

**THE CITY OF  
THE VILLAGE OF DOUGLAS  
ZONING ORDINANCE  
ALLEGAN COUNTY, MICHIGAN**

**Adopted  
May 18, 2009**

**Effective Date  
June 11, 2009**

**Ordinance No. 02-2009**



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## **ARTICLE 1: INTENT AND PURPOSE**

### **Section 1.01 Title**

This ordinance shall be known and cited as the Zoning Ordinance of the City of the Village of Douglas, Ordinance #02-2009.

### **Section 1.02 Purpose**

It is the purpose of this Zoning Ordinance to:

- 1) promote the public health, safety, comfort, convenience, and general welfare of the inhabitants of the City of the Village of Douglas by encouraging the sustainable use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes;
- 2) enhance economic stability;
- 3) reduce the potential risk of flooding;
- 4) provide adequate open space for light and air;
- 5) reduce the potential risk of fires;
- 6) allow for a variety of residential housing types and commercial and industrial land uses;
- 7) lessen congestion on the public streets and highways;
- 8) promote a walkable community;
- 9) facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, and educational and recreational facilities;
- 10) assure adequate provisions for natural resources, housing, and commerce;
- 11) ensure appropriate locations and relationships for uses of land and facilitate the expenditure of funds for adequate public facilities and services and the expenditure of funds for other public facilities and services, by establishing herein standards for physical development in accordance with the objectives and policies contained in the Tri-Community Comprehensive Plan for the City of the Village of Douglas as reflected in this Ordinance; and,
- 12) to provide for the administration and enforcement of such standards.

13) to improve the quality of life for all citizens in the Tri-Communities through implementation of policies and best practices that preserve the existing small town/rural character of the area and that achieve sustainable development – that is, which meet the needs of the present generation without compromising the ability of future generations to meet their needs.

## **ARTICLE 2: DEFINITIONS**

### **Section 2.01 Construction of Language**

- 1) For the purpose of this Ordinance, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.
- 2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural include the singular; the word "herein" means in this Ordinance; and the word "regulation" means the regulation of this Ordinance; and the words "this Ordinance" shall mean "this Ordinance and the maps and schedules included herein as enacted or subsequently amended".
- 3) A "person" includes a corporation, a partnership, and an unincorporated association of persons such as a club as well as a trust, firm or individual; "shall" is always mandatory and not discretionary, "may" is permissive; a "lot" includes a "plot," "tract" or "parcel"; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, maintained for or designed to be used or occupied".
- 4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
  - (a) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - (b) "Or" indicates 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 necessarily in combination.
- 5) The "City" is the City of the Village of Douglas in the County of Allegan, State of Michigan; the "City Council or Council", "Board of Appeals or Board" and "Planning Commission or Commission" are, respectively, the City Council, Zoning Board of Appeals, and Planning Commission of the City of the Village of Douglas.
- 6) Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard usage.
- 7) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

**Section 2.02 Definitions Beginning with the Letter "A":**

ACCESS. A way or means of approach to provide vehicular or pedestrian physical entrance to a property or place.

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

ADJACENT (lot or parcel). A lot or parcel which abuts any lot or parcel line of the subject lot or parcel.

ADULT DAY CARE FACILITY.

- i. Adult Family Day Care Home. A private home in which six (6) or less adults eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped that require supervision on an ongoing basis. An adult family day care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care center.
- ii. Adult Group Day Care Home. A private home in which more than six (6) but not more than twelve (12) adults eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped that require supervision on an ongoing basis. An adult group day care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care center.
- iii. Adult Care Center. A facility, other than a private residence, receiving one or more persons, eighteen (18) years of age or older, for care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled or physically handicapped that require supervision on an

ongoing basis. An adult day-care center does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day-care center.

**ADULT FOSTER CARE FACILITY.** A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. The following additional definitions shall apply in the application of this Ordinance:

- a. **Adult Foster Care Small Group Home:** An owner-occupied facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
- b. **Adult Foster Care Large Group Home:** A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.
- c. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
- iv. **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.

**ALLEY.** A public or private way less than thirty three (33) feet wide that is primarily designed to serve as secondary access to the rear or side of those properties whose principal frontage is on a public or private street.

