the storage units by the lessees.

   h. Storage of goods shall be limited to personal property with no commercial distribution allowed and no operation which requires the regular delivery or pick-up of goods in truck in excess of one and one-half (1.5) ton rated capacity shall be permitted.

i. All storage shall be within the enclosed building area. There shall be no outside storage or stockpiling.

j. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

10. Live music concert halls, under the following conditions: [amended 8/02]

a. The business will operate in such a manner as to comply with the Noise Ordinance enacted by the City of Muskegon. No music (either live or piped) will be permitted outside the building.

b. The business will maintain security staff, both inside and outside the building, at all times when open to customers. Loitering will not be permitted on or around the site.

c. The business will not operate between the hours of 3:00 a.m. and 8:00 a.m. No person of 16 years of age or younger will be permitted within the business after midnight and must directly exit the premises after that time.

d. The site and general vicinity will be maintained and litter-free, and will be checked for litter every day before opening.

e. Security lighting will be provided for the site.

11. Taxi/Limousine Services [amended 5/04].

12. Craft Shops [amended 7/08].

13. Accessory uses and accessory buildings customarily incidental to the above Special Land Uses Permitted.

14. Uses similar to the above Special Land Uses Permitted.

SECTION 1302: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned Developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the B-4 General Business Districts is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings or permitted commercial uses.

SECTION 1303: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 10,890 sq. feet.

2. Maximum lot coverage:
   Buildings: 70 %
   Pavement: 25 %

3. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height Limit:
   Maximum height: 2 stories or 35 feet
   Minimum height: 2 stories or 35 feet.

   Minimum heights are in the form of an "overlay district" on the following street corridors:

   Western Avenue; from Ninth Street to Pine Street.
   Clay Avenue; from Seventh Street to Fourth Street.
   Pine Street; from Western Ave. to Apple Avenue.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
      Expressway or Arterial Street: 30 feet
      Collector or Major Street: 20 feet
      Minor Street: 10 feet
   Maximum:
      Expressway, Arterial Street or Major Street: 50 feet
      Collector Street: 40 feet
      Minor Street: 30 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:
   1-story: 8 feet and 12 feet

2-story: 10 feet and 14 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

B-5 CENTRAL GOVERNMENTAL SERVICE DISTRICT [amended 3/98]

PREAMBLE

The B-5 Central Governmental Services District is designed to provide for a wide variety of uses associated with county and city governmental services, businesses and residential uses appropriate for the downtown area. The Central Governmental Service District recognizes the city's multiple roles as the county seat, employment center, the urban core of a larger metropolitan area and home of historic, stable neighborhoods.

SECTION 1304. PRINCIPAL USES PERMITTED:

In the B-5 Central Governmental Services District, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

1. Municipal, county and state administrative offices.

2. Municipal fire stations.

3. Sheriff or police department offices and facilities, not including jail or correctional facilities.

4. Community centers.

5. Retail businesses which supply retail foods, drugs, dry goods, appliances, notions, books, newspapers, gifts, furniture, hardware or similar retail businesses, not including "adult" or sexually oriented businesses.

6. Professional and business offices including medical clinics.

7. Banks, with or without drive-in facilities.

8. Single family detached dwellings.

9. An Adult Foster Care Facility for any number of people.

10. Child care or day care center.

11. Residential apartments associated with or accessory to a permitted use provided the residential use is not on the main floor and constitutes no more than 50% of the total floor area of the principal structure.

12. Expansion of an existing secure correctional facility operated by the Muskegon County Sheriff's Department.

13. Restaurants and cocktail lounges.

14. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

SECTION 1305: PROHIBITED USES

All uses not specifically permitted are prohibited. However, certain uses, which may seem otherwise compatible with permitted uses or special uses listed in this Article, are deemed by the city to be particularly unacceptable:

1. Halfway houses or other unsecured facilities for parolees or persons serving any criminal sentence, probation or parole violation, including privately owned and operated facilities, or similar facilities which house persons in a building under the jurisdiction of, or (if State law does not preempt), operated by, the Michigan Department of Corrections; similar unsecured facilities operated by or under the jurisdiction of the Sheriff's Department or the Courts.

2. Any unsecured facilities for the holding or residence of juvenile or youthful offenders subject to the Juvenile Division of Probate Court, or the Family Court.

3. Outdoor storage, warehouses, garages, except for garages which are deemed by the zoning administrator or Zoning Board of Appeals to constitute accessory structures to permitted or previously approved special uses.

SECTION 1306: SPECIAL LAND USES

The following uses, and their accessory buildings and accessory uses, shall be permitted as special uses under Section 2332 after review and approval of the use (and a site plan) by the Planning Commission, after Public Hearing, subject to the applicable conditions imposed by the Planning Commission.

1. Correctional facilities provided:

    a. The facility meets national, state, and local codes and design criteria for correctional facilities including, without limitation, construction and security requirements.

    b. The facility is secure, "lock-up," and operated by the County Sheriff's Department or City of Muskegon Police Department.

    c. The facility shall be screened from residential uses, using materials and fencing compatible with residential uses and practice.

d. Lighting, access and security devices shall be located and screened to avoid negative effects on, and achieve compatibility with, surrounding and adjacent uses and properties.

e. Facilities for transportation of prisoners must be located inside the secured areas of the building.

2. Youth homes provided the facility meets the same requirements as a Secured Correctional facility approved as a special use in this District.

3. Parking Structures.

4. Multiple family residential uses.

5. Temporary uses, which shall be applied for and utilized in accordance with reasonable special conditions limiting the duration of the use. Such conditions may include, without limitation, imposition of the time limit for the use, the requirement of dismantling, restoration of improvements to their former configurations, consent to and execution of documents giving unconditional rights of entry to the city to carry out eviction, dismantling and restoration activities and the requirement of bonding or other security to assure the discontinuance and structural changes needed or appropriate in the judgment of the Planning Commission to terminate the use. Temporary uses may include, in the sole discretion of the Planning Commission, uses which are not permitted uses or special uses enumerated in this Ordinance, as well as permitted and special uses in this district. The Planning Commission may determine to limit the duration of any special use under consideration in accordance with this paragraph.

[Original SECTION 1307 (Signs) was REPEALED in 10/98]

SECTION 1307: PLANNED UNIT DEVELOPMENTS [renumbered 10/98]

Planned Unit Developments may be allowed by the Planning Commission and City Commission pursuant to Section 2101. The intent of Planned Unit Developments in the B-5 Central Governmental Services District is to allow mixed land uses, which are compatible with adjacent and nearby uses in existence, with a particular concern to protect residential uses and commercial uses. The following combinations of uses are authorized in Planned Unit Developments. Distance requirements and provisions of the B-5 District shall be observed:

1. Permitted and special uses in the B-5 zone and:

2. Clubs, lodge halls, social and similar organizations including assembly or rental halls.

SECTION 1308: AREA AND BULK REQUIREMENTS [renumbered 10/98, amended 4/00]

1. Minimum lot size: 10,890 sq. feet.

2. Maximum lot coverage:
   Buildings: 80%
   Pavement: 25%

3. Lot width: 40 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height Limit:
   Maximum height: 4 stories or 60 feet.
   Minimum height: 2 stories or 35 feet.

   Minimum heights are in the form of an "overlay district" on the following street corridors:

   Western Avenue from Ninth Street to Pine Street.
   Clay Avenue from Seventh Street to Fourth Street.
   Pine Street; from Western Ave. to Apple Avenue.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
      Expressway or Arterial Street: 30 feet
      Collector or Major Street: 20 feet
      Minor Street: 10 feet
   Maximum:
      Expressway, Arterial Street or Major Street: 50 feet
      Collector Street: 40 feet
      Minor Street: 30 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:
   1-story: 8 feet and 12 feet
   2-story: 10 feet and 14 feet

3-story: 12 feet and 16 feet
4-story: 16 feet and 20 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XIV - I-1 LIGHT INDUSTRIAL DISTRICTS

PREAMBLE

The I-1 Light Industrial Districts are designed so as to permit wholesale, warehousing, and manufacturing facilities whose external, physical effects have a minimum detrimental effect on the adjacent districts. It is the intent of this article to permit, in addition to specific uses enumerated, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semifinished products from previously prepared material. The uses permitted are those which meet a higher standard of restrictions than those imposed in the I-2 Zoning District, and shall be of a type other than those which produce hazardous material as defined in the Fire Code.

SECTION 1400: PRINCIPAL USES PERMITTED

All principal uses of land and buildings which are erected or structurally altered or occupied shall be those specified in this article:

1. The manufacture, compounding, processing of food, and pharmaceuticals.

2. The manufacture, compounding, or assembly of products from previously prepared materials, including but not limited to fabrics, glass, leather, paper, metal, or plastics.

3. Machine shops and metal finishing shops, including the incidental of casting of metal products and alloying of furnace ready non-ferrous metals which are free of paint, oils or other organic substances.

4. Crematories.

5. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities such as: lumber yards or motor vehicle, boat, or implement sales.

6. Storage yards.

7. Warehousing of materials not highly hazardous as defined in the Fire Code.

8. Veterinary clinics and outdoor kennels.

9. Lumber and planing mills.

10. Municipal buildings, public service buildings, auto equipment repair shops doing major repair.

11. Accessory buildings and uses customarily incidental to the above Principal Uses Permitted.

12. Uses similar to the above.

SECTION 1401: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted as a special land use if it is found to meet the standards outlined in Section 2332 of this Ordinance, subject to the applicable conditions imposed by Ordinance and other reasonable conditions imposed by the Planning Commission:

1. Railway or truck freight terminals located more than two hundred (200) feet from any residential district.

2. Freestanding commercial radio, television, and similar transmission towers greater than 175 feet and their attendant facilities.

3. Paint manufacturing.

4. Accessory buildings and accessory uses customarily incidental to any of the above Special Land Uses Permitted.

5. Prisons and other similar correctional facilities.

6. Adult bookstores, adult indoor and outdoor motion picture theaters, and cabarets. Recognizing that because of their nature some uses have objectionable operational characteristics, especially when concentrated in small areas and recognizing that such uses may have a harmful effect on adjacent areas, special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are as follows:

    a. No such uses may be permitted in the I-1 Districts within one thousand (1,000) feet if any residential district measured from the lot line of the location of the proposed use.

    b. The Planning Commission may waive this location provision if the following findings are made:

        1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Ordinance will be observed.

        2) That the character of the area shall be maintained.

        3) That all applicable regulations of this Ordinance will be observed.

4) That no other adult bookstore, adult motion picture theater, or cabaret is located within two thousand (2,000) feet of the proposed location.

c. Anything herein to the contrary notwithstanding, the Planning Commission shall not consider the waiver of the locational requirements as hereinabove set forth until a petition shall have been filed with the City Clerk and verified as to sufficiency. Such petition shall indicate approval of the proposed regulated use by fifty-one (51) percent or more of the persons owning property within a radius of one thousand (1,000) feet of the location of the proposed use as measured from the lot line. The petitioner, or his agent, shall attempt to contact all eligible property owners within this radius and must maintain a list of all addresses at which no contact was made.

d. The petition hereafter required shall contain an affidavit signed by the party circulating such petition attesting to the fact that the petition was circulated by him and that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the person whose name appeared thereon, and that the circulator truly believes that the signers of such petition are persons owning property within one thousand (1,000) feet of the premises mentioned in said petition. Such petition shall also comply with other rules and regulations as may be promulgated by the City Commission.

7. Uses similar to the above Special Land Uses Permitted.

SECTION 1402: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the I-1 Light Industrial Districts is to allow mixed land uses, which are compatible to each other, while prohibiting uses which would not be compatible or harmonious with other uses permitted in the I-1 District.

SECTION 1403: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 21,780 sq. feet.

2. Maximum lot coverage:
   Buildings: 85 %
   Pavement: 25 %

3. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height limit: 3 stories or 50 feet

Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]

   Minimum:

   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 20 feet
   Minor Street: 10 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:

   1-story: 10 feet and 20 feet
   2-story: 15 feet and 25 feet
   3-story: 20 feet and 30 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front

setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

SECTION 1404: BUSINESS CONDUCT LIMITATION

1. All uses permitted under Section 1400 and 1401 shall be subject to all environmental limitations imposed by this Section, other ordinances, statutes and governmental regulations.

2. Casting of metal parts in shops other than foundries shall be limited so that not more than twenty-five percent (25%) of the aggregate floor area may be used for the casting process.

3. Crematories shall be located not less than two hundred (200) feet from a residential district.

4. Storage yards shall be screened from any adjacent street or non-industrial district by an obscuring fence. This shall not require that parking lots of motor vehicles, boats, or implement sales be screened.

5. No property line of a lumber or planing mill shall be contiguous to the exterior boundary of a Residential District.

6. Uses permitted in the I-1 District shall be those whose finished products are non-hazardous as defined in the Fire Code.

7. Stamping machines, presses, and shears shall be dampened so as not to produce noises and vibrations which conflict with the preamble of this Article.

8. Animals kept for slaughter shall be only that number which will be processed in one day.

ARTICLE XV - I-2 GENERAL INDUSTRIAL DISTRICTS

PREAMBLE

The I-2 General Industrial Districts are established primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations whose external physical effects may be felt to some degree by surrounding districts. The I-2 District is so structured as to permit, in addition to I-1 Light Industrial District uses, the manufacturing, processing and compounding of semifinished or finished products from raw materials.

SECTION 1500: PRINCIPAL USES PERMITTED

In an I-2 General Industrial District, buildings and land may be used for one (1) or more of the following specified uses, unless otherwise provided in this Article.

1. Any Principal Use Permitted in the I-1 District, subject to the requirements of this District.

2. Primary metal industries, including foundries, smelting and refining of metal or alloys, rolling and extruding plants.

3. Chemical plants whose manufacturing process produce products which are not hazardous materials as defined in the Fire Code.

4. Paper and pulp manufacturing.

5. Power generating plants.

6. Junk yards and scrap metal processing.

7. Rubber manufacturing or the remanufacturing of rubber products.

8. Uses similar to the above principal uses.

SECTION 1501: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted as a special land use if it is found to meet the standards outlined in Section 2332 of this Ordinance, subject to applicable conditions imposed by Ordinance or other reasonable conditions imposed by the Planning Commission:

1. Any use with outside storage of aggregate, sand or other soil, or raw materials used in a manufacturing process such as brick, tile manufacturing plants, asphalt and cement batch plants.

2. Gasoline storage facilities.
3. Bulk storage or the production of acelylene, natural gas, and oxygen or other highly explosive or toxic gases. The storage of such gases for use in a production process or of an industry, business, or health care facility shall not be considered bulk storage.

4. Chemical plants whose manufacturing process produce products which are hazardous materials as defined in the Fire Code.

5. Uses similar to the above Special Land uses.

SECTION 1502: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the I-2 General Industrial District is to allow mixed land uses, which are compatible to each other.

SECTION 1503: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 43,560 sq. feet.

2. Maximum lot coverage:
   Buildings: 85 %
   Pavement: 25 %

3. Lot width: 150 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height limit: 3 stories or 50 feet

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 20 feet
   Minor Street: 10 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:

   1-story: 10 feet and 20 feet
   2-story: 15 feet and 25 feet
   3-story: 20 feet and 30 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

WI-PUD WATERFRONT INDUSTRIAL PLANNED UNIT DEVELOPMENT DISTRICTS [amended 4/00]

PREAMBLE

The Waterfront Industrial PUD district is established primarily for water-dependent, commercial shipping of bulk, general cargo, or container goods by freighter, bulk carrier, tanker, tug barge, or other similar commercial vessels. The WI-PUD District is intended to promote the consolidation of commercial port activities at the eastern terminus of Muskegon Lake because of its proximity to the interstate, established industrial uses, and isolation from residential zones. The intent is to localize this district to promote symbiotic relationships among industrial port activities and to discourage the expansion of such activities elsewhere along Muskegon Lake frontage. It is further the intent of this district to require planned unit developments for all projects to ensure a mix of port uses that enhances the industrial economic base of the city. The planned unit development tool shall be applied to promote flexibility in development and to enhance functional relationships among uses in the district.

The general categories of uses permitted in the WI-PUD district are associated with standard industrial classifications, major group industry 44, "Water Transportation" as found in the 1987 Standard Industrial Classification Manual prepared by the Executive Office of the President, Office of Management and Budget.

SECTION 1504: USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted as planned unit developments. Planned unit developments shall be reviewed and approved by the Planning Commission and City Commission subject to the conditions outlined below.

PRINCIPAL USES:

1. Water transportation of freight.

2. Railroad and auto passenger ferries.

3. Marine cargo handling; loading, unloading and stevedore facilities.

4. Marine terminal uses including ancillary inter-modal transportation operations.

5. Any use with outside storage of aggregate, limestone, coal, slag, salt, sand or other bulk materials shipped by commercial watercraft vessels and or barges.

6. Grain elevators.

7. Bulk and warehouse storage of goods shipped by commercial maritime vessels.

8. Towing and tugboat services for commercial freight water vessels.

9. Barge fleeting, mooring and servicing.
10. Lighterage.

11. Commercial engine and hull repair.

12. Marine dock, breakwater, harbor construction and repair contracting.

13. Marine dredging contractors.

14. Palletizing, decanning, container stripping and packing operations associated with maritime shipping and transport.

15. Bulk liquid facilities of non-hazardous materials.

16. Material recovery facilities that are entirely contained in buildings.

17. Commercial fishing facilities.

18. Any other uses which meet the intent of this district as deemed by the Planning Commission and City Commission; except that in no case shall a prohibited use be permitted.

ACCESSORY USES:

1. Docks, wharves, piers or transit sheds or related facilities used in connection with the transfer, handling, storage and transit and incidental processing of cargo from or to waterborne craft.

2. Truck or rail freight terminal supporting water freight transport.

3. Offices associated with port facilities and functions.

4. Parking decks.

5. Watchmen quarters employed on the premise.

6. Lift equipment to load and unload ships.

7. Weigh stations.

8. Lighthouse.

9. Fuel dock.

10. Seaplane base.

SECTION 1505: PROHIBITED USES

1. Asphalt batching.

2. Cement processing.

3. Storage of petroleum products stored in excess of 1,000 gallons.

4. Hazardous material or hazardous chemical storage or transport.

5. Ship cleaning.

6. Salvage yards, ship scrapping, dismantling and wrecking operations not wholly contained in buildings.

7. Livestock holding.

8. Marine Salvage.

9. Manufacturing.

10. Open storage of fertilizers, agricultural lime and other chemicals.

11. Billboards.

SECTION 1506: REVIEW STANDARDS

The Planning Commission shall approve, deny or modify preliminary planned unit development plans, based upon the site plan review and landscaping standards of this ordinance and the following standards below. Likewise, the City Commission shall approve, deny, or modify final planned unit development plans (after review and recommendation by the Planning Commission) based upon the following standards:

1. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience of any combination thereof, on present and potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties, or the environment.

2. The uses proposed should be consistent with the land use plans adopted by the City.

3. The amount of open space provided is compatible with and meets the requirements of this ordinance, which the Planning Commission or City Commission may modify, even though such modifications do not conform to that required in other sections of this ordinance.

4. The amount of off-street parking areas is adequate, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.

5. The amount of landscaping and buffering areas provided are compatible with and meet the requirements of this ordinance, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.

6. The design provides for the protection or enhancement of significant natural, historical, or architectural features within the proposed development area.

7. The uses proposed will result in safe, convenient, uncongested and well defined vehicular and pedestrian circulation systems.

8. The land uses presented shall provide a mix of uses to perpetuate an economically viable, mixed use port.

9. The project shall demonstrate adequate support services for all activities.

10. Stockpiles of salt and agricultural lime must be covered or sufficiently isolated from the surface water to prevent leaching.

11. Aggregate, salt, lime, or soil stockpiling areas shall not occupy more than 50% of the site or district.

12. Truck freight terminals shall not occupy more than 30% of the site area or district. Trucks shall be stored a minimum of two hundred (200) feet from the ordinary high water mark.

SECTION 1507: AREA AND BULK REQUIREMENTS

The following are meant as general guidelines. Through the process of the Planned Unit Development process, the Planning Commission may determine that changes to the standards are appropriate to both meet the needs and objectives of the project and the city.

1. Minimum lot size: 43,560 sq. feet.

2. Maximum lot coverage:
   Buildings: 75 %
   Pavement: 25 %

3. Lot width: 150 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height limit: 3 stories or 50 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]

   Minimum:

   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 20 feet
   Minor Street: 10 feet

7. Rear setback: 10 feet.

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:

   1-story: 10 feet and 20 feet
   2-story: 15 feet and 25 feet
   3-story: 20 feet and 30 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XVI - OSC OPEN SPACE CONSERVATION DISTRICTS

PREAMBLE

The OSC Open Space Conservation Districts are intended to provide for permanent open spaces in the community, and the protection of sand dunes and other natural features, and are designed to provide undeveloped recreational areas and to safeguard the health, safety, and welfare of the citizens of Muskegon and adjacent areas by limiting development in locations where police and fire protection, protection against flooding by high water table or storm water, and dangers from excessive erosion are not possible without excessive costs to the City.

SECTION 1600: PRINCIPAL USES PERMITTED

In the OSC Open Space Conservation District, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Fishing docks and piers.

2. Hiking, bicycling, jogging, or ski trails.

3. Wildlife preserves or refuge structures.

4. Watershed or erosion protection facilities.

5. Uses similar to the above Principal Uses Permitted.

SECTION 1601: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Public and private utilities and services.

2. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

3. Uses similar to the above Special Land Uses Permitted.

4. Parking areas for Principal Uses.

SECTION 1602: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the open space conservation districts to allow mixed land uses permitted in the OSC zone, which are compatible to each other.

SECTION 1603: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 21,780 sq. feet.

2. Maximum lot coverage:
   Buildings: 20 %
   Pavement: 15 %

3. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height limit: 2 stories or 35 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]
   Minimum:
   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 20 feet
   Minor Street: 10 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:
   1-story: 6 feet and 10 feet
   2-story: 8 feet and 12 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XVII - OSR OPEN SPACE RECREATION DISTRICTS

PREAMBLE

The OSR Open Space Recreation Districts are intended to provide for permanent open spaces in the City and are designed to provide recreational activities that are limited to country clubs, marinas, and the like. These Districts are further intended to safeguard the natural features of the City, and the health, safety, and welfare of the citizens of Muskegon and the adjacent area by limiting developments to locations where police and fire protection, or protection against flooding by high water table or storm water, or dangers from excessive erosion are not possible without excessive costs to the City.