**ALTERATION.** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to herein as altered or reconstructed.

**AMUSEMENT CENTERS (ARCADE).** A principal commercial land use open to the public and consisting of three (3) or more coin or token operated amusement devices, also known as an arcade. Such devices shall include, but are not limited to, billiard tables, pool tables, video games, pinball machines, and/or any other machine which may be operated by the public generally for use as a game, entertainment, or amusement, for which a fee is paid. This definition does not apply to coin operated amusement devices owned or leased to organizations not open to the public, such as private clubs, religious or fraternal organizations.

**ANIMAL GROOMING:** Any property, structure, building, or premise in or on which pets and other domesticated animals are bathed and/or groomed for commercial gain, but excluding any veterinary or clinical services.

**ANTIQUÉ STORE.** An establishment offering antiques for sale. An antique, for the purposes of this chapter, shall be a work of art, piece of furniture, decorative object or the like, of or belonging to the past, at least 30 years old.

**ART GALLERY.** A room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

**AUTOMOBILE/BOAT SALES.** An open area either indoors or outdoors used for the display, sale or rental of new or used motor vehicles, boats or trailers in operable condition where no repair work is done.

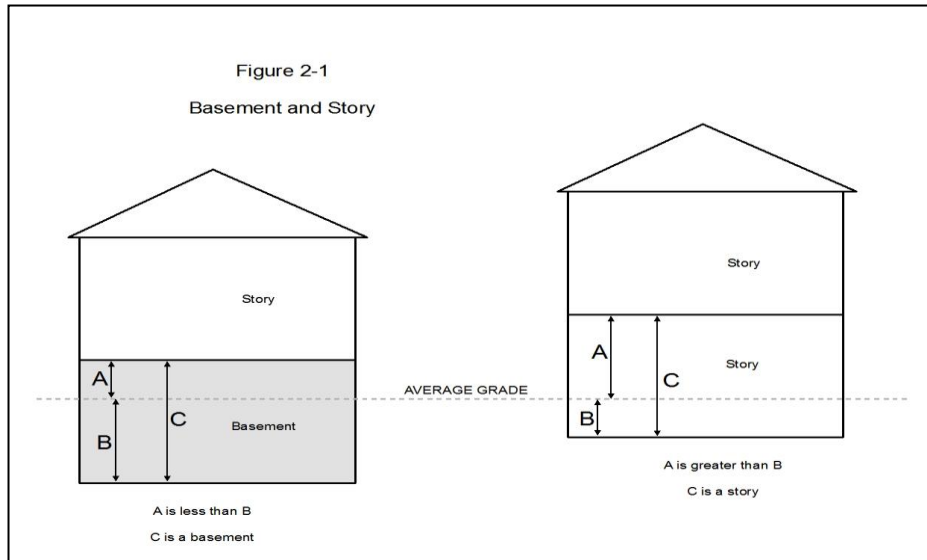
**AUTOMOBILE SERVICE AND MINOR REPAIR STATIONS.** Buildings and premises for the primary purpose of servicing automobiles and trucks, including but not limited to the retail sales of gasoline, oil, grease, batteries, tires, mufflers, brakes, and other operational fluids and accessories for automobiles, and the installation of such items, and for other minor automobile repair. A convenience store may be included with this use.

**AUTOMOBILE SERVICE AND MAJOR REPAIR STATIONS:** Buildings and premises as stated for an automobile service and minor repair station but including auto refinishing, body work or painting, dismantling of vehicles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair. A convenience store may be included with this use.

**AVERAGE GRADE.** See Grade, Average.

**Section 2.03 Definitions Beginning with the Letter "B":**

**BASEMENT.** That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (see Figure 2-1). A cellar is a basement. In the event the distance between the average grade to the ceiling and the average grade to the floor is the same, the space shall be considered a story.



**BED AND BREAKFAST ESTABLISHMENT.** An owner or manager occupied dwelling wherein up to six bedrooms, or more as permitted by Special Use Permit pursuant to Section 26.05, are used by transient guests for prearranged compensation.

**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.

**BOAT.** A vehicle used or capable of being used as a means of transportation on water.

**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 even if not in a separately established buffer zone and may be so required by this Ordinance.