SECTION 1700: PRINCIPAL USES PERMITTED

In the OSR Open Space Recreation Districts, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified used, unless otherwise provided in this Ordinance:

1. Fishing docks and piers.

2. Hiking, bicycling, jogging, or ski trails.

3. Wildlife preserves or refuge structures.

4. Watershed or erosion protection facilities.

5. Parks, playgrounds, and playfields.

6. Accessory uses customarily incidental to the above Principal Uses Permitted.

7. Uses similar to the above Principal Uses Permitted.

SECTION 1701: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Country clubs.

2. Marinas for the berthing and servicing of boats, but without major repair or storage facilities.

3. Public and private utilities and services.

4. Seasonal, recreational, campers and trailer parks, and facilities.

5. Amusement facilities excepting outdoor theaters, adult theaters, and adult bookstores.

6. Seasonal or year-round craft shops.

7. Conference and reception auditoriums.

8. Galleries and museums.

9. Open air amphitheaters.

10. Restaurants and cocktail lounges.

11. Any other similar uses or activity requiring buildings or structures.

12. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

13. Uses similar to the above Special Land Uses Permitted.

SECTION 1702: PLANNED UNIT DEVELOPMENT [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the OSR Open Space Recreation Districts is to allow mixed land uses which are compatible to each other, while prohibiting uses which would not be compatible or harmonious with permitted uses.

SECTION 1703: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 21,780 sq. feet.

2. Maximum lot coverage:
   Buildings: 20%
   Pavement: 15%

3. Lot width: 100 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

4. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

5. Height limit: 2 stories or 35 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building

line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

6. Front Setbacks: [amended 1/05]

   Minimum:

   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 20 feet
   Minor Street: 10 feet

7. Rear setback: 10 feet

8. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

9. Side setbacks:

   1-story: 6 feet and 10 feet
   2-story: 8 feet and 12 feet

   Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

10. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

    a. The building has an approved fire rating for zero-lot line development under the building code.

    b. The building has adequate fire access preserved pursuant to fire code requirements.

    c. The zero lot line side is not adjacent to a street.

    d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

    e. It is not adjacent to wetlands, or waterfront.

11. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XVIII - LR LAKEFRONT RECREATION DISTRICTS

PREAMBLE

The primary intent of the LR Lakefront Recreation District is to provide for areas abutting Muskegon Lake including Muskegon River and Lake Michigan to be utilized for both public and private recreational and recreation oriented facilities. It is intended that any commercial facilities be limited to water related recreation activities.

SECTION 1800: PRINCIPAL USED PERMITTED

In the LR Lakefront Recreation District, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Marinas for the berthing and servicing of boats, but without major repair or storage facilities.

2. Restaurants and cocktail lounges.

3. Hotels and motels.

4. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

5. Uses similar to the above Principal Uses Permitted.

SECTION 1801: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Residential development projects.

2. Private clubs, lodge halls, social, or recreational uses.

3. Accessory buildings and accessory uses customarily incidental to the above Special Land Use Permitted.

4. Seasonal, recreational, camper and trailer parks, and facilities.

5. Uses similar to the above Special Land Uses Permitted.

SECTION 1802: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the LR Lakefront Recreation Districts is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with lakefront recreation activities, or residential dwellings.

SECTION 1803: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 21,780 sq. feet.

2. Dedicated open space requirement: 15%

3. Maximum lot coverage:
   Buildings: 60 %
   Pavement: 15 %

4. Lot width: 150 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

5. Maximum building width: 50% (as a portion of the lot width).

6. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

7. Height limit: 4 stories or 60 feet.

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

8. Front Setbacks: [amended 1/05]
   Minimum:
   Expressway or Arterial Street: 30 feet
   Collector or Major Street: 20 feet
   Minor Street: 10 feet

9. Rear setback: 10 feet

10. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

11. Side setbacks:

1-story: 8 feet and 12 feet
2-story: 10 feet and 14 feet
3-story: 12 feet and 16 feet
4-story: 16 feet and 20 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

12. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

a. The building has an approved fire rating for zero-lot line development under the building code.

b. The building has adequate fire access preserved pursuant to fire code requirements.

c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

13. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XIX - WM WATERFRONT MARINE DISTRICTS

PREAMBLE

The WM Waterfront Marine Districts are designed to accommodate boating and water oriented land and building use along with those activities and services related to harbor and waterway improvements, thereby facilitating navigation, and providing safe and economical waterfront developments.

SECTION 1900: PRINCIPAL USES PERMITTED

In the WM Waterfront Marine District no building or land shall be used and no building shall be erected, structurally altered, be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance:

1. Marinas including the out of water seasonal storage of boats.

2. Commissary facilities for the provision of food, beverages, and the like to be stores aboard boats.

3. Municipal or private beaches.

4. Retail businesses which supply commodities for persons using the facilities of the District, such as the sale of boats, engines and accessories, fishing equipment, and other similar items.

5. Restaurants and cocktail lounges.

6. Hotels and motels.

7. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.

8. Uses similar to the above Principal Uses Permitted.

SECTION 1901: SPECIAL LAND USES PERMITTED

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Engine and hull repair shops.

2. Marine contracting.

3. Commercial fishing and processing facilities.
4. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

5. Seasonal recreational camper, trailer parks and facilities.

6. Museums. [amended 9/08]

7. Uses similar to the above Special Land Uses Permitted.

SECTION 1902: PLANNED UNIT DEVELOPMENTS [amended 10/98]

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the WM Waterfront Marine Districts is to allow mixed land uses, which are compatible to each other, while prohibiting uses which would not be compatible or harmonious with permitted uses.

SECTION 1903: AREA AND BULK REQUIREMENTS [amended 4/00]

1. Minimum lot size: 21,780 sq. feet.

2. Density (see definition in Article II): 24 dwelling units per buildable acre.

3. Dedicated open space requirement: 15%

4. Maximum lot coverage:
   Buildings: 60%
   Pavement: 25%

5. Lot width: 150 feet (shall be measured at road frontage unless a cul-de-sac, then measured from setback).

6. Maximum building width: 50% (as a portion of the lot width).

7. Width to depth ratios: The depth of any lot(s) or parcel(s) shall not be more than three (3) times longer its width.

8. Height limit: 4 stories or 60 feet

   Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

9. Front Setbacks: [amended 1/05]

Minimum:

Expressway or Arterial Street: 30 feet
Collector or Major Street: 20 feet
Minor Street: 10 feet

10. Rear setback: 10 feet

11. Setback from the ordinary high water mark or wetland: 75 feet (principal structures only).

12. Side setbacks:

1-story: 8 feet and 12 feet
2-story: 10 feet and 14 feet
3-story: 12 feet and 16 feet
4-story: 16 feet and 20 feet

Note, setback measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

13. Zero lot line option: New principal buildings may be erected on the rear lot line and/or one side lot line provided: [amended 10/02]

a. The building has an approved fire rating for zero-lot line development under the building code.

b. The building has adequate fire access preserved pursuant to fire code requirements.

c. The zero lot line side is not adjacent to a street.

d. A maintenance access easement is granted by the adjacent property owner and recorded with the County Register of Deeds and provided to the zoning administrator with the site plan or plot plan.

e. It is not adjacent to wetlands, or waterfront.

14. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along each street frontage. [amended 12/01, amended 10/02]

ARTICLE XX – [RESERVED] [amended 6/07]

ARTICLE XXI - SCHEDULE OF REGULATIONS AND DEVELOPMENT OPTIONS

SECTION 2100

See Table I for district density, setback and lot coverage limits.

SECTION 2101: DEVELOPMENT OPTIONS

1. Planned Unit Development (PUD) Purpose

The purpose of this option is 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 and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the City of Muskegon and encourage the use, reuse, and improvement of existing sites and buildings when the uniform regulations contained in zoning districts do not provide adequate protection and safeguards for the site or surrounding area.

This option is intended to accommodate developments with mixed or varied uses, to allow some degree of flexibility in the application of standards and regulations in this Ordinance to achieve innovation to development on sites with unusual topography or unique settings within the community, or on land which exhibits difficult or costly development problems, and shall not be allowed where this option is sought primarily to avoid the imposition of standards and requirements of zoning classifications rather than to achieve the stated purposes above.

a. Planned Unit Development Regulations, Standards and Requirements

1) The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.

2) The application shall meet the criteria established in each specified zoning district.

b. PUD Review Procedures

1) A petition for a PUD approval shall be submitted in accordance with Section 2332 of this ordinance.

2) The review shall be in two phases:

3) The preliminary phase shall involve a review of a conceptual PUD plan to determine its suitability.

4) The final phase shall require a detailed development plan for any part of the approved conceptual PUD plan.

c. Standards for Approval of PUD Plans

The Planning Commission shall approve, deny or modify preliminary PUD plans, based upon the following standards. Likewise, the City Commission shall approve, deny, or modify final PUD plans (after review and recommendation by the Planning Commission) based upon the following standards.

1) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience of any combination thereof, on present and potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties, or the environment.

2) The uses proposed should be consistent with the land use plans adopted by the City.

3) The amount of open space provided, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.

4) The amount of off-street parking areas, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.

5) The amount of landscaping and buffering areas, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.

6) The protection or enhancement of significant natural, historical, or architectural features within the proposed development area.

7) The uses proposed will result in safe, convenient, uncongested and well defined vehicular and pedestrian circulation systems.

2. Preliminary PUD Plan Submission

The applicant shall submit together with the application for PUD preliminary phase approval:

a. A general development plan depicting the proposed locations of streets, parking areas, open spaces, buildings and structures, and their spatial relationships, the relationship to off-site improvements and infrastructure and any unusual topographic features.

1) Approval by the Planning Commission of the PUD Preliminary Plan shall remain in effect for a period not to exceed three (3) years from the date of approval.

3. Final PUD Plan Submission

The applicant shall submit together with the application for PUD final phase approval, development plans in sufficient detail and in so far as possible the specific locations and dimensions of:

a. all streets, sidewalks, public and private utilities, parking areas, truck docks and service drives;

b. all buildings and structures, elevations and spacial relationships;

c. landscaping, buffers, fences, and protective walls;

d. open space areas and other significant environmental features;

e. existing and final topographic changes;

f. identification and directional signage:

g. a property survey prepared and certified by a licensed land surveyor;

4. Amendments to an Approved Final PUD Plan

a. Incidental or minor changes may be approved by the Planning Commission if the proposed modifications do not alter the basic design or land uses of the plan.

b. If the Planning Commission determines that the proposed modifications are significant or major, a public notice and public hearing in accordance with Section 2332 must be conducted prior to approval or denial.

5. PUD Development Time Limits

a. Construction of the improvements shown on the approved final PUD plan with all proposed buildings, parking areas, landscaping and infrastructure must commence within one year of approval by the City Commission.

b. Construction must be continued in a reasonable, diligent manner and be completed within five (5) years.

c. Said five (5) year period may be extended if applied for in writing by the petitioner and granted by the City Commission following public notice and public hearing in accordance with Section 2332 of this ordinance. Failure to secure an extension shall result in a stoppage of all construction.

SECTION 2102: PLANNED UNIT DEVELOPMENT OVERLAY

The intent of Planned Unit Developments (PUD) is to allow for flexibility in the design of developments, to allow for the preservation of open space; allow for economies in the provision of utilities and public services; provide recreational opportunities; and protect important natural features from the adverse impacts of development.

An overlay PUD (flex-zone) is hereby established in the City of Muskegon which encompasses the following properties:

Bluffton Bay

1. All of block 715 Revised Plat (1903), City of Muskegon, Muskegon County.

2. That part of Block 714, Revised Plat (1903), City of Muskegon, Muskegon County, Michigan. Described as follows: Commence at the Southwest corner of Block 715 of said Revised Plat, for Point of Beginning; thence South 00°43’48” West along the West line of said Block 715, extended, 137.80 feet; thence South 41°33’45’ East 514.10 feet to the Northwesterly line of Sampson Street, if extended; thence North 48°34’44” East along said Northwesterly line 295.35 feet to the East line of said Block 714; thence North 00°43’48” East along said East line 327.08’ to the Southeast corner of said Block 715; thence West along the South line of said Block 715 a distance of 564.96 feet to Point of Beginning. Containing 4.76 acres

3. That part of Lot 12 Block 702 of the Revised Plat of 1903 of City of Muskegon, Muskegon County, Michigan, described as follows: Commencing at the North most corner of Lot 8 and said Block 702, thence Northwesterly along the Southwesterly line of Lake Shore Drive 315.65 feet to the intersection of said Southwesterly line of Lake Shore Drive and the Southeasterly line of Lot 10 of said Block 702 extended Northeasterly to said Southwesterly line of Lake Shore Drive, thence Southwesterly along said Southeasterly line of said Lot 10 extended a distance of 145.00 feet to the South most corner of said Lot 10 for Point of Beginning, thence continue Southwesterly on the extension of said Southeasterly line of Lot 10 a distance of 157.50 feet, thence Southeasterly parallel to said Southwesterly line of Lake Shore Drive 146.00 feet, thence Southwesterly parallel to the Northwesterly line of Lot 8 of said flock 162.44 feet, thence Southerly parallel to the West line of said Block 380 feet more or less to a point on the Northwesterly line of Lot 6 of said Block, thence Southwesterly along the Northwesterly line of said Lot 6 a distance of 35 feet more of less to the West most corner of said Lot 6, thence Southeasterly along the Southwesterly line of said Lot 6 a distance of 133.50 feet

to the Northwesterly line of Sampson Street, thence Southwesterly along the Northwesterly line of Sampson Street 315.3 feet to the Southwesterly corner of said Block 702, thence Recommence at Point of Beginning, thence Northwesterly along the Southwesterly line of said Lot 10 extended Northwesterly 100.00 feet, thence westerly 70.50 feet to the Southeast corner of Lot 11 of said Block, thence Westerly along Southwesterly line of said Lot 11 extended Westerly 192.70 feet to the West line of said Block 702, thence Southerly along said West line 1196.5 feet to the Southwest corner of said Block 702.

Wildwood Creek

1. Property generally North of Ruddiman Creek, East of Barclay, directly South of the Moose Lodge; all of parcel 61-30-36-400-004 and approximately the North half of parcel 61-30-36-400-021.

TABLE I: HEIGHTS, AREAS, AND YARDS [Amended 4/00]

PREAMBLE

The following district bulk, height, setback, coverage, mass, density and open space regulations are hereby established for each district in the City of Muskegon to:

1. Promote consolidated, symbiotic relationships among structures and functions; particularly in business districts whereby a use or uses benefit from the presence of other use(s) in close proximity to it.

2. Minimize detrimental relationships among incompatible land uses.

3. Cluster development for the efficient provision of services.

4. Prevent congestion of development, people and vehicles.

5. Prevent the inappropriate crowding of land.

6. Promote shared facilities (such as drives and parking) to conserve land.

7. Provide open space for users of private and public facilities.

8. Promote development that provides for pedestrian activity and maintains pedestrian safety.

9. Provide continuity in development.

10. Promote commercial development that maintains a critical mass of activity so that it stays economically viable.

11. Prevent environmental degradation that effects public health.

12. Prevent the squanderous use of land and suburban sprawl.

13. Provide for safe and efficient circulation in sites and among sites; landscaping, buffering and interrelated community design that helps foster symbiotic relationships.

TABLE I: HEIGHTS, AREAS, AND YARDS

Zoning District	**R-1**	**RT**	**RM-1**	**RM-2**	**RM-3**	**B-1**	**B-2**	**B-3**	**B-4**	**B-5**	**I-1**	**I-2**	**OSC**	**OSR**	**LR**	**WM**	**WI-PUD**
Minimum (sq. ft.)	6,000	8,712	10,890	14,520	21,780	4,000	10,890	4,000	10,890	10,890	21,780	43,560	21,780	21,780	21,780	21,780	43,560
Density (dwelling unit per buildable acre)	7	10	16	24	48	----	----	----	----	----	----	----	----	----	----	24	----
Dedicated Common open space required	----	----	15%	15%	15%	----	----	----	----	----	----	----	----	----	15%	15%	----
Buildings:	50%	50%	60%	70%	70%	50%	70%	100%	70%	80%	85%	85%	20%	20%	60%	60%	75%
Pavement:	10%	10%	20%	20%	20%	25%	25%	25%	25%	25%	25%	25%	15%	15%	15%	25%	25%
Lot Width	50 ft.	75 ft.	100 ft.	125 ft.	150 ft.	40 ft.	100 ft.	30 ft.	100 ft.	40 ft.	100 ft.	150 ft.	100 ft.	100 ft.	150 ft.	150 ft.	150 ft.
Maximum building width	----	----	50%	50%	50%	----	----	----	----	----	----	----	----	----	50%	50%	----
Width to depth ratio	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3	1:3
Minimum:	----	----	----	----	----	----	2 stories or 35 ft.	2 stories or 35 ft.	2 stories or 35 ft.	2 stories or 35 ft.	----	----	----	----	----	----	----
Maximum:	2 stories (35 ft.) @	2 stories (35 ft.)	3 stories (50 ft.)	4 stories (60 ft.)	5 stories (80 ft.)	2 stories (35 ft.)	2 stories (35 ft.)	6 stories (90 ft.)	2 stories (35 ft.)	4 stories (60 ft.)	3 stories (50 ft.)	3 stories (50 ft.)	2 stories (35 ft.)	2 stories (35 ft.)	4 stories (60 ft.)	4 stories (60 ft.)	3 stories (50 ft.)
Front: Expressway & Arterial	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Front: Major/ Collector	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Front: Minor*****	15 ft.	15 ft.	20 ft.	20 ft.	20 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Rear:*	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
From ordinary high Water mark or Wetland****	30 ft.	40 ft.	50 ft.	50 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.
Side:*																	
1-story (least/total)	6/16 ft.	8/20 ft.	8/20 ft.	8/20 ft.	8/20 ft.	8/20 ft.	8/20 ft.	----	8/20 ft.	8/20 ft.	10/20 ft	10/20 ft	6/16 ft	6//16 ft	8/20 ft.	8/20 ft.	10/20 ft
2-story (least/total)	8/20 ft.	10/24 ft	10/24 ft	10/24 ft	10/24 ft	10/24 ft	10/24 ft	----	10/24 ft	10/24 ft	15/25 ft	15/25 ft	8/12 ft	8/20 ft	10/14ft.	10/14ft.	15/25 ft
3-story (least/total)	----	----	12/28 ft	12/28 ft	12/28 ft	----	----	----	----	12/28 ft	20/30 ft	20/30 ft	----	----	12/28 ft	12/28 ft	20/30 ft
4 or more stories (least/total)	----	----	----	16/36 + 4 ft./story over 4	16/36 + 4 ft./story over 4	----	----	----	----	16/36 + 4 ft./story over 4	----	----	----	----	16/36 + 4 ft./story over 4	16/36 + 4 ft./story over 4	----
Front: Expressway Arterial and Major	----	----	----	----	----	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	----	----	----	----	----	----	----
Front: Collector	----	----	----	----	----	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	----	----	----	----	----	----	----
Front: Minor	----	----	----	----	----	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	----	----	----	----	----	----	----

**********See table preamble and notes********** @ special accommodation for Historic Districts-see Table Notes ---- = Not applicable

TABLE NOTES

1. One acre = 43,560 sq. ft. (for reference, this is not quite a 210' x 210' piece of property).
   One-half acre = 21,780 sq. ft.
   One-third acre = 14,520 sq. ft.
   One-quarter acre = 10,890 sq. ft.
   One-fifth of an acre = 8,712 sq. ft.

2. *See also zero lot line option and methods of determining setbacks in district regulations for each district.

3. ** Public parks are exempt from minimum lot requirements.

4. *** Minimum heights are in the form of an "overlay district" on the following street corridors only:

   Western Avenue; from Ninth Street to Pine Street.
   Clay Avenue; from Seventh Street to Fourth Street.
   Pine Street; from Western Avenue to Apple Avenue.

5. **** Waterfront setbacks pertain to principal structures only.

6. ***** Minimum front setbacks for new principal structures in the R-1, RT, and B-3, zones, fronting on minor streets, may align with existing principal structures in the immediate area, even if the front setback is below the minimum required.

7. Setback Measurement: All required setbacks shall be measured from the right-of-way line to the nearest point of the determined drip line of buildings. [amended 10/02]

8. Height measurement: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of the roof surface where the building line abuts the front yard, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 2-2). If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building (see Figure 2-3).

9. ******Setbacks are subject to landscaping requirements.

10. @ Homes in established Historic Districts may be up to 3 stories or 45 feet in height.

ARTICLE XXII – NONCONFORMING LOTS, USES, AND STRUCTURES

[article amended 4/06]

SECTION 2200: INTENT

Upon the adoption of this Ordinance or future amendments, there may exist lots, structures, and uses of land and structures which were lawful prior to the adoption of the Zoning Ordinance, or amendment to the Ordinance, but which are not in conformance with the provisions of this Ordinance, or any amendments. It is the intent of this Ordinance to permit these nonconforming lots, structures and uses to continue until they are removed, but not to encourage their survival. Because nonconforming lots, structures and uses, so long as they exist, prevent the full achievement of the goals and objectives of the City of Muskegon Master Plan, the spirit of this Ordinance is to reduce, rather than increase, any nonconformance.

SECTION 2201: NONCONFORMING LOTS

When an existing nonconforming lot does not adjoin any other lot or lots under common ownership or if the nonconforming lot fails to meet the requirements for minimum lot area, minimum width, or both, of the zoning district in which it is located, such lot may be used for the permitted uses of the zoning district under the following conditions:

1. It must meet the definition of "Lot of Record" listed in the definitions of this Ordinance.

2. In any zoning district, where two or more adjoining nonconforming lots are under common ownership, these lots shall be combined and considered as one lot for the purposes of this ordinance.

3. The nonconforming lot must still meet setback requirements of its zoning district and is subject to certain limitations provided by other provisions of this Ordinance.

SECTION 2202: NONCONFORMING USES OF LAND

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made unlawful under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. Special land uses and use variances permitted by this ordinance shall not be deemed nonconforming uses.

2. Changes of tenancy, ownership or management of any existing nonconforming uses of land may be made, provided that there is no change in the nature or character of the nonconforming use.

3. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this

Ordinance, except when authorized by the Planning Commission, after Public Hearing as required for Special Uses, and upon reaching a determination that the proposed enlargement, increase, or greater area:

a. Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.
b. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area.
c. Complies with any reasonable conditions imposed by the Planning Commission that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.
d. It is not larger than twenty five percent (25%) of the original nonconforming area.

4. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

5. A nonconforming use of land which has ceased for a period exceeding twenty-four (24) months or has been changed to a conforming use may not again be devoted to a nonconforming use. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use;

a. Utilities, such as water, gas, and electricity to the property, have been discontinued.
b. The property, buildings and grounds have fallen into disrepair.
c. Signs or other indications of the existence of the nonconforming use have been removed.
d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use.
e. Other actions, which in the opinion of the Zoning Administrator, constitute an act or omission on the part of the property owner or lessee constituting an intent to abandon the nonconforming use.

6. When such nonconforming use is made more conforming than the use which previously existed, it may continue even though it does not totally conform to all provisions of this Ordinance.

SECTION 2203: NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area lot coverage, height, yards, parking or other characteristics of the structure or its location on the lot,

such structure may be continued so along as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity, except when authorized by the Planning Commission, after Public Hearing as required for Special Uses. The Planning Commission shall be authorized to determine the amount of enlargement of any building or structure, consistent with the intent of this article. The nonconforming structure may be changed to an extent not exceeding thirty percent (30%) of the total floor area of the existing building at the time of enactment of the Ordinance from which this chapter is derived, or at the time of its amendment making a structure nonconforming.

2. No nonconforming building or structure shall be moved in whole or part to any other location unless such building or structure and the off-street parking spaces, yard and other open spaces provided, are made to conform to all the regulations of the district in which such building or structure is to be located.

3. Changes of tenancy, ownership or management of any existing nonconforming structures may be made, provided that there is no change in the nature or character of the nonconforming structure.

4. Repair and maintenance work may be performed as required to keep a nonconforming building or structure in a sound condition.

5. In the event any nonconforming building or structure is damaged by fire, wind, civil disobedience, or an Act Of God or the public enemy, it may be rebuilt or restored, provided the cost of such structural alteration or structural repairs shall not exceed seventy-five (75) percent of it's replacement cost. The buildings or structures shall be built in conformance with the requirement of the zoning district in which they are located.

6. Once any nonconforming structure is removed from the property, its nonconforming status has expired and it may not be replaced on the property.

SECTION 2204: [RESERVED]

SECTION 2205: POWER OF CONDEMNATION

The City may acquire by purchase, by condemnation, or otherwise private property or an interest in private property for the removal of nonconforming uses and structures, except that the property shall not be used for pubic housing. The City Commission may provide that the cost and expense of acquiring private property be paid from general funds, or the cost and expense, or a portion thereof, be assessed as a Special Assessment District. The elimination of nonconforming uses and structures in a zoned district is declared to be for a public purpose and for a public use.

The City Commission may institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the provisions of the City Charter relative to condemnation or in accordance with Act No. 87 of the Pubic Acts of 1980, being Section 213.51 et seq. of the Michigan Compiled Laws, or any other applicable statute.

ARTICLE XXIII - GENERAL PROVISIONS [article amended 3/23/98]

SECTION 2300: INTENT AND PURPOSE

The following general provisions establish regulations that are applicable in all zoning districts unless otherwise indicated.

SECTION 2301: EFFECT OF ZONING

1. Zoning applies to every building and use. No building or land shall be used or occupied, and no building or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

2. Any land use not specifically permitted by right or special use permit is prohibited.

3. In the event any building or part thereof is used, erected, altered or occupied contrary to law or the provisions of this Ordinance, such building shall be declared a nuisance per se and may be required to be vacated, torn down or abated by any legal means and shall not be used or occupied until it has been brought into conformance.

4. If construction of a building is lawfully begun so that there are substantial tangible changes in the property prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building, provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within two (2) years from the effective date of this Ordinance.

SECTION 2302: LAND DISTURBANCES

1. Clearing of a Site: Unless associated with a bona fide public works project, it shall be unlawful for any person, individual, partnership, corporation, association or other legal entity to engage in land clearing, including the stripping and removal of topsoil, from any site, parcel, or lot within the City without first receiving a Development Permit.

2. Grading and Filling of Property: In order to protect adjacent properties, public roads, public watercourses, and to provide for adequate drainage of surface water, in addition to adhering to adopted soil erosion and stormwater management requirements of the City, the following rules shall apply to all construction activities pursuant to this Ordinance.

    a. Flow Alterations: The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flow away from the building or structure is managed in a manner which prevents:

        1) Increased flow onto adjacent properties or public roads

        2) Erosion or filling of a roadside ditch

3) Blockage of a public watercourse or drain

4) Creation of standing water, other than in an approved detention or retention pond.

5) Direct discharge into surface water.

b. Elevation Restrictions: Filling a parcel of land with earth or other materials to an elevation above the established grade of adjacent developed land is prohibited without obtaining approval from the City Engineering Department.

3. State and federal approvals: The City shall not approve any land use or issue which requires a state, or federal permit until satisfactory evidence of such has been submitted. Examples of such permits include (but are not limited to) critical dunes, air quality, wetlands, inland lakes dredge and fill, floodplain and activities under the jurisdiction of state soil erosion and sedimentation regulations.

SECTION 2303: PLOT PLAN REQUIRED

A plot plan depicts a subset of the information required by this Ordinance for a site plan. A plot plan is required for changes to lots in single family zones. Full site plans are required for special uses, planned unit developments, multi-family, commercial and industrial development.

The Building Official shall require that all applications for residential building permits be accompanied by an acceptable plot plan, drawn to scale, showing the following:

1. The actual shape, location, and dimensions of the lot.

2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structure already on the lot including sheds, garages, pools, satellite dishes over twenty four inches (24") in diameter, mechanical equipment service buildings, etc.

3. The existing and intended use of the lot and of all such structures upon it.

4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the requirements of this Ordinance are being met.

5. Adjacent drainageways or creeks.

6. Any easements, existing or vacated.

7. Gas, sewer and water lines serving the property.

8. Overhead electrical wires.

9. Access drives and parking areas.

SECTION 2304: ONE BUILDING TO A LOT

No more than one principal building may be permanently established on a lot or parcel, unless specifically provided for elsewhere in this Ordinance as in the case of a condominium development, site planned use, planned unit development, or multiple family development.

SECTION 2305: REDUCTION OF PARCELS BELOW MINIMUM REQUIRED SIZE, WIDTH, OR DEPTH

No parcel, whether or not platted as a lot, shall be split or reduced in size, width, or depth by any conveyance, survey, leasing, occupancy, or other means which creates a parcel substandard in size, width, or depth according to the requirements of this zoning ordinance. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion is of legal size, width, and depth for the zone where the split parcel is located, or it is simultaneously combined by conveyance with a contiguous parcel which will thereafter be of legal size, width, and depth. Further, if contiguous nonconforming lots or parcels whether or not of record, are under common ownership or control, they shall be combined to meet the provisions of this Ordinance prior to permitting future site development or the issuance of a building permit.

SECTION 2306: ALLOCATION OF LOT AREAS & CONFIGURATION OF LOTS

1. Setback and yard allocations: No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

2. Corner Lots: Corner lots shall have the minimum lot width and front setback as required by that zoning district for each property line which is adjacent to a public or private road. [amended 10/02]

    a. A corner lot shall have the required front setback measured from both the principal and secondary front lot lines.

    b. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line.

    c. The driveway of the principal building on a corner lot shall be located on the secondary front lot line.

    d. The width of a corner lot shall be determined by the length of the principal front lot line.

3. Width to depth ratios: The depth of lot(s) or parcel(s) created in all zoning districts after the effective date of this Ordinance shall not be more than three (3) times longer their width.

4. Frontage required: All parcels shall have the required minimum lot width along and adjacent to a public road or approved private road.

SECTION 2307: PERMITTED YARD ENCROACHMENTS

Encroachments may be made upon required yards under the following conditions: [amended 10/02]

1. Architectural elements: Existing buildings or structures shall be permitted to encroach upon the minimum setback requirements of this Ordinance with architectural elements that are necessary to the integrity of the structure of the building, or health or safety of the occupants such as cornices, gutters, chimneys, pilasters, outside stairways, fire escapes, and similar features. Such features may project into a required setback area no more than five (5) feet.

2. Patios, porches and decks: Patios and uncovered decks no more than two feet above grade may be built to the rear or side property line where an established fence line exists. If no established fence line exists, patios and uncovered decks no more than two feet above grade must be a minimum of three (3) feet from rear and side property lines. All decks or porches more than two feet above grade, must comply with the setback requirements of the principal structure. [amended 7/03]

3. Unenclosed structures, front yard: Unenclosed porches, steps or similar facilities may project into a required front setback for a distance not to exceed five (5) feet. In the case of a handicap wheelchair ramp, the Zoning Administrator may waive setback requirements at his/her discretion, if no other options are available to provide a ramp, provided that the applicant agrees to remove the ramp if it is no longer necessary on the property. A performance letter or performance guarantee may be required. [amended 8/00]

4. Additions: Additions to homes on minor streets (not collectors), built in subdivisions ninety percent (90%) developed with homes prior to 1940 may encroach upon existing yards so long as:

    a. A minimum 10 foot front setback is maintained

    b. A minimum 15 foot rear setback is maintained

    c. Lot coverage, with accessory structures does not exceed 50% [amended 8/00]

    d. The addition does not further encroach upon existing side yards

SECTION 2308: OUTDOOR SEATING [amended 3/97, amended 4/00, amended 3/07]

Outdoor seating for restaurants, cocktail lounges, and similar uses is permitted, provided:

1. The area devoted to outdoor seating must be ancillary to the main use of an indoor restaurant, cocktail lounge, bakery, coffee shop, delicatessen, specialty food store, or similar establishment.
2. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of six (6) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances.
3. The seating area shall be limited to the same property directly adjacent to the permitted use to which the seating area is accessory and shall not extend into adjoining sites. If adjoining sites both have a seating area, there shall be a divider between them.
4. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the principal building.
5. Outdoor amplification shall be prohibited except only to play music in compliance with Code of Ordinances, City of Muskegon, Part II, Chapter 26, Article II, Noise, Division I, Generally, Sec. 2634, (a & b) "Playing of radios, musical instruments, etc."
6. The area devoted to outdoor service shall not encroach upon or extend over any public alley or right-of-way without an encroachment agreement with the City of Muskegon.
7. A site plan shall be submitted which clearly depicts the seating area and location and style of tables and chairs, reflecting ample aisles for pedestrian traffic, and dividers, if needed.
8. The outdoor seating area shall not obstruct visibility of on-coming pedestrians or vehicular traffic, and must adhere to clear visions standards of the Zoning Ordinance.
9. The sale of alcoholic beverages is subject to the rules and regulations of the State of Michigan Liquor Control Commission. An outdoor service permit may be required as part of the site plan approval.
10. All outdoor furnishings shall be completely removed from sidewalk areas December 1 through March 1 of each year.
11. The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.
12. Roof seating shall comply with the building code, and not contain signage.

SECTION 2309: HEIGHT REGULATIONS

Permitted Exceptions: The following structural appurtenances shall be permitted to exceed the height limitation, provided that no portion of said appurtenances shall be used for human occupancy. Any structural exception to the height limitation shall be erected only to such height necessary to accomplish its intended purpose.

1. Ornamental structural appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flag poles, and monuments.

2. Appurtenances necessary to mechanical or structural functions of a building and structures, such as chimney, smoke stacks, water tanks, wind generators and pumps, elevators, stairwell, ventilators, bulkheads.

3. Structural appurtenances in the Single Family Residential district, that serve the occupants of the individual residential use do not exceed seventy-five (75) feet in height as measured from the ground level at the base of the structure.

SECTION 2310: WIND TURBINE FACILITIES [amended 4/00] [amended 10/09]

Wind Turbine Facilities shall be allowed as a special land use in Industrial and Business zones under the purview of Section 2332, after review and approval of the special land use permit and site plan by the Planning Commission, after Public Hearing, subject to applicable conditions and any other reasonable conditions imposed by the Planning Commission, including the following:

1. Minimum parcel size for wind turbine facilities shall be ten (10) acres.
2. All wind turbines shall meet the requirements of Section 2311, Accessory Structures & buildings, #10, except for items a, d, and g.
3. The height limit of any wind turbine in the WTF may be 200 feet. Such total height shall be measured from the ground to the highest elevation of the wind turbine rotor.
4. The developer shall maintain a current insurance policy which will cover installation and operation of the WFT, and the wind turbines shall be warranted against any system failures reasonably expected in climate conditions found in the City of Muskegon.
5. A qualified avian study shall be conducted by the developer to ensure that wildlife is not endangered, or the developer may submit copies of any required State or Federal permits that have been obtained. This information shall be submitted to the Planning Department before any permits are issued for construction.
6. A wind resource study describing the long term economic viability shall be submitted to the Planning Commission upon submission of the special land use permit application.
7. If the WFT will provide electricity off-site to the grid, evidence that the utility company has been informed of the developer's intent to install an interconnected, customer-owned generator, and that such connection has been approved, shall be submitted to the Planning Commission upon submission of the special land use permit application.
8. Separation between wind turbines shall be based on industry standards and manufacturer recommendations.

SECTION 2311: ACCESSORY STRUCTURES & BUILDINGS [amended 4/04]

Accessory buildings shall require a development permit or when required by building codes, a building permit, except as otherwise permitted in this Ordinance, and shall be subject to the following regulations:

1. Attached: Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform with, all regulations of this Ordinance applicable to the main building.

2. Front Yard, prohibition: Buildings or structures accessory to the principal, shall not be permitted in any front yard. Parking lots are prohibited in any residential front yard. Security stations within an "I" District may be erected in any yard. [amended 10/02]

2. Height restrictions: Buildings accessory to residential buildings shall not be more than one (1) story or fourteen (14) feet in height.

3. Detached: Detached accessory buildings shall:

   a. Be at least six (6) feet from any principal building

   b. Be at least three (3) feet from any side or rear lot line.

   c. Not be located within a dedicated easement or right-of-way.

   d. Any accessory structure placed in a residential property or zone in the city shall be of residential construction properly painted or sided. Pole style storage buildings and sheet metal accessory structures are prohibited in all residential zones or developments. [amended 8/01]

5. Replacement: Existing accessory structures may be replaced on the existing footprint provided they are wholly contained within the property and meet the required front yard setback.

6. Satellite Dishes: Satellite dishes over twenty four inches (24") in diameter shall be considered accessory structures. The setback placement of satellite dishes shall be measured from the outermost edge of the dish.

7. Number: No more than one (1) accessory building shall be located on any parcel within an "R" or "RT" district, except that two (2) may be permitted when one is a garage or other shelter for automobiles belonging to the residence.

8. Not Permitted Prior to a Principal Structure: Accessory buildings and structures shall not be erected on a lot or parcel in a residentially zoned district prior to the establishment of a principal structure. Where two or more abutting lots are held under one ownership or control in a residentially zoned district, the owner may erect an accessory building on a lot separate from that one which the principal building is located, provided both lots are combined and used as one with a single tax description.

9. Solid Fuel Heating Appliances: Due to the nuisance smoke and concerns regarding the public safety and welfare of residents living in relatively close proximity to one another, outdoor solid fuel heating appliances are prohibited in all zoning districts in the City of Muskegon. [amended 1/06]

10. Wind Turbines: Wind turbines as accessory structures are allowed in Industrial and Business zones, after review and approval of the site plan by the Planning Commission with the following conditions:

a. Minimum parcel size shall be two (2) acres.

b. For safety reasons, one of the following is required of any tower capable of being climbed:

   i. A six (6) foot locked, protective fence around the perimeter of the base of the wind turbine.

   ii. A climbing apparatus no closer than 12 feet from the ground.

c. Wind turbine set backs from the property line shall be at least equal to one and one half times the vertical height measured from the ground to the tallest point of the structure, including the highest elevation of the wind turbine rotor.

d. Height limit of any free-standing wind turbine shall be 65 feet. Such total height shall include both support structure and the highest elevation of the wind turbine rotor. Height limits on top of a building shall be allowed according to Section 2309, Height Regulations.

e. Wind turbines shall be located away from overhead utility lines, including service drops, and if the structure should fail, must fall at least (five) 5 feet away from any overhead utility lines.

f. Wind turbines may not be located in the front yard in Business zoning districts.

g. Wind turbines shall be permitted to be located on the site prior to the principal structure only if accessory to the rest of the development or part of a wind turbine facility.

h. Wind turbines shall meet the requirement of Article II, Section 26 of the City of Muskegon Code of Ordinances (noise ordinance).

i. The owner shall make all reasonable efforts to minimize shadow flicker to any occupied building on the property or any adjacent property.

j. An abandoned wind turbine must be removed from the site by the property owner within 12 months. It shall be considered abandoned from the last date that it was providing electricity for the grid or development. If removal of the wind turbines and related facilities are not completed within 30 days from the date of notification by the Zoning Administrator, the City of Muskegon may proceed to remove the wind turbine and related facilities, in which case the salvaged material becomes the property of the City and all costs of removing the wind turbine and related facilities will remain the burden of the property owner and added to owner's tax bill as a lien on the property.

k. No signage shall be allowed, except for one sign not exceeding two (2) square feet posted at the base of the tower, containing the following information:

   i. "Warning high voltage"

   ii. Manufacturer's name.

   iii. Operator's name.

   iv. Emergency phone number.

   v. Emergency shut down procedures.

l. Wind turbines shall require a building permit and must comply with all requirements of the Building Inspections Department.

m. Wind turbines shall be designed so as to have the least impact on the aesthetics of surrounding properties and sight lines. They shall be either monopole or monolithic tube construction and a non-obtrusive color, such as white, off-white or gray.

n. In the case of multiple wind turbines on the site, Section 2310, #4 through #8 shall apply and review and approval of the site plan must be granted by the Planning Commission. [amended 10/09]

SECTION 2312: UTILITY AND PUBLIC SERVICE BUILDINGS

Utilities, public, and quasi-public service buildings and facilities, with and without storage yards, and similar facilities, may be approved by the Planning Commission as Special Land Uses under the purview of Section 2332.

SECTION 2313: [RESERVED] [amended 4/00]

SECTION 2314: [RESERVED] [amended 4/00]

SECTION 2315: [RESERVED] [amended 3/97, amended 4/00]

SECTION 2316: STORAGE OF VEHICLES

1. Location: Residential parking areas for boats, trailers, motor vehicles, and recreation equipment shall not be located in any front yard. This section shall not prohibit direct access drive parking of automobiles on paved, established driveways. [amended 10/02]

2. Size limit, screening: Recreational equipment, trailers, motor vehicles, boats, and other equipment or materials, stored for more than forty-eight (48) hours outside of a garage, shall be placed behind the front building line of any main structure on the lot. No more than one recreational or utility vehicle under twenty five (25') feet in length may be stored outside a garage on a residential lot. Stored recreational vehicles must be screened for side and rear property owners with a screen of at least five feet in height.

3. Special circumstances: If a motor vehicle is to be stored outdoors for a long period because a family member is in the military service, is ill, or some other similar reason, and the vehicle does not have an appearance detrimental to the area, the zoning administrator may grant the right to store the vehicle for said period, without a license, under the best conditions available, which conditions shall be stated in writing.

4. Size limits: No vehicle with a rated hauling capacity in excess of two (2) ton shall be located on any property within any residential district; provided, however, that this section shall not prevent the temporary location of such vehicle on such property while engaged in a delivery, pick-up or service call to the property.

SECTION 2317: EXTERIOR SWIMMING POOLS & HOT TUBS

1. Application: The application for a Development Permit to erect a swimming pool or hot tub shall include the name of the owner; a plot plan and location of adjacent buildings, overhead wiring, fencing, gates, and other detailed information affecting construction and safety measures.

2. Fencing: Yard areas with pools are to be fenced in accordance with all codes of the city.

3. Placement: No swimming pool or hot tub shall be located in a front yard or in a dedicated or recorded easement. [amended 10/02]

4. Setback: No swimming pool or hot tub shall be located in any front yard. Pool setbacks shall be six feet from property lines or conform with city pool code. [amended 10/02]

3. Lighting: No lights shall be erected, operated or maintained in connection with a swimming pool or hot tub in such a manner as to create an annoyance to surrounding properties.

4. Overhead wiring: Service drop conductors and any other open overhead wiring shall not be installed above a swimming pool or hot tub. New pools shall not be located underneath existing overhead wiring.

SECTION 2318: [RESERVED] [amended 8/02]

SECTION 2319: [RESIDENTIAL DESIGN CRITERIA] [amended 7/98, amended 4/00, amended 8/01, amended 4/02, amended 3/05,amended 8/06, amended 3/07]

It is the intent and purpose of this section to establish design review standards and controls over housing development in the City of Muskegon. It is recognized that there are unique design aspects inherent in the community appearance that need to be preserved and enhanced. The adoption of these criteria will guide and ensure that all future growth enhances community character and image and fits with the unique vernacular of the City of Muskegon's urban setting. A positive community image: enhances economic development opportunity; safeguards property values; curbs blight and deterioration; and enhances public safety and welfare. The following standards shall apply to all single-family or duplex structures erected in the City of Muskegon.

In the case of a one (1) family or two (2) family dwelling unit which is of standard construction, a mobile home, a premanufactured, or a precut dwelling structure, and any additions or alterations thereto, erected or placed in the City of Muskegon, other than a mobile home located in a licensed mobile home park approved under the provisions of Article V, MHP Mobile Home Park Districts, shall conform to the following regulations in addition to all other regulations of this Ordinance:

1. The dwelling unit shall have a minimum living area (excluding all basement area) of nine hundred and sixty (960) square feet for a one (1) bedroom dwelling. For each bedroom thereafter, an additional 100 square feet of living space shall be provided.