**BUILDABLE AREA.** That area of the site exclusive of right-of-way, wetlands, floodplain, steep slopes (over 20%), or other areas of the site rendered un-buildable due to environmental conditions.

**BUILDING ENVELOPE.** The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations and minimum yard setbacks.

**BUILDING INSPECTOR.** An individual or firm retained by the City to administer the building regulations of the City of the Village of Douglas.

**BUILDING LINE.** A line which defines the minimum distance (as determined by the minimum front, side, or rear yard setback) which any building shall be located from a property line or existing street right-of-way line.

**BUILDING, PRINCIPAL.** A building which the main or principal use is conducted on the lot on which said building is located. For purposes of the off-street parking requirements specified in this ordinance, a principal building is any building actually constructed, or the construction of which was started, prior to the adoption of this ordinance.

**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, tents, sheds, garages, greenhouses, and other accessory structures.

**Section 2.04 Definitions Beginning with the Letter "C":**

**CARPORYT.** A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to garages.

**CELLAR.** See definition of basement.

**CEMETERY.** Property, including mausoleums, and/or columbaria, used or intended to be used solely for the perpetual interment of deceased human beings or customary domestic pets.

**CHILD DAY CARE FACILITIES.** The following definitions shall apply in the construction and application of this Ordinance:

- a. **Child Family Day Care Home.** A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.



- b. Child Group Day Care Home. A private home in which seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
- c. Child Care Center. A facility, other than a private residence, receiving more than one (1) or more children for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child.

CHILD FOSTER FAMILY FACILITY. Means the following:

- a. Foster Care Family Home. A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- b. Foster Care Family Group Home. A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to Chapter X of Act No. 288 of Public Acts of 1939, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

CHURCH. See religious facility.

CLUB. An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the general public.

COLUMBARIUM. A building or structure substantially exposed above ground intended to be used for the interment of remains of a deceased person.

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

**COMMUNICATION TOWER.** A radio, telephone or television relay structure of skeleton framework, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals.

**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).

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

**CONDOMINIUM 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. 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, and maximum lot coverage.

**CONDOMINIUM UNIT.** Means that portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential office, industrial, business, 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. Dockominiums are a condominium unit but as a structure on the waterfront are not subject to the building setback and lot coverage requirements of this Ordinance. (Also see Section 16.24 Condominiums)

**CONSERVATION AREA, PUBLIC OR PRIVATE.** Any parcel or area of undeveloped land, including but not limited to wetlands, sand dunes, parks and forest, conserved in its natural state for perpetuity through deeds or other legal means.

**CONTRACTOR ESTABLISHMENT:** Any land or buildings used primarily for the storage of equipment, vehicles, machinery, building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

**CONVALESCENT OR NURSING HOME.** A state licensed facility for the care of children, of the aged or infirm, or a place of rest for those suffering bodily disorders. Said home shall conform and qualify for license under State law even through State law has different size regulations.

COURT. An open space that may or may not have street access, and around which is arranged a single building or group of related buildings.

CUL-DE-SAC A cul-de-sac is a public street or private road which is open only at one end with provision for a practical turn-around meeting minimum Allegan County Road Commission standards.

**Section 2.05 Definitions Beginning with the Letter "D":**

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. An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which protrudes more than four (4) inches above the finished grade.

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. Unless the City has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the City.

DENSITY. The number of dwelling units expressed in units per acre of land.

DISTRIBUTION CENTER (Warehouse) : A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

DOMESTIC PET. Domesticated animals which are generally regarded as household pets, including dogs, cats, fish, birds, snakes, lizards, hamsters, spiders, frogs, turtles and dwarf pigs. Excluded are wild animals as defined in this ordinance and animals which are native to the Michigan environment and generally regarded as wildlife such as raccoons, pheasants, squirrels, ducks, geese and deer. Also excluded are animals which are raised or produced for food, feed or fiber and generally regarded as farm animals or livestock, such as horses, sheep, goats, chickens and pigs.

DRIVE-IN ESTABLISHMENT. An establishment which by design, physical facilities, service, or by packaging procedures utilized, encourages or permits customers to

receive services, obtain goods, or be entertained while remaining in their motor vehicle.