2. Where the home design involves a roof pitch, it shall be a minimum pitch of 5/12, that is, for every twelve inches (12”) of lateral run, the roof shall rise five inches (5”). In the case of additions or alterations to principal structures when a 5/12 pitch is not practical, the roof pitch may be allowed to correspond with that of the principal structure.

3. The roof shall have a snow load rating of forty (40) pounds per square foot.

4. Roof drainage in the form of a roof overhang of at least twelve inches (12") shall be provided to direct storm or meltwater way from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.

5. Siding shall be the same gauge for modulars and mobiles as for on-site-built homes.

6. The dwelling unit shall have a minimum width across any front, side, and rear elevation view which is the lesser of:

   a. Twenty-four (24) feet; or

   b. The average width of the homes on the same street within six hundred (600) feet in either direction.

7. A structure with a front elevation view of over 40 linear feet shall have a design offset including but not limited to; bay windows, covered porches, or structural offsets from the principal plane of the building.

8. Any single-story, residential structure shall not be more than two (2) times longer than its width (exclusive of an attached garage).

9. Garage doors may not comprise more than fifty percent (50%) of the front face of the structure.

10. Newly constructed homes must be at the average setback of existing homes within 600 feet.

11. The dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code, manufacturers specifications, and other applicable requirements.

12. Any crawlspace that may exist between the foundation and ground floor of the dwelling unit shall be fully enclosed by an extension of the foundation wall along the perimeter of the building.

13. If the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

14. In the event that a dwelling unit is a mobile home as defined herein, it shall be installed with the wheels removed. No dwelling unit shall have any exposed towing mechanism, undercarriage or chassis.

15. The dwelling unit shall be connected to a public sewer and water supply when available, as defined by the Plumbing Code or if not available, to private facilities as approved by

the county health department, the city, and other applicable agencies.

16. Storage space of at least fifteen percent (15%) of the interior living space of the dwelling unit, exclusive of auto storage or attic storage, shall be provided within the structure.

17. The subject dwelling unit shall be aesthetically compatible in design and appearance with other dwellings within 600 feet. The review shall include but not necessarily be limited to: roof pitch, scale, size, mass, minimum transparency, orientation to the street, and overhangs. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as (but not limited to) solar energy, view, or unique land contour.

18. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling unit. The Zoning Administrator's decision may be appealed, to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice to the official's decision.

19. The dwelling unit shall contain no additions of rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

20. The dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.

21. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the Building Code.

22. Each dwelling unit shall have an approved established vegetative ground cover, native to the immediate area within 600 feet, no less than 12 months after occupancy. Approval shall be given by zoning staff of the Planning Department as part of the initial residential site plan review. A minimum of one shade tree, two and one-half inches (2.5") in diameter, four feet (4') from the ground or one six foot (6') evergreen tree shall be provided. Existing landscaping may be accepted in lieu of this requirement.

23. Each dwelling unit shall have a garage or a shed providing a minimum of sixty-four square feet (64 sq. ft.) of yard storage for each dwelling unit. Said area shall be calculated separately from the required interior storage space.

In the case of a multi-family (more than 2 units) dwelling structure which is of standard construction, a mobile home, a premanufactured, or a precut dwelling structure, and any additions or alterations thereto, erected or placed in the City of Muskegon, other than a mobile

home located in a licensed mobile home park approved under the provisions of Article V, MHP Mobile Home Park Districts, shall conform to the following regulations in addition to all other regulations of this Ordinance:

1. Each dwelling unit shall have a minimum living area (excluding all basement area) of six hundred and fifty (650) square feet for a one (1) bedroom unit, of eight hundred and seventy-five (875) square feet for a two (2) bedroom unit, and of twelve hundred (1200) square feet for a three (3) bedroom unit. For each bedroom thereafter, an additional 100 square feet of living space shall be provided.

2. Roof drainage in the form of a roof overhang of at least twelve inches (12") shall be provided to direct storm or meltwater way from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.

3. The roof shall have a snow load rating of forty (40) pounds per square foot.

4. Siding shall be the same gauge for modulars and mobiles as for on-site-built homes.

5. Garage doors may not comprise more than fifty percent (50%) of the front face of the structure.

6. The structure shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code, manufacturers specifications, and other applicable requirements.

7. Any crawlspace that may exist between the foundation and ground floor of the structure shall be fully enclosed by an extension of the foundation wall along the perimeter of the building.

8. The structure shall be connected to a public sewer and water supply when available, as defined by the Plumbing Code or if not available, to private facilities as approved by the county health department, the city, and other applicable agencies.

9. Storage space of at least ten percent (10%) of the interior living space of each dwelling unit, exclusive of auto storage or attic storage, shall be provided within the structure.

10. The subject structure shall be aesthetically compatible in design and appearance with other dwellings within 600 feet. The review shall include but not necessarily be limited to: roof pitch, scale, size, mass, minimum transparency, orientation to the street, and overhangs. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as (but not limited to) solar energy, view, or unique land contour.

11. The structure shall contain no additions of rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

12. Each dwelling unit shall have an established vegetative ground cover no less than 12 months after occupancy. A minimum of one shade tree, two and one-half inches (2.5") in diameter, four feet (4') from the ground or one six foot (6') evergreen tree shall be provided. Existing landscaping may be accepted in lieu of this requirement.

13. Each dwelling unit shall have a garage or a shed providing a minimum of sixty-four square feet (64 sq. ft.) of yard storage for each dwelling unit. Said area shall be calculated separately from the required interior storage space.

SECTION 2320: PRIVATE STREETS

1. Private streets shall require a development permit.

2. Regulation Michigan State Highway stops signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private streets. Signs in the right of way shall be reviewed and installed by the City.

3. All private streets shall have names approved by the "911" emergency services coordinating agency.

4. All private streets shall provide an adequate right-of-way approved by the city in the event the street is eventually incorporated into the city street system.

5. Identification signs approved by the City shall be required for private streets and shall note they are private.

6. All private streets servicing or intended to serve two (2) or more lots, parcels or condominium units shall be under the control of an approved and recorded road maintenance agreement and deed restrictions which provide for the perpetual maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. These documents shall be reviewed and approved by the City and shall contain the following provisions:

    a. Method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.

    b. A workable method of apportioning the costs of maintenance and improvements.

    c. That the owners of any and all of the property using the easement shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress of emergency and other public vehicles for whatever public services are necessary.

d. A notice that if repairs and maintenance are not made, the City Commission may bring the road up to the design standards specified in this Ordinance and assess owners of parcels on the private road for the improvements, plus an administrative fee.

e. A notice that no public funds of the City of Muskegon are to be used to build, repair or maintain the private road.

SECTION 2321: WIRELESS COMMUNICATION SERVICE FACILITIES [amended 12/97]

This section provides for appropriate areas for the siting of wireless communication antenna, support facilities and equipment shelters in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the City. It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antenna within the City

2. Allow and encourage the location of wireless communication support facilities in the overlay zoning district
3. Minimize the adverse effects of such facilities through careful design, siting and screening criteria

4. Maximize the use of existing and future wireless communication support facilities and encouraging multiple uses and co-location of such facilities

5. Protect the character of residential areas throughout the City from the effects of wireless communication facilities

6. Promote the public health, safety, and welfare.

Uses Permitted:

Wireless Communication Antenna (WCA) shall be considered a permitted accessory use in any zoning district when:

1) Placed on or attached to any existing structure at least five (5) stories in height which constitutes a principle use, including existing communication towers and water towers provided: [amended 4/02]

   a) In the case of a five (5) story building, that any WCA shall not extend more than thirty (30) feet above the roofline of the structure to which it is attached.

   b) In the case of a six (6) story building, that any WCA shall not extend more than forty (40) feet above the roofline of the structure to which it is attached.

c) In the case of a seven (7) story building, that any WCA shall not extend more than fifty (50) feet above the roofline of the structure to which it is attached.

d) In the case of an eight (8) story building, that any WCA shall not extend more than sixty (60) feet above the roofline of the structure to which it is attached.

e) In no case shall any WCA extend more than sixty (60) feet above the roofline of the structure to which it is attached.

2) Placed on an existing utility or light pole which will serve as a wireless telecommunications facility and where the height of said existing pole or other structure is not increased more than twenty (20) feet and the existing pole and other structure is not proposed to be modified in a manner which would materially alter the pole or structure and/or result in an impairment of sight lines or other safety interest.

Provided:

1. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.

2. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
3. A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.

4. Associated wireless telecommunication equipment shelters meet accessory use height and setback requirements of the district, and receive administrative approval.

5. This section shall not exempt the applicant from such other government review and permitting procedures of the Federal Communications Commission or Federal Aeronautics Administration.

Overlay District Established for Wireless Communication Support Facilities [amended 6/06]

Intent: An overly zone is hereby created for the siting of wireless communication facilities (WCF) and wireless communication antenna (WCA). The zone is identified as:

1. The Pulaski Lodge, 871 Pulaski Avenue described as:
W 589 ft of E 757 ft of N 10 acres of SE ¼ of SE ¼ exc N 25 ft thereof Sec 37 T10N R17W.

2. City of Muskegon That Part of NE 1/4 of SE 1/4 Sec 33 T10N R16W Lying S of Consumers Power Co 100 Ft R/W W Of US 31 State Hwy E Of Relocated C & O R R R/W & N Of Little Black Creek.

3. City property near the terminus of Yuba Street, described as:
Lot 1 Blk 1 & that part of Lot 3 Blk 1 & N ½ of SE ½ Sec 17 T10N R16W lying Sly & Ely of Muskegon River & Nly of US 31 business rte and Lots 1, 2 & 3 Blk 121.

4. A portion of the Muskegon Community College campus, 221 S. Quarterline Road, described as:
Commencing at the S ¼ corner of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, thence N 01°04'25" E 815.71 feet along the N-S ¼ line of said Section 15 and the centerline of Quarterline Road (66 feet wide); thence N 88°56'41" W 1035.89 feet to the Point of Beginning; thence continuing N 88°56'41" W 60.00 feet; thence N 01°03'19" E 60.00 feet; thence S 88°56'41" E 60.00 feet; thence S 01°03'19" W 60.00 feet along the West face of an existing building to the point of beginning being a part of the SW ¼ of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, and containing 0.083 acres or 3600 sq. ft. of land, more or less, subject to easements and restrictions of record, if any. [amended 11/00]

Wireless communication support facilities are permitted as special land uses in the overlay zone and shall be permitted under the purview of Section 2332 after review and approval of the use by the Planning Commission, after public hearing, subject to the applicable conditions imposed by the Planning Commission:

1. The facility shall comply with all applicable Federal Aeronautics Administration and the Federal Communications Commission requirements.

2. All WCSF shall be constructed in compliance with all applicable construction codes, including, without limitation, the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures and shall be certified as such by a licensed structural engineer.

3. Accessory equipment storage structures shall meet the setback and height requirements of the underlying zone. No accessory equipment or structure shall be allowed in any rights-of-way.

4. The WCSF shall not be used for advertising purposes and shall not contain any signage except which shall show the identity of the service provider and emergency telephone numbers. The sign or signs shall not exceed two square feet in size, and shall be easily readable from ground level.

5. The WCSF may be located on a zoning lot containing permitted other principal uses or approved special uses.

6. The WCSF may be located within an area smaller than the minimum lot size of the underlying zoning district. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein, or reasonably required by the planning commission.

7. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible. The WCSF shall have a landscaped buffer so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way, residential use, or residential zoning district. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental effects, while at the same time providing the required visual buffer. The landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six (6) feet at maturity and conifer trees planted on fifteen (15) foot centers along the approved buffer. Requirements may be modified by the Planning Commission as appropriate for the specific site.

8. The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.

9. WCSFs shall not have a shiny or metallic finish.

10. The WCSF shall not exceed 200 (two-hundred) feet in height.

11. If located on the same zoning lot with another permitted use, the WCSF shall not be located in a front yard abutting a street.

12. Legal access to the WCSF shall be provided regardless of other developments that may take place on the property.

13. Towers shall not be artificially lighted unless required by the FAA. When lighting is required by the FAA or other federal or state authority, it shall be oriented inward so as not to project onto surrounding property or the site shall be landscaped to mitigate light impact.

14. All exterior building material shall be compatible with surrounding structures but in no case shall they be cinder or cement block, and metal, other than aluminum siding. Towers shall be enclosed by security fencing not less than six feet in height.

15. Monopoles may be required by the Planning Commission if it is deemed to be more aesthetically compatible with the area than a lattice pole.

16. Antenna and metal towers shall be grounded for protection against a direct strike by lightening and shall comply as to electrical wiring and connections with all applicable state and local statutes.

17. Tower owners shall provide maintenance and safety reports to the city's building official.

18. Proof of responsibilities in the case of abandonment shall be submitted with the application.

Replacement of Existing WCSFs:

1. The replacement WCSF shall not exceed a total height of 200 (two-hundred) feet or, if the existing WCSF has an approved height greater than 200 (two-hundred) feet, the replacement WCSF shall not exceed the approved height.

2. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located to comply with existing minimum yard requirements.

3. The existing WCSF shall be removed within 90 days of completion of the replacement WCSF and the relocation or installation of the WCA.

4. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSF and the relocation or installation of the WCA.

Review Criteria for new WCSFs:

1. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WSCF. Information concerning the following factors shall be considered in determining that such need exists:

    a. Insufficient structural capacity of existing WCSFs or other suitable structures and inability to reinforce or replace an existing WCSF.

    b. Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures.

    c. Radio frequency interference or other signal interference problems at existing WCSF or other structures.

    d. The cost of using an existing WCSF or other structure exceeds the costs of permitting and constructing a new WCSF.

    e. Other factors which demonstrate the reasonable need for the new WCSF.

Co-location Required:

1. The applicant must include in the application an affidavit stating space on a proposed tower will be made available to future users when technically possible.

2. The applicant shall send a written notice via certified mail to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall include those entities that have requested approval of WSCF in the past, current FCC

license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the City at the time the application is filed. If, during a period of 30 days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new WCSF, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.

Removal of Abandoned WCSFs:

All providers owning a wireless telecommunications support facility shall notify the zoning administrator when the use of said tower located in the municipality will be discontinued and the date it will cease. Any WCSF which is abandoned shall be removed or demolished within 90 days of abandonment. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more.

Where a WCSF is abandoned but not removed or demolished as required, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be placed on the property. A lien on the property shall be superior to all other liens except taxes.

SECTION 2322: DAY CARE/CHILD CARE FACILITIES

Foster Family Homes, Foster Family Group Homes, Family Day Care Homes, and Group Day Care Homes shall be allowed as Principal Uses in the “R”, “RT”, “RM-1”, “RM-2”, "MC", and “H” districts subject to the following provisions: [amended 8/97] [amended 2/03]

1. Such uses shall be duly licensed or registered by the State Department of Consumer and Industry Services

2. Buildings and lots so used shall conform to all State and local code requirements.

3. A minimum of 400 square feet of outdoor play area is available on the premises or within 500 feet of the property.

Child Care Centers and Day Care Centers shall be allowed as Special Uses, subject to the provisions of Section 2332 in the “R”, “RT”, “RM-1”, “RM-2”, “RM-3”, “B-1”, “OSR”, “LR”, “WM”, and “H” districts. They shall also be allowed as Principal Uses separately or as part of a building in the "MC", “B-2”, “B-3”, “B-4”, “I-1”, and “I-2” districts. Child Care Centers and Day Care Centers, whether they fall under the Special Use of Principal Use category shall be subject to the following provisions: [amended 8/97] [amended 2/03]

1. Such uses shall be duly licensed by the State Department of Consumer and Industry Services.

2. Buildings and lots so used shall conform to all State and local code requirements.

3. A minimum of 35 square feet of indoor play area shall be provided for each child. Play area shall be computed exclusively of hallways, bathrooms, reception and office areas, kitchens, storage areas and closets, and areas used exclusively for rest or sleep.

4. A minimum area of 1,200 square feet of outdoor play area shall be provided either on the premises or at parks or other outdoor facilities that are easily accessible by walking or by transportation. Play area shall not be hard-surfaced.

SECTION 2323: FLOOD HAZARD AREAS

The intent of the regulations in this Section is to promote public health, safety, and general welfare and minimize public and private losses due to flood conditions.

1. Flood hazard areas shall be treated as overlay districts, which shall:

    a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion, or in flood heights or velocities.

    b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

    c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.

    d. Control filling, grading, dredging, and other development which may increase erosion or flood damage.

    e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

2. This Section shall apply to all land which is depicted on the Flood Hazard Boundary Map/Flood Insurance Rate Map 260161B dated June 1, 1977 as determined by the Federal Insurance Administration. Any map amendments are hereby adopted by reference, and Flood Hazard Districts are overlay Districts.

3. All new construction and substantial improvement to structures shall be constructed so that the lowest floor, including basements, for residential structures shall comply with the flood-resistant construction requirements of the Michigan Residential Code or for non-residential buildings shall comply with the flood-resistant construction requirements of the Michigan Building Code. [amended 7/02] [amended 4/06]

    Any new and replacement water systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters. On-site waste disposal systems are to be located to avoid impairment to them, or contamination from them during flooding.

4. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section shall not create liability on the part of the City of Muskegon or by any officer or employee thereof for any flood damages that result from reliance of this Section or any administrative decision lawfully made thereunder.

5. When base flood elevation data has not been provided in accordance with Item 3, above, then the Zoning Administrator, shall obtain, review, and reasonably utilize any base flood elevation date available from a Federal, State, or other source.

6. Responsibilities of the Zoning Administrator shall be as follows:

   a. Notify adjacent communities and the Michigan Department of Natural Resources prior to any alteration or relocation of watercourse, and submit evidence of such notification to the Federal Insurance Administration.

   b. Obtain necessary engineering analysis to assure that the flood-carrying capacity with the altered or relocated portion of said watercourse is maintained.

   c. The Zoning Administrator shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State Law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

   d. For the purpose of the determination of applicable flood insurance risk premium rate, the Zoning Administrator shall:

      1) Obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and determine whether or not such structures contain a basement.

      2) Obtain from a Registered Professional Engineer or Architect, certification that the flood-proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood so that the structure is watertight to the base flood level.

      3) Maintain a record of all such information.

7. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Zoning Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation as provided in this Ordinance.

No new construction, substantial improvements or other development (including fill) shall be permitted within the zones A1-30 of the City's Flood Insurance Rate Map (FIRM), unless it is demonstrated to the City Commission and/or Zoning Administrator that the cumulative effect of the proposed development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City.

SECTION 2324: TEMPORARY BUILDINGS, STRUCTURES AND USES [amended 01/09]

Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by the Zoning Administrator.

1. Only the following temporary uses, buildings or structure are permitted:

   a. Fire Damage: A temporary building or structure may be constructed during renovation of a permanent building damaged by fire. The temporary building or structure shall be removed within fifteen (15) days after the repair of fire damage is complete. Permits issued under this section shall be for a one hundred and eighty (180) day duration.

   b. New Construction: Temporary buildings and structures incidental to construction work, except those related to construction of single-family dwellings, may be placed on the developing tract or parcel during construction. No cooking accommodations shall be maintained. Said temporary buildings shall be removed within fifteen (15) days after construction is complete. The structure shall not be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Administrator.

   c. Temporary Classrooms: Up to four temporary classrooms may be permitted for private schools with expansion needs. Said classrooms shall meet local codes and ordinances. Said buildings shall be removed within fifteen (15) days after construction of any permanent structure intended for expansion purposes is complete. The temporary classrooms shall not be allowed more than eighteen (18) months, unless expressly authorized after petition to the Zoning Administrator.

   d. Temporary Real Estate Offices: Temporary Real Estate Offices are permitted within approved development projects. No cooking accommodations shall be maintained. -The office shall be removed upon completion of the development of the subdivision. The office shall not be allowed for more than one (1) year, unless expressly authorized after petition to the Zoning Administrator. A model home may be used as a temporary sales office.

   e. Outdoor Christmas Tree/Fireworks Sales: The outdoor display and sale of Christmas trees and fireworks is permitted outside residential zoning districts. The display and sale of trees or fireworks on an open lot shall be allowed for a period not to exceed forty-five (45) days. No fresh cut tree sales shall be

conducted from within a building. All unsold trees must be removed from the property by December 31st of each calendar year. All unsold fireworks must be removed from the property by July 10th of each calendar year. Outdoor fireworks sales will be conducted pursuant to the Fire Code.

f. Special Events: Temporary uses associated with bona fide special events (associated with a non-profit organization and/or approved through the City's Special Events approval procedure) may be allowed by the Zoning Administrator during the tenure of the special event only, and must be restricted to the property(ies) where the event is taking place. Such temporary uses may include food vendors, event offices, dressing rooms, carnival-type games, midways, t-shirt or souvenir sales, art/craft fairs, or other similar uses. Such uses shall be regulated by the City's Special Events procedure.

g. Movie Production: Temporary buildings which are part of a movie production project are allowed. All conditions of the City's "Film & Music Events Policy" must be met before the temporary buildings are put in place. The buildings must be removed from the site within fifteen (15) days of the completion of the project. Maximum time allowed shall be approved by the Zoning Administrator on a case by case basis.

2. Performance Guarantee: The Zoning Administrator may require a performance guarantee pursuant to Section 2325 in an amount equal to the estimated cost of removing any temporary structure permitted.

a. The applicant shall sign an affidavit holding the City harmless against any claim for damages if the City were to use the performance guarantee to remove the temporary structure after its authorized period had expired. Further, the applicant shall consent in writing to special assessment of any city expenditure in excess of the performance guarantee or deposit to complete removal or cure.

b. In the event that a temporary structure is not removed by a permit holder at the end of the permit period the City may use the performance guarantee to remove the temporary structure once the permit has expired.

c. If the applicant removes the temporary structure as dictated by the permit 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. Temporary Zoning Permit: A temporary zoning permit may be required by the Zoning Administrator for any proposed temporary use, building or structure, except those already covered by the City's Special Events procedure, Fire Code, or Transient Merchants procedure. Any temporary zoning permit may be approved, modified, conditioned or denied by the Zoning Administrator. The Zoning Administrator may refer an application for a temporary zoning permit to the Planning Commission.

a. A written temporary zoning permit may be issued for any temporary use, except those already covered by the City's Special Events procedure, Fire Code, or Transient Merchants procedure, and shall contain the following information:

i The applicant's name

ii The location and effective dates of the temporary use

iii Conditions under which the permit was issued, included but not limited to:

(1) use and placement of signs

(2) provision for security and safety measures

(3) control of nuisance factors.

iv Submission of performance guarantee, if applicable

v Signature of the Zoning Administrator and owner and/or operator on the permit.

b. The zoning administrator may impose conditions with the issuance of a permit which are designed to ensure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this section and a permit issued thereunder.

c. Request for permit renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit. Applications for renewal or extension of a permit having a duration of fifteen (15) days or less shall be applied for at least three (3) days prior to the expiration date of the current permit.

d. Revocation: Upon expiration or revocation of a temporary zoning permit for a temporary use, the temporary 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 can be made:

i That circumstances have changed

ii That the temporary zoning permit was obtained by misrepresentation or fraud

iii That one (1) or more of the conditions of the temporary zoning permit have not been met

iv That the permitted use violates any statute, ordinance, law, or regulation.

4. Conditions of Approval:

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

b. The 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 use or structure.

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

e. Off-street parking areas are of adequate size for the particular temporary use or structure 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 Ordinance.

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

5. Appeal: An appeal of a decision by the Zoning Administrator relative to denial of a temporary use, building or structure or of a temporary zoning permit or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section XXV of this Ordinance.

6. Habitation of Accessory Structures and Travel Trailers: No recreational vehicle or travel trailer, fixed or portable garage, barn, ~~or~~ accessory building~~s~~, or cellar shall be used or occupied as a dwelling.

SECTION 2325: PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE

1. Requirements: In authorizing a Temporary Permit, Development Permit, Site Plan approval, Special Use Permit, Planned Unit Development approval or variance, the body or official(s) which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished to insure:

a. Compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance;

b. 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.

2. 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:

a. 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, which names the property owner as the obligor and the City as the obligee.

b. Time when required: The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity or the project. If appropriate, based on the type of performance guarantee submitted, the City shall deposit the funds in an account in a financial institution with which the City regularly conducts business.

c. Amount: The amount of the performance guarantee or bond shall 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 by resolution of the City Commission.

3. Return of Performance Guarantee or Bond: The City, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee 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.

4. Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the zoning administrator of completion of said improvements. Thereupon, the zoning administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and City Commission 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 presented.

a. The Planning Commission shall recommend and the City Commission 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 within sixty (60) 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.

b. 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, 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. Any amount spent in excess of the money or guarantee on deposit shall be assessed against the property.

5. Record of Performance Guarantees: the City shall maintain a record of authorized performance guarantees.

SECTION 2326: OFF-STREET PARKING AND LOADING [amended 2/02]

1. Intent: It is the intent of this section that off-street parking spaces shall be provided and adequately maintained by each property owner in every district for the parking of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered, or enlarged under the provisions of this Ordinance.

2. Scope: At the time any building or structure is erected, enlarged or increased in capacity, or a new land use is established, off-street parking spaces for new or additional development shall be provided according to the requirements of this section and Table IB.

3. Parking and Loading Plan Review: Whenever three (3) or more vehicle parking spaces are required for a given use of land, plans, specifications for the construction or alteration of an off-street parking area shall be submitted for approval by the Zoning Administrator before a development permit is issued. Such plans and specifications shall indicate the location, precise use of buildings, size, design, surfacing, marking, lighting, drainage, curbing and curb cuts, entrances, exits, landscaping, and other detailed features as required by the provisions and standards of this zoning ordinance and other applicable laws and rules.

4. Parking Areas Existing Before the Effective Date of This Ordinance: No parking area or parking space or loading area which exists at the time this Ordinance becomes effective shall be relinquished or reduced in any manner below the requirements established by this Ordinance.

5. Uses of Parking Areas: Parking spaces and loading areas shall be used exclusively for the parking of vehicles associated with a building, structure or land use in a manner consistent with the purpose for which it is designed. No commercial activity or selling of any kind shall be conducted within required parking areas. Permitted temporary uses may operate in overflow parking areas or setback areas provided no clear vision or other

safety hazard is present. Vehicles shall not be repaired, stored, or displayed for sale or hire in parking lots unless the principal use is classified for such uses.

6. Design and Access Standards: Multi-family, commercial and industrial land use areas shall meet the screening, landscaping, and lighting standards of this ordinance.

7. Maintenance Standards: Parking and loading areas in all districts shall be paved, marked and defined by curbing or curb stops.

8. Maximum Parking: The maximum amount of parking permitted for any use or group of uses shall not exceed the minimum parking requirements by more than one-third (33%)

9. Loading Space Required: In order to prevent undue interference with public use of streets, parking lots and alleys, uses such as manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use. Loading spaces shall:

   a. Be provided as area additional to off-street parking space and shall not be considered as supplying off-street parking space.

   b. Not interfere with fire access.

   c. Provide adequate space for standing, loading, and unloading services and be not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, open or enclosed, for similar uses similarly involving the receipt or distribution by vehicles of materials or merchandise.

   d. Have access provided as directly as possible from a public street or alley and be arranged so as to provide sufficient off-street maneuvering space.

10. Joint Use of Parking Areas: The joint use of parking facilities by two or more uses may be allowed whenever such 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 each day. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced by the Planning Commission below the same total of the individual space requirements.

    b. Record of Agreement: A copy of an agreement between joint users shall be provided to the City. The agreement shall include provisions which assure continued long-term use and maintenance of the parking facility by each party,

and their successors in interest, including owners and occupants of the premises which are served by the parking facility.

11. Dimensional Requirements: Each parking space shall be a minimum of eight (8) feet wide by eighteen (18) feet long. Maneuvering isles shall be a minimum of twelve (12) feet wide for one-way traffic and twenty-two (22) feet for two-way traffic. Excessively wide isles shall not be permitted.

12. Downtown Parking Overlay District: A downtown parking overlay district is hereby created as outlined in Figure 23-2. Within said overlay area is permitted the following: [amended 2/03] [amended 6/07]

    a. In the downtown parking overlay district only, all land uses, except residential, may use on-street parking for up to thirty percent (30%) of their required parking area.

    b. In the downtown parking overlay district, shared parking agreements are encouraged. Parking areas for other than single or two-family residential uses may be located up to 1,000 feet from the building they are intended to serve and may be provided in any zoning district except the R-1 district.

    c. In the downtown parking overlay district only, the required number of residential parking spaces shall be 1.5 per dwelling unit.

13. In all areas except for the downtown parking overlay district, off-street parking for nonresidential uses shall be either on the same property or on a property zoned to permit parking areas. The parking area shall be within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. [amended 2/03]

Figure 23-2: Downtown Parking Overlay District

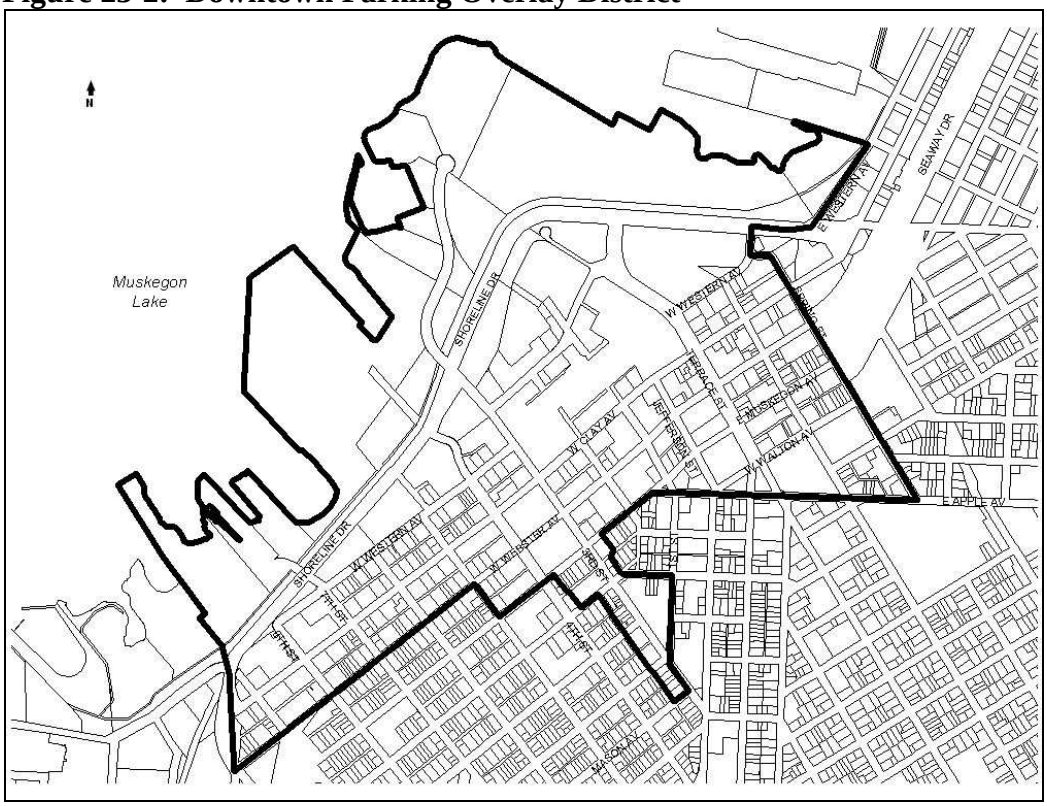


TABLE IB: PARKING STANDARDS	
USE	**NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE**
RESIDENTIAL & RELATED USES	
Bed and breakfast operations	One (1) space for each sleeping room, plus two (2) spaces for permanent residents.
Boarding houses, fraternities, sororities	One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater.
Community residential care facilities < 6 persons	Four (4) spaces.
Convalescent homes, convents or similar uses	One (1) space for each four (4) beds, plus one (1) space for every three (3) employees.
Mobile home parks	Two (2) spaces for each mobile home site, plus one (1) space for each mobile home park employee.
Multiple family dwellings	Two (2) spaces for each dwelling unit.
Single and two family dwellings	Two (2) spaces for each dwelling unit.

CIVIC, NONPROFIT, INSTITUTIONAL, PUBLIC & PRIVATE RECREATION & RELATED USES	
Educational and social institutions:	
• Auditoriums and gyms (incidental to) schools, churches, & institutional buildings of similar use with fixed seats	One (1) space for each six (6) seats, plus one (1) space for every two (2) employees.
• Auditoriums (other than incidental to schools and churches), lodge halls, fraternal organizations, private clubs, public meeting halls, community centers, or buildings of similar use without fixed seats	One (1) space for every six (6) persons of legal capacity as established by fire, building or health codes.
• Charitable or philanthropic organizations	One (1) space for each four hundred (400) sq. ft. of usable floor area.
• Elementary and junior high schools	Two (2) per classroom, plus separate parking where the school contains an auditorium and/or stadium or gym.
• High schools and colleges	One (1) space for every employee, plus one (1) space for each five (5) students.
• Hospitals, sanitariums	One (1) space for each three (3) patient beds, plus one (1) space for each three (3) employees.
• Orphanages	One (1) per employee and one (1) per six (6) beds.
Libraries, museums, post offices	One (1) space for every eight hundred (800) sq. ft. of usable floor area, plus one (1) space for every four (4) employees.
Nursery school, home day care or child care centers	One (1) space for each four hundred (400) sq. ft. of usable floor area.
Private golf clubs, swimming pool clubs, tennis clubs, lodges or other similar uses	One (1) space for every two (2) member families or individuals, plus spaces required for each accessory use, such as a restaurant or bar.
Municipal buildings	One (1) space for each four hundred (400) sq. ft. of usable floor area.
Religious institutions: Churches or temples	One (1) space for each six (6) seats or twelve (12) feet of pews in the main unit of worship.
Utility and public service installations	One (1) space per four hundred (400) sq. ft. of gross floor area.
COMMERCIAL & RELATED USES	
Automatic Teller Machine (ATM) (free standing, not applicable when associated with another use)	Two (2) spaces per machine.
Automobile service and repair garages, gasoline filling and service stations (see convenience retail establishments)	Three (3) spaces for each repair and service stall, plus one (1) space for every employee.

Barber shops and beauty parlors	Two (2) spaces for each of the first two (2) beauty or barber chairs, and one-half (1/2) space for each additional chair.
<u>Business service establishments:</u> • Advertising and mailing • Banks/credit unions (excluding drive-thrus) • Employment services • Investment companies • Real estate companies	One (1) space for every four hundred (400) sq. ft. of useable floor area.
Business, vocational or trade schools	One (1) space per three-hundred (300) sq. ft. of gross floor area.
Catering service rental hall	One (1) space per every three persons permitted in the structure by fire code.
Clinics and professional offices of doctors, dentists, or similar professions	One (1) space for each fifty (50) sq. ft. of usable floor area in waiting rooms, and one (1) space for each examining room, dental chair, or similar use area.
Clothing, furniture, appliance, hardware, shoe repair, personal services (other than beauty and barber shops), and other retail	One (1) space for every four hundred (400) sq. ft. of usable floor area.
Mini-storage	One (1) space for every two (2) storage units (adjacent to the units) plus one for each employee
Convenience retail establishments	Three (3) spaces per each one thousand (1,000) sq. ft. of gross floor area.
Drive-through banks, cleaners, drug stores, and similar businesses	Space for five (5) cars between the sidewalk area and the pickup window, and one (1) space for every four hundred (400) sq. ft. of usable floor area if there is no customer space inside.
Food Service Establishments:	
• Drive-through restaurants or fast-food establishments	One (1) space per fifty (50) sq. ft. of eating area, plus one (1) space for each employee on the largest working shift.
• Carry-out food or walk-up establishment including bakeries, ice cream shops and delicatessens if carry-out only, or if all seating is exterior only.	One (1) space for each employee, plus ten (10) spaces.
• Restaurant or establishment for sale and consumption of beverages, food or refreshments on the premises including drive-in, but not including drive-through, restaurants	One (1) space for each two (2) persons allowed within the maximum occupancy load as established by the fire marshal.
Funeral homes and mortuaries	One (1) space for every twenty-five (25) sq. ft. of usable floor area of chapels and assembly rooms.

Antique shop, household equipment, showroom of a plumber, decorator, electrician or similar trade, and other similar uses (including resale shops but not flea markets)	One (1) space for each eight hundred (800) sq. ft. of usable floor area, plus one (1) additional space shall be provided for each two (2) persons employed therein.
Garden or nursery center, greenhouse (if it has retail sales)	One (1) space for each four hundred (400) sq. ft. of usable floor area, plus one (1) space for each two thousand (2,000) sq. ft. of exterior sales area.
General offices	One (1) space for every four hundred (400) sq. ft. of usable floor area.
General retail stores, except otherwise specified herein	One (1) space for every three hundred (300) sq. ft. of usable floor area.
Health or fitness club	One (1) space for each four hundred (400) sq. ft. of usable floor area.
Hotels, motels	One (1) space for each guest room, plus one (1) additional space for every five (5) employees.
Laundromats and coin operated dry cleaners	One (1) space for each five (5) washing and/or dry-cleaning machines.
Music, dance, martial arts and voice schools	One (1) space per three (3) students at any one time.
Open air business	One (1) space per three thousand (3,000) sq. ft. of exterior sales area, except for open air flea markets which require one (1) space for each three hundred (300) sq. ft. of exterior sales area.
Office supply, factory and mill supplies, and related activities	One (1) space for each four hundred (400) sq. ft. of gross floor area.
Personal service establishment (other than beauty or barber shop)	One (1) space per four hundred (400) sq. ft. of retail sales area, and one (1) space for each four hundred (400) sq. ft. of service area.
Planned commercial or shopping center	One (1) space for each four hundred (400) sq. ft. of usable floor area.
Repair services	One (1) space for each four hundred (400) sq. ft. of usable floor area, plus one (1) space for each employee.
Supermarket, self-service food store	One (1) space for every two hundred (200) sq. ft. of usable floor area.
Taverns, bars	One (1) space for every seventy-five (75) sq. ft. of usable floor area, or one (1) space for every three (3) seats, whichever is greater.

Vehicle wash (automatic)	One (1) space for each one (1) employee. In addition, reserved parking spaces equal in number to two (2) times the maximum capacity of the vehicle wash. Maximum capacity of the vehicle wash shall mean the greatest number of vehicles possibly undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by twenty (20).
Vehicle wash (self-service or coin operated)	Two (2) stacking spaces for each washing stall, in addition to, the stall itself.
INDOOR ENTERTAINMENT	
Video or pinball arcade or similar uses	One (1) space per game, provided that where such games are an accessory use, one (1) space is required for each game above four (4) games.
Bingo parlor	One (1) space for each three (3) seats or one (l) per two hundred (200) sq. ft. of usable floor area, whichever is greater.
Bowling alleys	Five (5) spaces for each alley, plus one (1) space for each employee, plus spaces for each accessory use, such as a bar or restaurant.
Dance halls, pool and billiard rooms, exhibition halls, roller and ice skating rinks	One (1) space for each two (2) persons allowed within the maximum occupancy load as established by fire, building or health codes, plus one (1) space for every three (3) seats of spectator seating (one seat equals two feet of bench length).
Indoor racquet courts	Three (3) spaces per court, plus one (1) space per employee on the largest shift, plus spaces for any other principal or accessory uses, plus one (1) space for every three (3) seats of spectator seating (one seat equals two feet of bench length).
Theaters and commercial auditoriums	One (1) space for each three (3) seats, plus one (1) for each two (2) employees.
OUTDOOR ENTERTAINMENT	
Boat, canoe, jet ski and bicycle rental	Five (5) spaces per employee where it is the principal use; where it is an accessory use, parking may be waived partially or wholly in the discretion of the Zoning Administrator.
Commercial Campgrounds	Two (2) dust free 10'x30' spaces for every campsite.

Golf courses open to the public, except Miniature or “Par 3” courses	Four (4) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Golf driving range	One (1) space for each tee, plus one (1) space for each employee on the largest work shift.
Commercial Marinas	One and one-half (1-1/2) spaces per boat mooring slip.
Miniature or “Par 3” golf courses	Three (3) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Racquet sports	Three (3) spaces, plus three (3) spaces per court or one (1) per three (3) spectator seats, whichever is greater.
Stadiums and sport arenas	One (1) space for every four (4) seats or six (6) feet of benches.
Theme park, scenic area, amusement ride, water slide, go cart track and similar uses	Two (2) spaces per three (3) seats on amusement rides or twenty (20) spaces per ride or attraction with no specific or defined seating.
INDUSTRIAL & RELATED USES	
Auto body/paint shop	One (1) space per each service bay and employee.
Contract construction uses	One (1) space per employee, plus one (1) space per company vehicle.
Dangerous chemical manufacturing, storage and/or distribution	One (1) space per employee on the largest shift.
Incinerators and recycling centers	One (1) per employee, plus one (1) per each simultaneous truck.
Industrial or manufacturing establishments, testing laboratories, creameries, bottling works, printing and engraving shops	One space for every two (2) employees for industries working two (2) or more shifts. One space for every three (3) employees for industries working one shift or one space for every 400 square feet of gross floor area, whichever is greater.
Industrial service establishments	One (1) space for every two (2) employees for industries working two (2) or more shifts. One (1) space for every three (3) employees for industries working one (1) shift, or one (1) space for every four hundred (400) sq. ft. of gross floor area, whichever is greater.
Medical or dental laboratories	One (1) space per four hundred (400) sq. ft. of gross floor area.

Research and development establishments	One (1) space per employee on the largest shift.
Wholesale trade establishments and warehouses	One (1) space for every eight hundred (800) square feet of net floor area.
PLANNED UNIT DEVELOPMENTS	
Planned Unit Developments: Commercial Industrial Park Institutional Mixed use Residential	Parking standards shall be established by the Planning Commission after receiving the recommendation of the Zoning Administrator based on the mix of proposed uses compared to the standards for those, or the most similar uses in this schedule.

SECTION 2327: [RESERVED] [amended 2/02]

SECTION 2328: [RESERVED] [amended 2/02]

SECTION 2329: OFF-STREET LOADING AND UNLOADING

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with the public use of dedicated rights-of-way. Such space shall be provided as follows:

1. All spaces shall be provided as required in Article XXI, Schedule of Regulations, except as hereinafter provided for "I" districts.

2. All spaces shall be laid out in the dimension of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable, and dustless surface.

SECTION 2330: SITE PLAN REVIEW [amended 1/00]

It is the purpose of this Section to require site plan review approval for certain buildings, structures, projects, and uses that can have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development. Certain land uses possess characteristics, which can become undesirable because their intrinsic needs, operations and/or appearance have influence beyond their own perimeter. It is hereby deemed prudent and necessary to apply limits and guidelines which will encourage environmentally, and economically sustainable development practices.

Site plan review shall be applied to protect property values; to protect and promote public health, safety and general welfare by requiring access management, screening, buffering and landscaping of sites; to preserve groundwater and respect natural water cycles; to conserve natural features and resources; and to provide shade, conserve energy, provide visual and sound privacy and otherwise facilitate the creation of a convenient, attractive and harmonious

community. The requirements contained in this Section are further intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards, and to facilitate the provision of a system of roads, streets, parking, municipal sewage disposal, storm sewers, municipal water supply, and other public needs.

1. Scope and Applicability: Site Plan review and approval shall be required in accordance with the procedures of this Ordinance prior to applying for a development permit or building permit for the construction, reconstruction, erection or expansion of any building or structure. Once a site plan is submitted, no clearing of the site or land disturbances shall occur until site plan approval is given and required performance guarantees are in place.

2. Approval required: Site plan review and approval is required for the following:

   a. All business and industrial uses, or an expansion of such uses.

   b. Developments with more than one dwelling per parcel, including but not limited to condominium projects developed pursuant to the Condominium Act p. a. 59 of 1978 as amended.

   c. Expansion or paving of off-street parking and/or a change in circulation or access.

3. Staff approval: Sites of 2 acres or under with developments comprised of or adding 10,000 square feet or less, except those designated by this ordinance for Planning Commission review and approval shall be reviewed and require approval by the Zoning Administrator. The Zoning Administrator shall consult staff members from various city departments, as appropriate, to assist with the review.