**DRIVE-THROUGH.** A business establishment that provides customers with the opportunity to pay for and receive goods or services without leaving their car. A drive-through establishment is distinguished from a drive-in establishment by the fact that drive-through operations involve a driveway approach that the customer uses to enter the service area, receive service and departs, while a drive-in involves parking spaces the customer parks in to receive service. A fast-food restaurant is excluded from this definition.

**DRIVEWAY.** A means of access for vehicles from a street or private road across a lot or parcel to a parking or loading area, garage, dwelling unit or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance or other City requirements.

**DRY CLEANING ESTABLISHMENT.** An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

**DWELLING UNIT.** A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place for one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings. A dwelling unit shall include both manufactured units (mobile homes and modular homes) and site built units.

**DWELLING, EFFICIENCY/STUDIO.** A dwelling unit that has only one combined living and sleeping room, said dwelling unit, however, may also have a separate room containing only kitchen facilities and also a separate room containing only sanitary facilities.

**DWELLING, MULTIPLE FAMILY.** A building or portion thereof, used or designed for use, by three (3) or more families living independently of each other. This definition does not include mobile homes, single family dwellings or two family dwellings.

**DWELLING, ONE (SINGLE) FAMILY.** A building exclusively for use by one (1) family which is entirely surrounded by open space or yards on the same lot.

**DWELLING, TWO FAMILY.** A building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in separate dwelling units. It may also be termed a duplex.

**Section 2.06 Definitions Beginning with the Letter "E":**

EARTH SHELTERED DWELLING. A dwelling which is substantially or entirely below natural grade or the natural grade is altered to partially or substantially cover the structure usually for energy conservation purposes. It does not mean a home established in a basement without a first or second story which is not a permitted dwelling unit.

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

ENVIRONMENTAL ASSESSMENT: An Environmental Assessment means a summary review of the environmental impacts of a project.

ERECTED. The word erected includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

ESSENTIAL PUBLIC SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, gas, electrical, steam or water transmission, or distribution system, collection, communication, supply or disposal system (including poles, wires, cable television, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but excluding electric transmission or communication towers, electric substations, telephone substations, gas regulator stations or other utility or public services buildings) reasonably necessary for the furnishing and adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

EXCAVATION. Any breaking of ground, except common household gardening, general farming and ground care.

**Section 2.07 Definitions Beginning with the Letter "F":**

FAMILY An individual or a collective number of individuals living together in one dwelling as a single housekeeping and cooking unit, whose relationship is of a permanent and distinct domestic character. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order.

FARM IMPLEMENT DEALERS. Establishments selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation and

maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming.

**FARM MARKET.** A permanent commercial building or structure primarily engaged in the sale of seasonal agricultural produce (seed, fruits, vegetables), nursery stock, and garden or pet supplies. Goods are primarily produced off-site and trucked into the establishment for retail sale. A farm market is not a roadside stand.

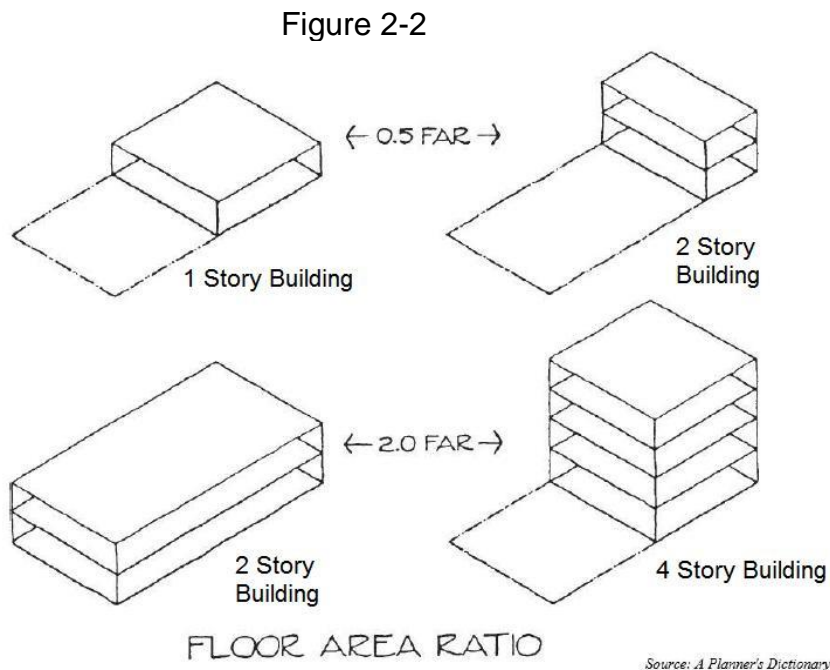
**FENCE.** An accessory structure commonly used as a barrier to limit property ingress or egress, screen from objectionable vista, noise, lights, and/or for decorative use.