4. Staff denial: In the event the Zoning Administrator rejects a site plan or a substantial portion of a site plan, the applicant shall have the right to review by the Planning Commission, which shall review the site plan or portion thereof in question, applying the same standards and method of review which is used in all planning commission site plan reviews.

5. Staff referral: In cases where the Zoning Administrator reasonably determines that a site plan presents problems or issues which should be reviewed for approval or rejection by the planning commission because of area wide effects, or technical difficulties or considerations, the Zoning Administrator may, with proper notice to the owner, refer the matter to the planning commission for review and action in accordance with the procedures and standards set forth for all planning commission review activities by this ordinance.

6. Planning Commission approval: Site plan review and approval by the Planning Commission is required as follows:

a. For Planned Unit Developments.

b. For all Special Uses.

c. For all multi-family developments with over 8 units.

d. For newly developed or redeveloped sites with over 2 acres of land, or for developments comprised of or adding over 10,000 square feet of structure.

e. For matters which have been appealed or referred to the planning commission from the Zoning Administrator, In such cases the planning commission may either approve or reject the applicable portion of the site plan, or it may refer the matter to the Zoning Administrator with further instructions.

Staff shall review said site plans and offer input to the Planning Commission in the form of a staff report summarized by the Zoning Administrator.

7. Review process:

a. Consultation: A preliminary meeting with staff is recommended prior to the submission of a site plan review application.

b. Preliminary review: The applicant may choose to submit a sketch plan to staff or the Planning Commission for preliminary input prior to the submittal of a full site plan.

c. Final Submittal: The Zoning Administrator shall review the application and site plan for completeness. Complete plans shall be forward for staff and Planning Commission review, as appropriate.

8. Information required: Information in possession of the City may be used to the extent appropriate for the proposed development. The Zoning Administrator may waive informational requirements clearly not applicable to a particular development. Site Plan Review materials shall consist of the following, as applicable:

a. Application and review fee: The fee set by resolution of the City Commission for site plan review shall be paid upon application. An application for site plan review shall be made on a form supplied by the Zoning Administrator. A sufficient number of plans shall be provided for distribution and review.

b. Proof of ownership or option interest, or permission from the owner to engage in site plan approval.

c. Legal description of the property.

d. Project description.

e. Stormwater management plan.

f. Site Plan: Site plans shall be at a scale of not less than one (1) inch equals one hundred (100) feet with the following minimum information:

1) The name and address of the person or firm who drafted the plan and the date on which the plan was prepared. Dates of updates to the plan shall also be recorded on the site plan.

2) North arrow, vicinity map, scale, parcel number(s) and address of the property.

3) Property lines, parcel dimensions, total site area.

4) Location of existing and proposed structures, setbacks, dimensions and height. This information must also be provided for all accessory structures.

5) Area reference points for adjacent properties, such as drives and structures within 100 feet.

6) Existing land use and zoning classification of abutting properties.

7) Topography elevations at five (5) foot contour intervals based on USGS datum with arrows showing the direction of existing overland flow of storm water runoff.

8) A grading plan showing proposed contours and spot elevations clearly indicating proposed earth changes and proposed flow of stormwater.

9) A statement as to the suitability of such soils regarding the intended use as well as any soil erosion & sedimentation control measures to be used.

10) Indication of natural features including vegetation. Significant vegetation shall be outlined and described as retained or removed.

11) Water courses and water bodies, and demarcation of the ordinary high water mark or floodplain.

12) Location and size of existing and proposed public utilities and respective easements.

13) Location of easements and existing public streets, in and abutting the site, including pavement width and right-of-way lines.

14) Location and dimensions of existing and proposed driveways and parking areas for customers, employees and commercial vehicles. Site circulation

patterns shall also be included.

15) Location, size, of loading and unloading areas.

16) Location of snow storage areas or means for disposing of excess snow.

17) Location and design of all pedestrian and non-motorized transportation systems and fixtures needed to support them.

18) A landscape plan showing required planting and buffering features that comply with this ordinance.

19) Location and use of all common open spaces, recreation areas and facilities (if any) provided by the development for its users, and the method by which they will be maintained.

20) Location, type, height and design of all outdoor lighting to be used on the site.

21) Location and specifications for all solid waste disposal facilities, including recycling facilities (if any).

22) Location and design of all signs and advertising features, including diagram of height and size of said signs.

23) Location of fire lanes, fire lock box, hydrants, standpipes and security lighting.

24) Location and specifications for existing or proposed outside, above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as containment structures or clear zones required by governmental authorities.

25) A signature block for the applicant, Zoning Administrator and Chair of the Planning Commission to be signed once the final site plan is approved.

9. Professional Review: Additional studies may be required of the applicant for developments with regional impact including but not limited to, stormwater or infrastructure impact assessment and, traffic studies. The applicant may either provide the necessary studies or staff will obtain estimates for such studies based a consultant's estimate to perform them. Funds to cover consultant fees shall be provided by the applicant and shall be held in escrow by the city.

10. Conditions of Approval: As part of an approval to any site plan, conditions or limitations may be placed for protection of the public interest. Such conditions shall be related to and ensure that the review standards of this ordinance are met. A record of

conditions imposed shall be maintained. If the Site Plan is approved with conditions the applicant shall submit a revised Site Plan with other required documents demonstrating compliance to the Zoning Administrator for approval prior to the application for a building or development permit.

11. Standards for Site Plan approval: Prior to approving a site plan, the City shall require that the following standards be satisfied:

    a. Schedule of Regulations: The site plan shall comply with the requirements for height, lot size, yard space, density and all other requirements as set forth in the district regulations.

    b. Other codes and standards: To the extent necessarily shown in the site plan, it shall comply with other applicable City codes and standards.

    c. Compatibility with surrounding land use and development: All elements shall be located, designed and organized in relation to topography, the size and configuration of the parcel, the character of adjoining property and the type and size of the buildings. The site shall be developed so as not to impede the normal and orderly development or improvements of surrounding property for uses permitted in this Zoning Ordinance.

    d. Preservation of natural features: 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.

    e. Landscaping: Landscape buffers, and greenbelts shall be provided and designed in accordance with the provisions of this Ordinance. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of the property and for the privacy of occupants and neighbors.

    f. Stormwater management: Drainage design shall recognize existing natural drainage patterns. Stormwater removal shall not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater on-site, using sound engineering practices.

    g. Soil erosion control: Appropriate measures shall be taken to ensure compliance with state and local soil and sedimentation control regulations.

    h. Wetlands Protection: The natural retention or storage capacity of any wetland, water body, or water course will not be substantially reduced or altered in a way which could increase flooding or water pollution at the site or other locations.

    i. Emergency Access: All site improvements and structures shall be arranged so as to permit necessary emergency vehicle access and to comply with the locally adopted fire code.

j. Public streets and private roads: All uses must have access to a public street or a private road. All streets and curb cuts shall be developed in accordance with City specifications, the Michigan Department of Transportation, and/or private road regulations of the City, whichever applies.

k. Access Management: Streets and drives on a site shall be of a width appropriate to the traffic volume they will carry and shall have adequate paved areas for vehicles. Traffic mitigation techniques such as on-site parallel access lanes, rear access lanes, deceleration lanes and traffic calming measures may be required. Shared curb cuts and accessways may also be required.

l. Site Circulation and Parking: Parking areas shall meet the requirements of this ordinance. All parking spaces and circulation patterns shall be marked. Curb stops or curbing may be required to prevent encroachment on required setbacks and screening. Provisions for on-site maneuvering of vehicles shall be made so as to discourage backing and movements of trucks on abutting public streets. On site traffic control signs shall be visible and understandable.

m. Pedestrian safety: The on-site pedestrian circulation system shall be separated as completely and reasonably as possible from the vehicular circulation system. In order to ensure public safety, special pedestrian measures such as sidewalks, crosswalks, and other such facilities may be required for the development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

n. Site amenities: The site plan shall provide outdoor common areas and associated amenities for employees, customers and/or residents which may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities where appropriate.

o. Utility Service: The development must be adequately served by necessary public services and shall not impose an undue burden on public services and infrastructure. All utilities for new construction shall be placed underground. Any installations which must remain above ground shall be compatible with those on adjacent properties.

p. Lighting: Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted. Design of lighting fixtures shall be compatible with those on adjacent properties. Light poles and fixtures shall be no higher than twenty-five (25) feet.

q. Signs: The size, location, and lighting of all permanent signs shall be consistent with the requirements of this Ordinance.

r. Accessibility: All sites shall be designed to comply with barrier-free requirements.

s. State and Federal Mandates: The site plan shall demonstrate compliance with any state or federal statute, regulation or ruling, whether general or site specific, which is applicable to the property. This shall include without limitation any legally enforceable restrictions on development or improvements which have been communicated or required by a state or federal agency. It shall include, without limitation, requirements of laws, regulations, rulings or agency requirements concerning environmental protection, waste management, floodplains, soil and sedimentation, protection of ground or surface water resources, soil conditions, and the presence of hazardous materials in or contamination of soils, air and water pollution matters and provisions which are designed for or reasonably related to the protection of the public health, safety or welfare. The applicant shall demonstrate that all said statutes, regulations, rulings, or requirements have been satisfied by its site plan and that there are no state or federal agencies which have required, or are in the process of requiring, any additional action, restriction or compliance. In the event a property is the subject of any governmental regulatory action or requirement, or without limitation, the property is located in the "facility" as defined by state or federal law, the state or federal agency responsible for the applicable regulation shall be notified in writing of the filing of the site plan and any hearing regarding the application for approval.

12. Phasing: If applicable, all development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent phase and by not precluding subsequent development potential of remaining lands.

13. Validity: Approval of site plans not associated with a Planned Unit Development is valid for a period of 12 months. Failure to initiate material construction pursuant to an approved site plan in that time shall render the approval null and void.

14. Revocation: Any site plan review approval may be revoked by the Planning Commission after determination that one or more of the following circumstances exist:

a. A material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency

b. There has been a material departure from the commitments made and the requirements of an approved site plan.

c. Material and substantial pollution, impairment or destruction of the environment, or to another legally protected public interest, would occur if the project were to be constructed as previously approved.

d. Failure to perform, unless due to actions or circumstances beyond the applicant's control.

Appeals for time extensions of up to 6 months may be submitted and shall be reviewed by the Planning Commission.

Revocation of an approved site plan shall be communicated in writing with reasons therefor to the property owner. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

15. Performance Guarantees: A performance guarantee may be required to ensure compliance with the approved site plan.

16. Site Plan Modifications: Minor modifications to a site plan previously approved by the Planning Commission may be approved by the Zoning Administrator including, without limitation:

    a. Change in any building size, up to five percent (5%) in total floor area

    b. Relocation of a dumpster

    c. Drive relocations

    d. Modification of up to 10% of the total parking area

    e. Sign location

    f. The addition of small accessory buildings (of not more than one hundred twenty square feet in area)

    g. Movement of buildings or other structures by no more than ten feet

    h. Replacement of plant material specified in the landscape plan with comparable materials

    i. Changes in building materials to comparable or higher quality materials

    j. Change in floor plans which do not alter the character of the use

    k. Changes required or requested by the City or other regulatory agency in order to conform to their laws or regulations

    Requests for site plan modifications will be duly recorded by the Zoning Administrator and reflected by the applicant in the "as built" plans.

17. As-built plans: Upon completion of the project, and prior to the issuance of a Certificate of Occupancy or Certificate of Compliance, three as-built plans, accurately demonstrating compliance with grades and drainage plan, shall be provided to the Zoning Administrator. The Zoning Administrator shall provide one copy to the

Assessor, and one copy to the Building Official.

SECTION 2331: LANDSCAPING, FENCING, WALLS, SCREENS AND LIGHTING [amended 4/00]

The intent of this section is to promote the public's health, safety, and general welfare by: minimizing noise, air, and visual pollution; improving the appearance of off-street parking and parking lots reducing heat, noise, and the glare of automobile and site lights; requiring buffering between incompatible land uses: regulating the screening of property abutting public rights-of-way; providing wind breaks, protecting and preserving the appearance, character, and value of the business community and residential neighborhood areas; preventing soil erosion and soil depletion; and promoting soil and water retention.

1. Scope: These requirements shall apply to all uses for which site plan review is required and any other use so specified in this Ordinance. No site plan shall be approved unless said site plan shows landscaping, berms, greenbelts, buffer zones, and screening consistent with the requirements set forth herein.

2. Landscape Plan Required: A landscape plan shall be submitted as part of a site plan review application. The landscape plan shall include, but not necessarily be limited to, the following items:

    a. Location, spacing, size and descriptions for each plant type proposed for use within the required landscape area.

    b. Typical straight cross-section including slope, height, and width of berms and swales, type of ground cover, or height and type of construction of wall or fence, including footings.

    c. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

    d. Identification of natural features, natural drainage areas**,** existing trees and vegetative cover to be preserved.

    e. Identification of areas to be grass or other ground cover and method of planting.

3. General Requirements:

    a. A mixture of plant material, such as evergreen, deciduous trees and shrubs, is required as a protective measure against insect and disease infestation. Landscaping shall be multi-tiered with the use of canopy and understory species. Use of native wildflowers and groundcovers other than traditional horticultural grasses is encouraged.

b. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area.

c. A means of protecting site trees against injury from mowing equipment and vehicles shall be provided.

d. Plantings shall be used to screen service and storage areas and freestanding sign poles.

e. Additional landscaping may be required adjacent to buildings to break up long building expanses and walls void of windows.

f. Landscaping may be required to serve as windbreaks.

g. Landscaping shall be designed to blend with that on adjacent parcels where a road, walkway or other pathway flows between parcels.

4. Landscape Elements: The following minimum standards shall apply:

a. Quality: Plant material and grasses shall be of generally acceptable varieties and species for the area, free of insects and diseases and hardy to the climate. The Zoning Administrator shall provide a suggested list of acceptable plant materials.

b. Waterfront Properties: Landscaping provided within a waterfront setback shall be comprised of native species. A ribbon of at least 30-foot of buffer zone shall be provided immediately adjacent to the waterfront to serve as a buffer for stormwater runoff.

c. Placement: Landscaping shall be clustered and staggered rather than situated in straight rows for interest and variety unless such placement is an integral part of a design element, such as an alley of trees.

d. Berms and Swales: Berms and swales shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion. Slopes shall be protected with sod, seed, shrubs or other form of natural groundcover. Berms shall have a rounded surface, which is a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berms are not permitted adjacent to the waterfront.

e. Existing Trees: If existing plant material is labeled "To Remain" on site plans by the applicant or required by the City, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the City.

f. Preservation Required: All existing live trees in excess of twelve (12) inches in diameter and at four and one half (4 ½) feet above the ground shall be preserved as much as practical.

g. Replacement Required: Should any tree required by this ordinance to be preserved or planted die, it shall be the responsibility of the owner/developer to replace the dead tree with two (2) trees for every one tree lost with trees of a minimum of three (3) inches in diameter four and one-half (4 ½) feet above the ground.

h. Retained Landscaping In Lieu of New Landscaping: Landscaping requirements may be waived if the existing vegetation to be retained on site meets or exceeds ordinance requirements for landscaping and screening.

5. Greenbelt Buffers:

a. All required side and rear setbacks shall be landscaped, greenbelt buffers, unless zero-lot-line is employed for a structure or fire access. At least fifty percent of all required front setbacks shall be landscaped and adjacent to the road right-of-way. An average minimum greenbelt of 10 feet shall be maintained along all street frontages. Greenbelt buffers shall be landscaped in grass, ground cover, perennials, and/or other natural, living, landscape material. [amended 12/01, amended 10/02]

b. All required front setbacks shall be landscaped with a minimum of one (1) canopy or shade tree, two (2) understory or evergreen trees and (2) shrubs, for each thirty (30) lineal feet (or major portion thereof) of frontage abutting the right-of-way. Access ways from public rights-of-way through required landscape strips shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees and shrubs required.

c. Deciduous canopy trees shall be a minimum of twelve (12) feet in height and a minimum caliper of 2 inches at four and one-half (4 ½) feet above the ground. Evergreen and understory trees shall be a minimum of six (6) feet high at planting.

6. Installation and Maintenance:

a. All landscaping and landscape elements shall be planted, and earth moving or grading performed, according to accepted good planting and grading procedures.

b. Landscaped areas outside of stormwater management areas, native natural areas, beaches, and dune areas may be required to be irrigated.

c. The owner of property that is required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced.

7. Screening Between Land Uses:

a. Upon any improvement for which a site plan is required, screening shall be constructed at least four (4) feet and up to six (6) feet in height may be required along all adjoining boundaries with residentially zoned or used property. A landscape buffer with berming, or landscaping with a fence or a solid wall may be used to meet screening requirements.

b. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall may be required. Such wall shall be constructed on both sides with stone, face brick, poured-in-place simulated face brick, or precast brick panels having simulated face brick.

8. Parking Lot Landscaping: Parking lots exceeding 5,000 square feet (including all parking spaces, lanes, drives and other areas devoted to vehicular use) shall be landscaped with at least one (1) landscape island. For each additional 5,000 square feet (or each additional 20 spaces, whichever is greater) an additional landscape island shall be required. Landscape islands shall be at least 180 square feet in size, with a minimum width of three (3) feet. Landscape islands shall be landscaped with one (1) shade canopy tree and three (3) shrubs for every eight (8) parking spaces. Canopy trees shall be a minimum of twelve (12) feet in height with a minimum caliper of 2 inches at four and one-half (4 ½) feet above the ground. [amended 10/00]

The Zoning Administrator may allow the substitution of bump-outs or other landscaping elements in lieu of landscape islands, as long as the square footage, width, and landscaping requirements are still met. [amended 10/00]

9. Loading Area Screening: All loading areas shall be fenced and screened whenever abutting a residential use or district.

10. Mechanical Equipment Screening: (this subsection does not apply to single-family residential uses, or to any use in an industrial land use category unless it abuts a residential area.) When located outside of a building, support equipment including air conditioning and heating devices, and water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment, as follows:

a. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.

b. Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.

11. Outdoor Storage Screening: Outdoor open storage of any equipment, vehicles and materials, including waste and waste receptacles, shall be screened from public right-of-

way and residential uses or districts. Such storage shall not be located in the required front setback. Commercial and industrial uses do not have to screen from one another. Front yard fencing over 4 feet in height in commercial and industrial zones shall adhere to the required front setback. A screen of up to six (6) feet but not less than four feet may be required as part of a site plan review approval. [amended 10/02]

12. Fencing, all Districts: The placement of a fence requires a development permit or site plan approval. Fencing shall be properly maintained. Fencing materials used as screening shall consist of the following:

    a. Solid board fences of standard commercial construction. The finished side of the wood shall face abutting properties.

    b. Open mesh fencing with woven slats, provided that is of standard commercial construction.

    c. Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property that is of standard commercial construction.

13. Placement: A wall, fence or yard enclosure may be erected on the lot line.

14. Height limitations: [amended 10/02]

    a. Side and rear yards: In residential districts a wall, fence or yard enclosure may be up to six (6) feet in height behind any building line of a structure which abuts a street (see Figure 2.9).

    b. Front yards: In any residential front yard (in front of any building line of a structure which abuts a street), the height of a fence shall not exceed three (3) feet, unless an open fence is provided (e.g., chain link, picket) in which case it may be a maximum height of four (4) feet when such fence does not reduce visibility or interfere with clear vision at intersections, alleys and drives.

    c. Commercial and industrial districts: A wall, fence or yard enclosure may be up to eight (8) feet in height behind the front building line of a structure. In a front yard (in front of any building line of a structure which abuts a street), the height shall not exceed six (6) feet and shall not reduce visibility or interfere with clear vision at intersections, alleys and drives.

15. Barbed wire: No person shall place, string or maintain barbed wire as part of any fence, other work or structure in any zoning district unless approved by the Planning Commission as part of an authorized special use. No barbed wire shall be permitted in any historic district.

16. Corner Clearance: [amended 8/05] The following regulations shall apply to all landscaping, fences, walls, screens, or similar devices at street intersections or driveways:

a. No fence, wall, sign or screen or any planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within twenty-five (25) feet of the right-of-way of a street.

b. No fence, wall, sign or screen or any planting shall be erected or maintained in such a way as to obstruct vision, between the height of three (3) and ten (10) feet, within twenty-five (25) feet of the right-of-way of a street.

c. No structure, hazard or obstruction shall be placed or maintained in the right-of-way, except as may be approved by the city.

17. Fire Hazard: No fence or wall shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department in case of fire to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians.

18. Waterfront Walls and Fences: No fences or walls shall be erected in the waterfront setback. Obscuring walls and fences shall not be placed parallel to the waterfront. Approved fences and walls shall be limited to three (3) feet in height in waterfront yards.

19. Exceptions to Fencing and Screening Requirements:

a. 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.

b. 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 Ordinance 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 Ordinance.

c. Planning Commission Modification: Landscaping may be waived or modified provided the Planning Commission first makes a finding that specifically identified characteristics of the site or site vicinity would make required landscaping, fencing or screening unnecessary or ineffective, or where it would impair vision of natural amenities.

20. Outdoor lighting in all districts [amended 1/05; amended 1/07]: Outdoor lighting in newly developed commercial and industrial uses, subdivisions, condominium projects and planned unit developments, or replacement lighting for such developments and institutional uses, shall be designed and constructed in such a manner to insure that: [amended 7/98]

a. Direct or directly reflected light is confined to the development site.

b. All light sources and light lenses are shielded.

c. No light sources or light lenses are directly visible from beyond the boundary of the site.

d. Lighting fixtures shall be a down-type having one hundred percent (100%) cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane passing through the lowest point on the light fixture from which the light is emitted, as certified by the manufacturer's photometric test.

e. Light sources shall be high-pressure sodium or halogen. Approved exceptions shall use warm white or natural lamp colors.

f. Lighting shall be equipped with baffling or other devices to assure that the above requirements are achieved.

g. The applicant shall submit the specifications for the lights, poles, fixtures and light sources to the City for approval prior to installation.

h. The height of light poles shall not exceed twenty-five (25) feet as measured from average grade.

SECTION 2332: SPECIAL LAND USES AND PLANNED UNIT DEVELOPMENTS

1. The Planning Commission shall have the power to review and in some cases approve applications as authorized by State law or the following sections of this ordinance: Sections 401, 515, 601, 602, 701, 702, 801, 802, 901, 902, 1001, 1002, 1101, 1102, 1202, 1301, 1302, 1401, 1402, 1501, 1502, 1601, 1602, 1701, 1702, 1801, 1802, 1901, 1902, 2001, 2002, 2101, 2317. A best faith effort shall be made by the Planning Commission to process petitions for Special Uses and preliminary Planned Unit Developments within 60 days. In the case of final Planned Unit Development plans, the City Commission, after receiving a recommendation from the Planning Commission, shall approve, deny or approve with conditions the petition within 60 days.

2. Applications, Filing Procedures, Fees

An application shall be filed with the Zoning Administrator who shall, in the case of Planned Unit Developments, contain a statement of the cost thereof, who shall transmit the same, together with plans, specification and other papers pertaining to the application to the Planning Commission.

Such application shall be heard within a reasonable time as prescribed by the rules and regulations of the Planning Commission and State law.

The Zoning Administrator shall not receive any application without payment by the applicant to the City Treasurer of the applicable fees as specified in the City's Master Fee

Schedule as adopted by a resolution of the City Commission and in effect at the time of applications.

3. Hearings and Notices

After receipt of an application for a Special Land Use or PUD, a notice shall be published in a newspaper of general circulation. In addition to such notice, a notice shall also be served personally or by mail to all owners of real property of all structures within three hundred (300) feet of the property in question. Such notice shall be given fifteen days prior to the hearing. If the owner is not known, the term occupant may be used in making notification. The notice shall include:

a. The nature of the Special Land Use request.

b. A description of the property which is the subject of the Special Land Use request.

c. The location and date of the hearing.

d. Where and when written comments will be received.

Any party may appear at such hearing in person or by agent or attorney.

4. Discretionary decisions, standards, and conditions

Consistent with the City or Village Zoning Enabling Act (PA, 207, 1921, and amended), the Planning Commission shall approve, deny or approve with conditions applications for Special Use or activities. The standards upon which decisions are made shall be consistent with, and promote the intent and purpose of the Zoning Ordinance, and insure 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. The decision on a Special Land Use or activity shall be incorporated in a statement of conclusions and be placed on file with the Department of Planning.

The Planning Commission shall review the application after proper notice has been given as required by State law and this Ordinance. The Planning Commission shall base its decisions upon review of the individual standards pertaining to that Special Land Use or activity and the general standards of Section 2332. The Planning Commission may grant approval of the application with any conditions it may find necessary, or it may disapprove the application. Upon approval of a Special Use, the Building Official shall issue any necessary permits.

5. Standards for Approval of Discretionary Uses

Prior to authorization of any Special Land Use, the Planning Commission shall give due regard to the nature of all adjacent uses and structures. It shall determine the consistency with the adjacent use and development.

In addition, the Planning Commission shall find that the proposed use or activity would not be offensive, or a nuisance, by reason of increased traffic, noise, vibration, or light. Further, the Planning Commission shall find that adequate water and sewer infrastructure exists or will be constructed to service the Special Land Use or activity.

SECTION 2333: [RESERVED] [amended 4/00]

SECTION 2334: SIGNS [amended 8/98]

1. **Purpose and Intent**: The purpose of these requirements is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the general public. It is a basic tenet of this Section that unrestricted signing does not benefit either private enterprise or the community-at-large. It is intended through the provisions contained herein to:

   a. Give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives.

   b. Reflect the primary purpose of signing as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.

   c. Promote signs that are visible and can be readily seen from moving vehicles with the least amount of distraction and to prevent confusion that may cause abrupt, unsafe vehicular maneuvers.

   d. Improve the quality of community life by encouraging signs compatible with the overall street setting and neighborhood character, appropriate and in harmony with the principal activities and structures being served and to promote legible signs in scale with the area in which they are seen.

   e. Protect the public welfare and enhance the urban landscape by providing signs that do not create problems due to excessive size, height, number, or movement for users of public rights-of-way or contiguous properties.

   f. Avoid excessive signing in order to give each business or use optimum visibility to passer-by traffic and if possible, prevent urban clutter, and to prevent one sign from blocking the view of another sign.

   g. Retain property values by reducing visual blight because of such factors as clutter, poor maintenance, and light glare.

   h. Safeguard the public use and nature of streets and sidewalks for pedestrian and vehicular traffic.

i. Support and complement the land use objectives of the Master Land Use Plan and this ordinance.

j. Place and size signs in such a way that scenic views are respected and visual obstructions to the natural landscape are minimized.

k. Place and size signs in such a way to prevent visual obstructions in traveled rights-of-way that may obscure traffic signs, distract motorists or impair drivers' sight lines.

l. Protect the character of the City by encouraging the design of signs that reflect the City's favorable environment as an urban, waterfront community.

m. Maintain and enhance economic stability by retaining aesthetic appeal to residents and visitors, and encourage signing practices that will complement the City's character and natural environment.

n. Promote safety and security in and around businesses.

2. **Jurisdiction**: Signs not strictly permitted are prohibited. A permit shall be obtained for the erection, construction, alteration and/or replacement of any sign; except as hereinafter provided.

All regulated signs shall be approved by the city as to their conformance with the requirements of this Ordinance. The applicant shall provide the following:

a. Total display area of the sign in square feet

b. Proposed setback of the sign from the road right-of-way, drives and adjacent properties

c. Sign type, purpose and height, and ground clearance if applicable

d. Height and width of building if the sign is a wall or wall projecting type

e. Lighting, type and screening, as appropriate.

f. Landscaping plans, as appropriate.

g. Site area and frontage

h. Site and building photos.

3. **General Requirements:**

a. Maintenance: All signs and sign structures shall conform to all applicable codes adopted by the city. Signs shall be installed in a workmanlike manner and be

maintained at all times in a state of good repair, with all braces, bolts, clips, supporting frame, and fastenings free from deterioration, insect infestation, rot, rust or loosening. All signs shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.

b. View: Signs erected in the city shall not obstruct the clear view of traffic. If the location or design of a sign may result in a conflict with pedestrian or vehicular movement or circulation, the city may require a clearance of up to ten (10) feet from the finished grade level or curb elevation to the lowest part of such sign or a front setback of up to ten feet.

c. Out-of-Business Establishment: If a sign advertises a business, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and the sign faces shall be removed and replaced with blank faces within sixty (60) days after written notification from the city to the sign owner, owner of the property where the sign is located, or other party having control over said sign. Any expense incurred by the city incidental to removal shall be paid by the sign owner, owner of the property or other party having control over the sign. The expenses associated with sign removal may constitute a lien upon the property to be collected in the same manner as real property taxes.

d. Electrical signs: Signs erected shall comply with the appropriate electrical code.

e. Anchoring and safety: All pole signs shall be mounted on steel poles and shall meet wind loading limits as designated in the Building Code.

f. Illumination: Any light used for the illumination of a sign shall be so that the light will not shine directly on adjacent properties or create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares. Every external artificial light source shall be directed solely to, and concentrated sharply on, the sign.

g. Area measurement: The area of a sign shall be measured from the outside of the sign structure, on only one (1) face of the sign, and shall include the sign message and all of the elements of the matter displayed. Sign supports that do not form an integral part of the sign message or display shall be excluded from the sign area calculation.

h. Historic Districts: All properties in designated historic districts shall comply with the standards of the Historic District Commission.

4. **Prohibited Signs (all districts):** The following listed signs are prohibited in any zoning district of the City: [amended 6/03, 7/05, 12/07]

a. A sign displaying intermittent lights and lights resembling the flashing lights customarily used in traffic signals, or police, fire, ambulance, or rescue vehicle or signs which imitate official traffic directional signs or devices.

b. A sign using the words, "Stop", "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse a vehicle driver.

c. Signs affixed to trees, shrubs or similar natural features.

d. Signs affixed to fences or utility poles or structural elements not capable to support such signs except community promotional banners permitted under “Exempt Signs.” [amended 2/04]

e. Any sign which obstructs the ingress or egress from a required door, window, or other required exit.

f. Signs on parked vehicles where the sign is the primary use of the vehicle.

g. Banners used as permanent signs.

h. Temporary signs and devises including inflatable devices, pennants, pinwheels, searchlights or other devices with similar characteristics, except when used temporarily for periods not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner.

i. Inverted "T" signs with spider legs, with or without wheels where lettering can be changed, rearranged or altered (see also definition of “portable” sign:

j. Signs which overhang or extend into a dedicated public right-of-way without the written consent of the city. Any signs which encroach upon the public right-of way do not qualify as legal nonconforming signs. Such signs shall be considered an illegal use and shall be removed, unless an encroachment agreement was obtained from the City Commission.

k. Signs that have concrete foundations or other solid anchoring devices that project above the surface of the ground more than 18” (eighteen inches).

i. Signs which are painted, placed or constructed directly on or project from a roof.

j. Off-premise signs except billboards regulated herein or tourist oriented directional signs placed in cooperation with the City.

k. Signs with visible moving, revolving, rotating parts, or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means.

l. Externally illuminated signs which can bleed light, interfere with the city's "night sky" objectives, cast glare in the public right-of-way distracting drivers, and shining into adjacent residential areas interfering with resident's enjoyment of their personal property.

5. **Exempt Signs**: The following signs, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard, are permitted without a permit: [amended 6/03, 8/05, 4/06, 12/07]

a. One real estate sale and "For Rent" or "Lease" or construction sign per property not exceeding eight (8) square feet in display area when located within a residential district. For all other districts, one real estate sale and "For Rent" or "Lease" sign per major bordering street complying with the standards of Table II. In all districts, a building undergoing construction or major renovation may have one building wrap covering no more than 40% of one face of the building bordering a street. The building wrap must be removed at such time that the construction or renovation project is complete or a certificate of occupancy has been issued. All building wraps must be neatly hung, taut and secure, and presentable and may not pose a hazard to public safety.

b. On-site political campaign signs not exceeding thirty-two (32) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and removed within 10 days of the election.

c. "No Hunting", "No Trespassing", and on-premise "Garage Sale" signs not exceeding four (4) square feet in display area.

d. On-premise directional signs approved as part of the site plan process not exceeding two signs per road frontage and not exceeding six (6) square feet in display area or four (4) feet in height. Not more than twenty-five (25%) of the area of any directional sign may be devoted to business identification or logo.

e. Signs identifying a building's address and/or the names of the occupants but not exceeding four (4) square feet in display area.

f. Historic markers, signs identifying the names of a building or date of erection of a structure.

g. Official notices of any court or public agency not exceeding twelve (12) square feet in display area.

h. Window sign~~s~~ may be up to twenty five percent (25%) of the total window area of the commercial portion of the first floor of the front building face. This allotment may be divided between multiple windows on the commercial portion of the building.

i. Traffic control, directional, warning, or informational signs when authorized by a public agency having appropriate jurisdiction.

j. Signs required by federal or state agencies in connection with federal or state grant projects and programs.

k. The flags of government or noncommercial institutions.

l. One additional flag per premise.

m. Banners for special events or sales, provided:

1) Banners must be made of plastic, vinyl or another similar material of professional quality.

2) Banners must be neatly hung, taut and secure.

3) Banners may not pose a hazard to public safety.

4) A business or institution with up to one 140 feet of frontage is limited to (one) 1 banner of no more than 24 square feet.

5) A business or institution with between 141 and 280 feet of frontage is limited to two (2) banners totaling no more than 48 square feet.

6) A business or institution with 281 feet of frontage or more is limited to three (3) banners totaling no more than 72 square feet.

n. Community promotional banners attached to poles located on City property may be allowed by permission of the Zoning Administrator, provided: [amended 2/04]

1) Banners must be made of plastic, vinyl or another similar material of professional quality.

2) Banners must be neatly hung, taut and secure.

3) Banners may not pose a hazard to public safety.

4) An agreement will be in place with the owner of the pole.

o. <u>Sidewalk Signs</u>: Sidewalk signs shall conform to the following regulations:

1) General Requirements.

a. Sign Standards. Sidewalk signs shall conform to the following regulations:

i. A maximum of one (1) sidewalk sign per individual retail use/retail service business (including restaurants) is permitted.

ii. Sign face area shall not exceed a maximum of ten (10) square feet. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of wiring, representation, emblem, logo or any other figure of similar character forming an integral part of the display, excluding only the support or other structure necessary to support the sign.

iii. Sign face width shall not exceed a maximum of thirty (30) linear inches as measured from the outer edge of the sign support or structure.

iv. Signs shall not exceed a maximum sign height of four (4) feet as measured from the highest point of the sign to the finished grade of the ground immediately beneath the sign.

v. All signs shall be designed and constructed to withstand reasonable natural weather elements.

vi. Signs shall be designed and constructed to ensure the sign does not blow over, block walkways, and/or obstruct or interfere with pedestrian or vehicular traffic. Owner shall be responsible for maintenance and must take such measures as necessary to secure the sign including utilizing weighting material or removal during extreme conditions.

vii. Signs shall be maintained free of peeling paint or paper, fading staining, rust or other condition which impairs legibility or intelligibility.

viii. Sign supports, braces, poles and anchors shall be maintained in such a manner as not to cause a hazard.

ix. If signs are not properly maintained and pose a threat to the public health, safety and welfare, or are illegally located in the public right-of-way, the city shall have the right to remove the sign. Accordingly, the city shall pass on all removal costs to the owner.

x. No sign shall contain any moving or animated parts, nor have the appearance of having any moving or animated parts.

xi. All signs shall be of professional quality.

b. Sign Placement. Sidewalk signs shall meet the following placement criteria:

i. Signs shall be portable and shall not be permanently affixed to any structure or sidewalk and shall be removed at the end of each business day.

ii. Signs shall be placed only on sidewalks that are wide enough to allow for a width of at least five (5) linear feet for the unrestricted pedestrian movement beyond the placement of the sign.

iii. Signs shall only be placed on the sidewalk in front of the business it is advertising and shall be limited to one per business.

iv. Signs shall be a minimum of forty-eight (48) linear inches from any obstructions within the sidewalk right-of-way including but not limited to newspaper boxes, outdoor tab les/seating, trees and tree grates, bicycle racks, trash receptacles, or any other item impeding pedestrian or wheelchair movement. Sign placement shall be in conformance with all Americans with Disabilities Act requirements.

v. Signs shall be a minimum of ten (10) linear feet from a building corner or pedestrian crosswalk.

vi. Signs shall be placed so the base of the sign is a minimum of ten (10) linear feet from the base of any other sidewalk sign.

vii. No sign shall be placed in the terrace area between the sidewalk and street.

viii. If an encroachment agreement is necessary, such agreement shall be obtained from the City Commission.

c. Lighting and Display Hours. Signs shall not be illuminated and shall be displayed only during daylight hours between sunrise and sunset.

6. **Permitted signs in all residential and mobile home park districts:**

a. Entranceway monument signs are permitted for residential developments of up to twelve (12) square feet. One sign for each major public road frontage may be provided. Signs shall not exceed eight feet in height.

b. Internally illuminated monument signs of up to thirty-two (32) square feet, not exceeding eight (8) feet in height, and internally lit wall signs up to twenty-four (24) feet for lawful institutional uses such as churches and schools. [amended 7/06]

c. Legal business uses in residential districts are permitted signage as allowed in the B-1 zoning district, except for those uses otherwise addressed in this section. [amended 4/02]

d. One (1) non-illuminated wall sign of up to eight (8) square feet for a home occupation. [amended 12/01]

e. Changeable copy or message boards shall be part of a fixed, permanent sign and shall have rigid letters. Electronic message boards are prohibited.

7. Permitted signs in the MC, B-2, B-3, B-4, B-5, I-1, and I-2 zones: [amended 1/04, 10/05]

a. Scope: Signs shall pertain exclusively to the business carried on within the building.

b. Lighting: Signs may be illuminated, but no flashing or moving illumination shall be permitted.

c. Number: One monument, or pole sign is permitted per property, regardless of the number of businesses there, except that one additional freestanding sign may be erected per road frontage when the development has parallel frontage on at least one major street or corner frontages on at least one major street, totaling over 500 linear feet. Properties with frontage on Muskegon Lake are permitted an additional monument or pole sign on the water frontage only.

d. Wall, Awning or Braquet Signs, Size: Signs shall not exceed ten (10) percent of the surface area of the commercial portion of the front building face and may be placed on any wall. In the case where the building is over one hundred feet (100') from the road, this allotment may be 15% of the front face of the storefront. In the case where the building is over 300 feet from the road, this allotment may be 20% of the front face of the storefront. In the case where the property has parallel frontage on at least one major street or corner frontage on at least one major street, this allotment may be 15% of the front face of the storefront.

e. Wall, Awning or Braquet Signs, Placement: Signs shall be placed against the principal building or on a canopy. Signs shall not project above the roof line or cornice. No wall sign shall interrupt or conceal the architectural details of a building. A sign attached to a mansard shall be considered a wall sign.

f. Changeable copy or electronic message boards: Shall be permitted provided:

1) One changeable or electronic message board shall be permitted per premise.

2) Changeable copy boards shall be part of a fixed, permanent sign and shall have rigid letters.

3) Electronic message boards shall be dimmed at dusk.

4) Electronic message board supports shall be at least seventy-five (75) feet from any residential use or zone.

g. Free-standing signs:

1) Setback: The leading edge of the sign must be out of the public right-of-way. Signs must be a minimum of 10 feet from a neighboring sign.

2) Ground clearance: Ground clearance shall accommodate clear vision needs of the site.

3) Area and Height: All signs shall comply with Table II.

8. <u>Permitted signs in the B-1, Waterfront Marine Zone, Open Space Conservation, Open Space Recreation, and Lakefront Recreation Districts</u>: [amended 1/04, 6/07]

a. <u>Scope</u>: Signs shall pertain exclusively to the business carried on within the building.

b. <u>Lighting</u>: Signs may be illuminated, but no flashing or moving illumination shall be permitted.

c. <u>Number</u>: One monument sign is permitted per property regardless of the number of businesses there. Properties with frontage on Muskegon Lake are permitted an additional monument or pole sign on the water frontage only.

d. <u>Wall, Awning or Braquet Signs, Size</u>: Signs shall not exceed ten (10) percent of the surface area of the commercial portion of the front building and may be placed on any wall. In the case where the building is over one hundred feet (100') from the road, this allotment may be 15% of the front face of the storefront. In the case where the building is over 300 feet from the road, this allotment may be 20% of the front face of the storefront. In the case where the property has parallel frontage on at least one major street or corner frontage on at least one major street, this allotment may be 15% of the front face of the storefront.

e. <u>Wall, Awning or Braquet Signs, Placement</u>: Signs shall be placed against the principal building or on a canopy. Signs shall not project above the roof line or cornice. No wall sign shall interrupt or conceal the architectural details of a building. A sign attached to a mansard shall be considered a wall sign.

f. <u>Changeable copy or message boards</u>: Shall be part of a fixed, permanent sign and shall have rigid letters. Electronic message boards are prohibited.

g. <u>Free-standing signs</u>:

1) <u>Setback:</u> The leading edge of the sign must be out of the public right-of-way. Signs must be a minimum of 10 feet from a neighboring sign.

2) <u>Clear vision</u>: Signs shall not obstruct clear vision requirements for motorists.

3) <u>Area and height</u>: Signs shall comply with the area requirements of Table II and shall not exceed eight feet (8') in height.

9. <u>Permitted signs in the WI-PUD District</u>:

a. <u>Scope</u>: Signs shall pertain exclusively to the business carried on within the building.

b. Lighting: Signs may be illuminated, but no flashing or moving illumination shall be permitted.

c. Number: One monument sign is permitted per approved PUD regardless of the number of businesses there.

d. Directional signs: On-site directional signs shall be approved as part of the planned unit development process.

e. Wall, Awning or Braquet Signs, Size: Signs shall not exceed ten (10) percent of the surface area of the front face of the building and may be placed on any wall. In the case where the building is over one hundred feet (100') from the road, this allotment may be 15% of the front face of the building. In the case where the building is over 300 feet from the road, this allotment may be 20% of the front face of the storefront.

f. Changeable copy or message boards: Shall be part of a fixed, permanent sign and shall have rigid letters. Electronic message boards are prohibited.

g. Free-standing signs:

1) Setback: The leading edge of the sign must be out of the public right-of-way. Signs must be a minimum of 10 feet from a neighboring sign.

2) Clear vision: Signs shall not obstruct clear vision requirements for motorists.

3) Area and height: Signs shall comply with the area requirements of Table II and shall not exceed eight feet (8') in height.

10. Campus Signage: [amended 4/05]

a. Scope: Signs shall pertain exclusively to the business(es) carried on within the campus area. These regulations shall apply to any campus situation in any zoning district.

b. Lighting: Signs may be illuminated, but no flashing or moving illumination shall be permitted.

c. Number: One (1) monument, or pole sign is permitted per campus, to be located in a prominent location such as the intersection of two major road frontages or near a main campus building (but not at a drive entrance) on the campus property in order to identify the major point of presence for the campus. In addition, one (1) monument, or pole sign is permitted per entrance/exit to the campus proper. In addition, one (1) campus "map" sign is permitted per parking area of ten thousand (10,000) square feet or more, interior to the campus itself. One (1)

free-standing sign is permitted, for identification purposes only, for each building located on the campus, for identification purposes only.

d. Wall, Awning or Bracket Signs, Size: Signs shall not exceed ten (10) percent of the surface area of the commercial portion of the front building face for any building located on the campus and may be placed on any wall. If a free-standing building identification sign is to be used for a particular building, the size of such sign will be subtracted from the total amount of wall signage allowed for the building.

e. Wall, Awning or Bracket Signs, Placement: Signs shall be placed against the principal building or on a canopy. Signs shall not project above the roof line or cornice. No wall sign shall interrupt or conceal the architectural details of a building. A sign attached to a mansard shall be considered a wall sign.

f. Changeable copy or electronic message boards: Shall be permitted provided:

5) One changeable or electronic message board shall be permitted per campus.

6) Changeable copy boards shall be part of a fixed, permanent sign and shall have rigid letters.

7) Electronic message boards shall be dimmed at dusk.

8) Electronic message board supports shall be at least seventy-five (75) feet from any residential use.

g. Free-standing signs:

1) Setback: The leading edge of the sign must be out of the public right-of-way. Signs must be a minimum of 10 feet from a neighboring sign.