**FILLING.** The depositing or dumping of any matter into or onto the ground.

**FLOOD HAZARD AREA OR FLOODPLAIN.** That area subject to flooding, on the average of at least once in every hundred years as established by the Federal Emergency Management Agency.

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

**FLOOR AREA RATIO:** The total floor area of all buildings or structures on a lot divided by the net area of said lot. (See Figure 2-2)



FLOOR AREA, USABLE. For the purposes of computing parking requirements, usable floor area shall be considered as that area 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, stairways, basements and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

FLOWER SHOP. Retail business whose principal activity is the selling of plants and/or floral materials which are not grown on the site and which conduct business within an enclosed building.

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

FREIGHT YARDS AND TRUCK TERMINALS. A facility for freight pick-up and/or distribution; may include intermodal distribution facilities for truck, rail and shipping transport.

FRONTAGE, LOT. The total continuous length of the front lot line.

FUNERAL HOME. A building used for human funeral services and may include facilities for embalming, performance of autopsies or other similar surgical procedures, or storage of funeral caskets and funeral urns, and funeral vehicles.

**Section 2.08 Definitions Beginning with the Letter "G":**

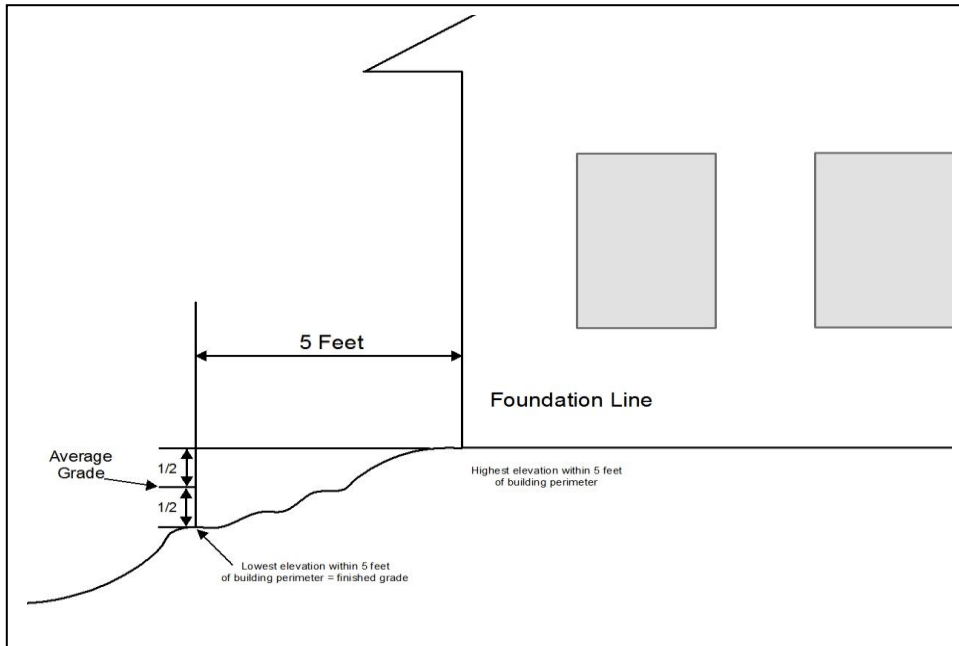
GARAGE. A building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles, usually automobiles. When associated with a private residence, it is an accessory structure unless attached to the principal structure by means of connecting walls and roof or a common party wall.