2) Ground clearance: Ground clearance shall accommodate clear vision needs of the site.

3) Area and Height:

i. Signs identifying the major point of presence of the campus shall be in accordance with Table II.
ii. Free-standing signs located at campus entrances and exits may not be larger than thirty-two (32) square feet, and must be no higher than fifteen (15) feet.
iii. Map signs may not be larger than twenty four (24) square feet, and must be no higher than six (6) feet.
iv. Free-standing building identification signs may not be larger than fifteen (15) square feet, no higher than six (6) feet, and must be ground-mounted, monument signs only.

h. Informational and Directional Signs.

1) No permits shall be required for informational or directional signs having a maximum area of six (6) square fee**t.**

11. Multi-Suite Buildings: [amended 1/04]

In the case of a building divided into more than one suite, where not every suite has direct access and exposure to the outside, this ordinance recognizes that signage needs are unique. As part of the site plan review for these buildings, the Zoning Administrator will work with the applicant to determine the most reasonable and practical use of signage for the site. The intent of this ordinance is that each suite, regardless of size, access or exposure, is reasonably afforded space for both wall signage and free-standing signage, with the amount of signage to be determined during the site plan review process. In the case of an existing multi-suite building which would not otherwise require a site plan review, a minor site plan review will be required in order to determine signage needs and allotment.

a. Number: The Zoning Administrator may allow free-standing and wall signage in addition to what is already allowed for these properties, as long as not more than three (3) total free-standing signs are permitted and wall signage of not more than a total of twenty percent (20%) of the surface area of the commercial portion of the front building face is allowed.

b. Wall, Awning or Braquet Signs, Placement: Signs shall be placed against the principal building or on a canopy. Signs shall not project above the roof line or cornice. No wall sign shall interrupt or conceal the architectural details of a building. A sign attached to a mansard shall be considered a wall sign.

c. Free-Standing Signs:

1) Placement: Placement of all free-standing signs permitted on the site will be determined by the Zoning Administrator. The leading edge of the sign must be out of the public right-of-way. Signs must be a minimum of 10 feet from a neighboring sign.

2) Ground clearance: Ground clearance shall accommodate clear vision needs of the site.

3) All free-standing signs will be required to comply with Table II.

12. **Permitted billboards:**

a. Overlay: Billboards are hereby permitted in the following areas as a overlay districts regardless of the underlying zone:

1) Within 300 feet of the U S. 31 right-of-way, between the South Branch of the Muskegon River and Sherman Boulevard, provided there are no more than 8 sign faces on the entire corridor. Back-to-back signs count as one sign face. Display area is limited to 672 square feet.

2) On Sherman Boulevard frontage, East of Barclay to the city limits; provided there are no more than 4 sign faces on the entire corridor. Back-to-back signs count as one sign face. Display area is limited to 300 square feet.

3) On the West side of Henry Street frontage, South of Hackley to the city limits; provided there are not more than 2 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 300 square feet.

4) On the East side of Henry Street frontage, South of Windsor to the city limits; provided there are not more than 2 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 300 square feet.

5) On Laketon Avenue frontage, East of Getty to the city limits; provided there are not more than 2 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 300 square feet.

6) On Laketon Avenue frontage, between Seaway and Fifth; provided there are not more than 2 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 300 square feet.

7) On Northbound Seaway frontage, between Hackley and Dale; provided there are not more than 2 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 672 square feet.

8) On Southbound Seaway frontage, South of Hackley to the city limits; provided there are not more than 2 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 672 square feet.

9) Within 500 feet of U.S. business 31, Southwest of the Southern branch of the Muskegon River to Eastern Avenue, provided there are not more than 6 sign faces on said stretch of roadway. Back-to-back signs count as one sign face. Display area is limited to 672 square feet.

10) On the East side of Getty, South of Keating to city limits, provided there are not more than 2 sign faces on said stretch of roadway. Display are is limited to 300 square feet.

b. Cap: A community cap of total allowable billboards is hereby placed at 32 total faces. In order for a new billboard permit to be issued, two faces and the associated supporting structure(s) controlled by the applicant must be removed from the city including, without limitation, billboards in excess of the number allowed in any given overlay zone and billboards outside an overlay district. When the 32 face cap is attained the ratio of trade-off shall be one for one.

c. Standards: All billboards shall comply with the following:

1) Spacing: Billboard supports shall be at least seventy-five (75) feet from any residential use or zone and shall be spaced at least 300 feet from another billboard. Such distance shall not be measured from across a street. Billboards shall be at least 200 feet from the intersection of the following major streets; Henry, Laketon, Sherman, Barclay, Seaway and Getty.

2) Height: The top of the billboard shall not exceed 20 feet above the average grade on a vacant lot and 35 feet above the average grade on a lot with a principal structure. Average grade shall be determined by; the ground on which the billboard sits or; the grade of the abutting roadway, whichever is higher.

3) Lighting: Billboards on Seaway and U.S. 31 may be illuminated. Billboards in all other areas shall not be illuminated because of their potential to: bleed light, interfering with the City's "night sky" objectives; cast glare in the public right-of-way, distracting drivers; take attention from on-premise businesses; shine into adjacent residential areas impacting resident's enjoyment of their personal property.

4) Landscaping: A landscaped strip of at least twenty five square feet shall be located immediately adjoining the supporting structure of the billboard.

5) Setbacks: The leading edge of the sign face shall comply with setback requirements for the zone in which the billboard is located.

13. **Existing Nonconforming Signs:** [amended 1/04]

It is the intent of this subsection is to permit the continuance of a lawful use of any conforming sign existing at the effective date of adoption of this section, although such sign may not conform with the provisions of this Section. It is the intent that nonconforming signs shall not be enlarged, expanded or extended. Further, it is the intent that nonconforming signs and shall be gradually eliminated and terminated upon

their complete natural deterioration or accidental destruction. However, nonconforming signs may be repaired and maintained so as to continue the useful life of the sign. The continuance of all nonconforming signs within the City shall be subject to the following requirements:

a. Status: The burden of proving a sign is a legally nonconforming sign shall rest with the person claiming such status for the sign.

b. Structural Changes: The frame faces, supports, or other parts of any nonconforming sign shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign does not become more nonconforming or conforms to the provision of this Ordinance. Any nonconforming sign, billboard or portion thereof may be diminished in size or dimension without jeopardizing the privilege of nonconforming use.

14. **Removal**: If the building official, zoning administrator or their authorized representative of the city determines that any sign regulated by this section is unsafe or constitutes a hazard to the public, such as obstructing vision of vehicle drivers or pedestrians, or has been constructed, erected or maintained in violation of the provisions of this section, after due notice, the official or inspector may remove the sign or require its immediate removal. Any expense incurred by the city incidental to the sign removal shall be paid by the sign owner, owner of the property where the sign is located, or other party having control over said sign.

Any sign placed or erected in a public street, alley or right-of-way or other public place, which is not specifically permitted in such place, shall be deemed an unlawful sign and the department of the city having jurisdiction over the maintenance of such public place shall remove such sign. Such removal may be without written or other notice to the owner, lessee or person of the property adjacent to the public street, alley, right-of-way, or other public place upon which the sign is located.

TABLE II: Sign Area and Height Limitations

Street Frontage* (linear ft.)	Maximum Sign Area	Maximum Height
50 and under	25	15
51-60	34	15
61-70	38	15
71-80	42	15
81-90	46	15
91-100	50	15
101-110	54	15
111-120	58	15
121-130	62	15
131-140	66	15
141-150	70	15

151-160	74	20
161-170	78	20
171-180	82	20
181-190	86	20
191-200	90	20
201-210	94	20
211-220	98	20
221-230	102	20
231-240	106	20
241-250	110	20
251-260	114	25
261-270	118	25
271-280	122	25
281- 290	126	25
291-300	130	25
301-310	134	25
311-320	138	25
321-330	142	25
331-340	146	25
341-350	150	25
351-360	154	30
361-370	158	30
371-380	162	30
381-390	166	30
391-400	170	30
401-410	174	30
411-420	178	30
421-430	182	30
431-440	186	30
441-450	190	30
451-460	194	30
461-470	198	30
Over 470	200	30

* Resultant parcels from parcel splits shall comply with these standards.

Frontage for corner parcels with frontage on two major streets shall be averaged.

ARTICLE XXIV - ADMINISTRATION AND ENFORCEMENT

SECTION 2400: ENFORCEMENT

The provisions of this Ordinance shall be administered, interpreted, and enforced by the Zoning Administrator, and those other members of the Department of Inspections to whom he has delegated enforcement authority in the performance of their duties and any other peace officer. In the exercise of their duties, the officials, directors, employees, representatives, police and deputies shall have authority provided by law for the enforcement of Ordinances, including, but not by way of limitation, the authority to issue and serve appearance citations, as provided by Section 764.9(a) to 764.9(g) of the compiled laws of the State of Michigan, and the right to enter private premises as provided by law.

SECTION 2401: DUTIES AND POWERS

The Zoning Administrator shall have the authority to grant zoning compliance and occupancy permits, to make inspections of buildings or premises, and review plans necessary to carry out his/her respective duties in the enforcement of this Ordinance.

The interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any Ordinance, rules and regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this Ordinance; nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such Ordinance or agreements, the provisions of this Ordinance shall control.

SECTION 2402: BUILDING PERMITS

A building permit shall not be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.

SECTION 2403: CERTIFICATE OF OCCUPANCY

A certificate of occupancy shall not be issued by the Director of Inspections if there is any noncompliance with the provision of this Ordinance.

1. Exception

   All unfinished site improvements which are included on an approved site plan, or which are otherwise required by this Ordinance shall be constructed, installed or placed on the property, and be approved by the Inspections Department within six (6) months of

obtaining a Certificate of Occupancy or they shall constitute a violation of this Ordinance giving rise to the penalties for herein, and constitute a basis for relief in Circuit Court.

SECTION 2404: ZONE CHANGES AND AMENDMENTS

The City Commission may, from time to time, on recommendation from the Planning Commission, or on its own motion, or on petition, amend, supplement, modify or change this Ordinance in accordance with the authority of Act 207 of the Public Acts of 1921 as amended.

SECTION 2405: PETITIONS, FEES [amended 3/97] [amended 11/06]

Any person desiring an amendment or change in the map or in any other provision of this chapter shall present to the City Commission, through the City Clerk, a petition for such amendment or change, together with a fee in the amount specified in the City's Master Fee Schedule as adopted by a resolution of the City Commission and in effect at the time of application. Said fee is intended to cover the cost to the City of publishing legal notice of the hearing and other reasonable administrative costs.

The Planning Commission shall hold a public hearing after notice, published in a newspaper of general circulation, and by mail or personal service to all owners and residents of property within three hundred (300) feet of the property. Such notice shall be served as required fifteen (15) days prior to the hearing.

The Planning Commission shall make a report to the City Commission who may adopt such amendments with or without amendments.

SECTION 2406: PROTEST PETITIONS

Upon presentation of a protest petition meeting the requirements of this ordinance, an amendment to a zoning ordinance which is the object of the petition shall be approved by at least a 2/3 vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment, and shall be signed by one (1) of the following:

1. The owners of at least twenty (20) percent of the area of land included in the proposed change.

2. The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

3. For the purposes of subsections (a) and (b), publicly owned land shall be excluded in calculating the twenty (20) percent land area requirement.

SECTION 2407: VIOLATION AND PENALTIES [amended 5/12/98].

Any person, firm, or corporation violating any of the provisions of the Zoning Ordinance shall be responsible for a civil infraction. All such persons, regardless of their interest in property (for instance, owner or occupant) may be responsible for the civil infraction.

SECTION 2408: PUBLIC NUISANCE PER SE

In addition to all other remedies, including the penalties provided in this Section of this Ordinance, the City may commence and prosecute and take appropriate actions or proceedings in a Court of competent jurisdiction, to restrain or prevent any noncompliance with, or violation of, any of the provisions in this Ordinance, or to correct, remedy or abate such noncompliance or violation. Buildings erected, altered, razed, or converted, or uses carried on in violation of any provisions of this Ordinance or in violation of any regulations made under the authority of Act 207 of the Michigan Public Acts of 1921, as amended, are hereby declared to be a nuisance per se, and the court shall order such nuisance abated.

SECTION 2409: RIGHTS AND REMEDIES ARE CUMULATIVE

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

SECTION 2410: FORBEARANCE NOT CONDONED

Forbearance in enforcement of this Ordinance shall not be deemed condonation of any violation thereof.

SECTION 2411: EACH DAY A SEPARATE OFFENSE

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

SECTION 2412: ZONING COMMISSION

The City of Muskegon Planning Commission is hereby designated as the Commission specified in Act 285 of the Public Acts of 1931, as amended, and shall perform the duties of said Commission as provided in the statute in connection with amendment of this Ordinance.

ARTICLE XXV - ZONING BOARD OF APPEALS [amended 11/00]

SECTION 2500: PURPOSE AND INTENT

The purpose of this Article is to insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for in the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

SECTION 2501: CREATION AND MEMBERSHIP [amended 9/05] [amended 12/06] [amended 1/07]

There is hereby established a Zoning Board of Appeals (ZBA), which shall perform its duties and exercise its powers as provided in Section 5 of Act 207 of the Public Acts of 1921, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The ZBA shall consist of seven (7) members appointed by the City Commission, and shall include one (1) member of the City Commission and one (1) member of the Planning Commission. Every member shall be a legal resident of the City. The term of the representative of the City Planning Commission and the term of the City Commission representative shall expire with that of his/her Planning Commission or City Commission office. The terms of all members except the representative of the City Planning Commission and the City Commission shall be for periods of three (3) years each. A successor member of the ZBA must be appointed not more than one month after the term of the preceding member has expired. The ZBA shall annually elect its own Chairman and Vice-Chairman.

The presence of four (4) members shall constitute a quorum. The ZBA shall act by resolution. The concurring vote of four (4) members of the ZBA shall be necessary to reverse any order requirement, decision, or determination of the Zoning Administrator or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance, except that a concurring vote of 2/3 of the members of the board is necessary to grant a variance from uses of land permitted in this ordinance.

The ZBA may call on any other City department for assistance in the performing of its duties, and it shall be the duty of any such department to render such assistance to the ZBA as may reasonably be required.

A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. Malfeasance shall include but not be limited to failure of members to disqualify themselves from a vote in which that member has a conflict of interest. The City Commission shall remove a member of the ZBA for non-performance of duty or malfeasance in office, upon written charges and after public hearing.

SECTION 2502: POWERS AND DUTIES

1. Interpretation

The ZBA shall interpret the zoning text or map upon application. Where the street or lot layout actually existing, or as recorded, differs from the street and lot lines as shown on the zoning map, the ZBA after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this chapter for the particular section or district in question. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the zoning map may be made to the ZBA and a determination shall be made by the ZBA, solely for the purpose of applying or enforcing the zoning ordinance.

2. Appeals

The ZBA shall have the power to hear and decide appeals, filed as provided in the following section, where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the Zoning Administrator or other administrative official in the carrying out or enforcement of the provisions of this chapter.

In exercising its powers, the ZBA, in conformity with the provisions of this chapter and of Act 207 of the Public Acts of 1921 (MSA SS 5.2931 et seq.), as amended, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as in its judgment ought to be made.

3. Nonuse or Dimensional Variances

The ZBA shall have the power to authorize upon appeal in specific cases, filed as required by this article, such nonuse or dimensional variances from the provisions or requirements of this chapter as will not be contrary to the public interest; but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of the chapter would cause practical difficulty.

Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of the ordinance from which this chapter is derived, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties, unnecessary to carry out the spirit and purpose of this chapter, the ZBA shall have the power to authorize a variance from such strict application, so as to relieve such difficulty and so that the spirit and purpose of this chapter be observed and substantial justice done. In authorizing a dimensional variance, the ZBA may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of this chapter and in the public interest.

No such dimensional variance in the provisions of requirements of this chapter shall be authorized by the ZBA unless the ZBA finds, beyond reasonable doubt, that all the following facts and conditions exist:

a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.

b. That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.

c. That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.

d. That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner.

e. That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.

f. That the requested variance is the minimum action required to eliminate the difficulty.

The nature of dimensional variance applications requires detailed information on the property that is not required or desired in interpretation or appeal applications. The following data shall accompany all applications for a nonuse or dimensional variance:

a. A plot plan showing the property layout, the alleged difficulty, and the minimum relief suggested for the difficulty.

4. Use Variances

The ZBA shall have the power to authorize upon appeal in specific cases, filed as required by this article, such use variances from the provisions or requirements of this chapter as will not be contrary to the public interest; but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of the chapter would cause unnecessary hardship.

The purpose and intent of this Ordinance is that every landowner in the City of Muskegon should enjoy a beneficial use of their property. A use variance is a process by which the City evaluates the allegation that there is no beneficial use, and can provide relief from the regulations by granting additional development potential to provide a beneficial use of the property. It is also the intent of this Section that such relief not increase the potential for damaging the health, safety, or welfare of future users of the property or neighbors that might reasonably anticipated if the landowner were permitted

to engage in or construct the use proposed. Under no conditions shall a use variance be granted unless there is a finding of no beneficial use.
No such use variance in the provisions of requirements of this chapter shall be authorized by the ZBA unless the ZBA finds that all the following facts and conditions exist:

a. That the property could not be used (put to a reasonable use) for the purposes permitted in that zone district.

b. That the plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.

c. That the proposed use would not alter the essential character of the area and will not materially impair the purposes of this ordinance or the public interest.

d. That the alleged hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner.

e. That the alleged hardship is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.

f. That the requested variance is the minimum action required to eliminate the hardship.

g. That the use variance does not permit a use specifically identified by this Ordinance as a use excluded from the particular zone in which requested.

h. The extent to which the ordinance protect users or neighbors from threats to health, safety and welfare shall be considered. A use that seriously threatens the health of future residents or neighbors is not a beneficial or allowable use.

i. In no case shall a use that is a nuisance per se, or a use which in that particular location constitutes a nuisance, be granted as a use variance. Such uses are not legal uses of the land.

The following data shall accompany all applications for a use variance:

a. A site plan must be submitted which meets the requirements of this ordinance.

Every use variance approved by the ZBA shall require a time for completion of improvements.

SECTION 2503: APPEALS, APPLICATIONS, FILING PROCEDURE AND FEES [amended 3/97] [amended 11/06]

An application or appeal to the ZBA in cases in which it has original jurisdiction under the provisions of this ordinance or state law, may be taken by any aggrieved parties, including a

property owner or tenant, or by a governmental office, department, board or bureau. Such application or appeal shall be filed with the Zoning Administrator, who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application, to the ZBA.

Such application or appeal shall specify the grounds for appeal, or reason for application, and be accompanied by a filing fee in the amount specified in the City's Master Fee Schedule as adopted by a resolution of the City Commission and in effect at the time of application.

In the absence of a ZBA rule to the contrary, an appeal or application for interpretation to the ZBA shall be taken by delivery to the Zoning Administrator on or before thirty (30) days after the Zoning Administrator's written decision has been delivered to the applicant. All applications for appeals or interpretations shall specify the grounds for appeal or reason for interpretation.

The ZBA shall decide all applications and appeals within thirty (30) days after completion of the hearing thereon, and such decision shall become effective upon certification of the resolution of the ZBA.
An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the ZBA after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the ZBA or by the circuit court on application, after notice to the Zoning Administrator. The decision of the ZBA on an appeal shall be final. However, a person having an interest may appeal to the circuit court.

No application for a variance which has been denied, wholly or partly, by the ZBA shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Zoning Administrator to be valid.

SECTION 2504: HEARINGS, NOTICES, ADJOURNMENTS [amended 11/06]

1. When an application or appeal has been filed in proper form and with the required date, the Zoning Administrator shall immediately place said application or appeal upon the calendar for hearing and cause notices, stating the time, place, and purposes of the hearing being served. Such notices shall be published in a newspaper of general circulation and served personally or by mail at least fifteen (15) days (excluding Saturdays, Sundays, and holidays) prior to the day of such hearing, upon the applicant or appellant, the Building Inspector, the owners of property and the occupants of single and two-family dwellings within three hundred (300) feet of the property in question. If the tenant's name is not known, the notice may be addressed to the occupant.

   Any party may appear at such hearings in person or be represented by agents, attorneys, or both.

2. Upon the day for hearing any application or appeal, the ZBA may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may logically be concerned with said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time and resumption of said hearing unless the ZBA so decides.

3. Hearing Procedure; Record; Due Process: The ZBA shall cause a complete record to be made at the hearing, including, without limitation, video or audio recordings, exhibits, documents, letters, photos, or computer records, as appropriate, and preserve same as the record of the hearing. Anyone applying for a variance shall have the right to counsel, cross-examination and all other rights comporting with procedural due process. The applicant may be required to deposit sufficient funds to pay for recording, preservation, transcription and duplication of the record, as a condition of proceeding.

4. All decisions of the ZBA shall be in writing and demonstrate the basis for the decision from the record of the hearing.

SECTION 2505: TERMINATION OF VARIANCE

No order of the ZBA permitting or approving the installation of any improvement shall be valid for a period longer than one (1) year, unless a Building Permit for such improvement is obtained within thirty (30) days of the ZBA action, and such improvement is started and proceeds to substantial completion in accordance with the terms and time limits set forth in the variance decision.

ARTICLE XXVI - [RESERVED]

ARTICLE XXVII - REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance, Chapter 25 of the Code of Ordinances adopted by the City Commission of the City of Muskegon, and all amendments thereto, are hereby repealed insofar as they conflict with this Ordinance. The repeal of the above Ordinance and all amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted, or inflicted.

ARTICLE XXIII - VESTED RIGHT

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

ARTICLE XXIX - SEVERANCE CLAUSE

Sections of this Ordinance may be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole of any part thereof, other than the part so declared to be unconstitutional or invalid.

ARTICLE XXX - ADOPTION AND EFFECTIVE DATE

Public hearings and all other legal requirements having been completed, the provisions of this Ordinance are hereby effective, pursuant to the provisions of Section 4 of Act 207 of the Public Acts of 1921, State of Michigan, as amended.

The effective date hereof shall be ten (10) days following publication of Notice of Adoption, or May 15, 1987.