GAS STATION - An establishment offering retail sales of motor vehicle fuels, oil and lubricants and may also offer minor vehicle repair and service such as replacement of tires, batteries, mufflers, brakes or starters; oil changes and engine tune ups.

GOLF COURSE/COUNTRY CLUB. Means 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, AVERAGE. The arithmetic average of the lowest and highest finished grade elevations in an area within five (5) feet of the foundation line of a building or structure (see Figure 2-3).

Figure 2-3, Grade Average



**GRADE, FINISHED.** The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure when the structure is completed.

**GRADE, NATURAL.** The elevation of the ground surface in its natural state, before man-made alterations.

**GREENHOUSE.** A facility, typically an enclosure, used for the cultivation of plants, wherein the growing, wholesaling and/or retailing of plant materials is the principal commercial use.

**Section 2.09 Definitions Beginning with the Letter "H":**

**HAZARDOUS SUBSTANCE.** Means one or more of the following:

- a. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- b. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767.
- c. "Hazardous waste" as defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, being sections 299.501 to 299.551 of the Michigan Compiled Laws.
- d. "Petroleum" as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws.



**HEALTH SPA:** A nurturing, safe, clean commercial establishment, which employs professional, licensed therapists whose services include massage and body or facial treatments. Private treatment rooms are provided for each client receiving a personal service. Massage treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face-lifts, electrical toning, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine, and exercise facilities and instruction may be provided in addition to the massage and therapeutic treatment services. Full service hair salons, make-up consultation and application and manicure and pedicure services may be provided as additional services.

**HEIGHT, BUILDING OR STRUCTURE.** In the case of a principal or accessory building, the vertical distance measured from the average grade of the front elevation to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and ridge of gable, hip, and gambrel roofs where the building line abuts the front yard (See Figure 2-3 and Figure 2-4). For the rear elevation of a principal or accessory building, the vertical distance measured from the average grade to the highest point as described above (See Figure 2-3 and Figure 2-4). For all other structures, the measurement of height is the distance between the ground and the highest point of the structure.

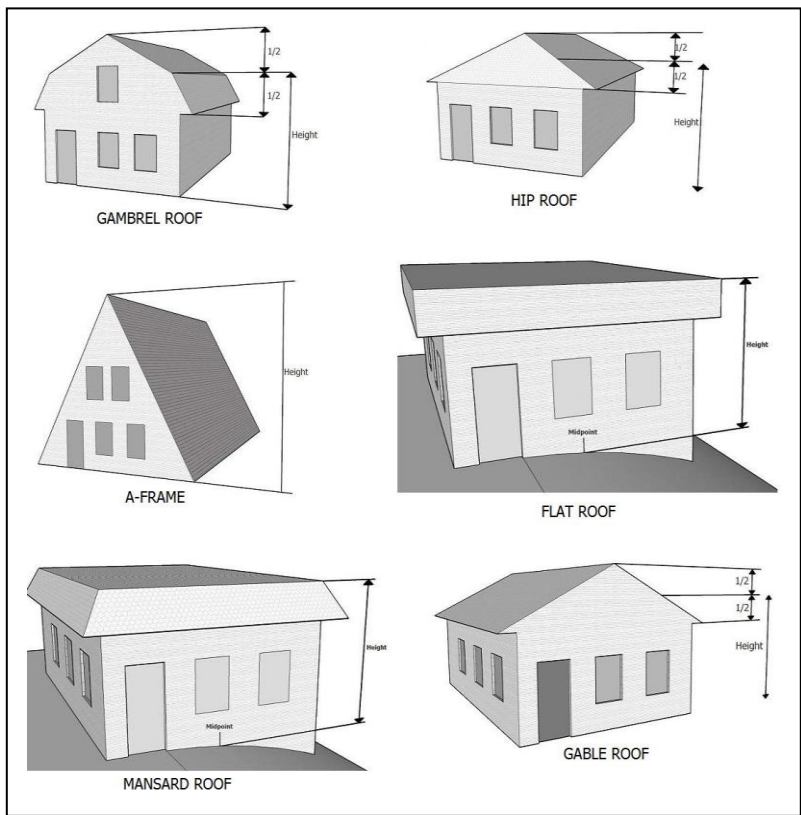


Figure 2-4  
Building Heights

HOME OCCUPATION: Any occupation, profession or activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit.

HOME OCCUPATION, MAJOR: A Home Occupation as defined herein that may be apparent to neighbors by virtue of activities on site, signage, outdoor storage or modifications to structures or grounds.

HOME OCCUPATION, MINOR: A Home Occupation as defined herein that, under normal circumstance, is not apparent to neighbors.

HOTEL. A facility offering transient lodging accommodations on a daily rate to the general public and may provide additional services, such as standard restaurants, meeting rooms, and recreational facilities.

### **Section 2.10 Definitions Beginning with the Letter "I":**

IMPERVIOUS SURFACE. Any material that prevents the absorption of storm water into the ground.

INDUSTRIAL PARK. A planned coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation, and open space.

INOPERABLE OR ABANDONED MOTOR VEHICLE. Any wheeled vehicle which is self-propelled and intended to be self-propelled, and which by reason of dismantling, disrepair, not currently licensed, or other cause is incapable of being propelled under its own power.

### **Section 2.11 Definitions Beginning with the Letter "J":**

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, rubbish, 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. It does not include domestic refuse if stored so as to not create a nuisance and is thirty (30) feet or more from any residential structure for a period not to exceed seven (7) days. It also includes any other material so determined to be litter pursuant to other City Ordinances.

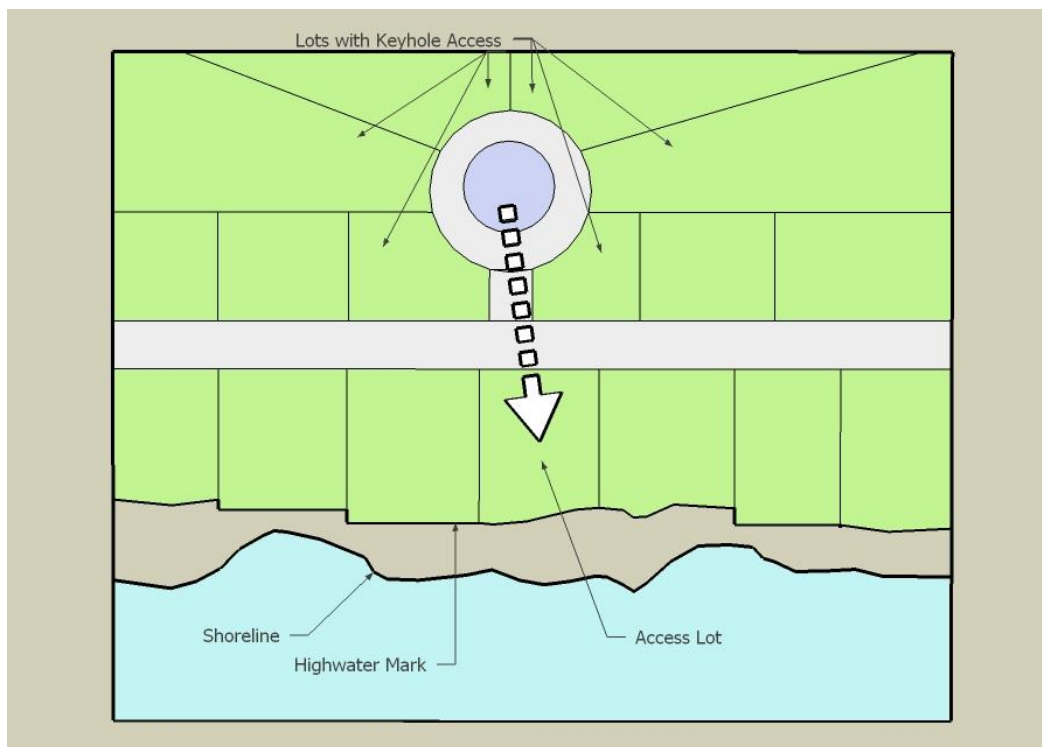
**JUNK YARD/AUTO SALVAGE.** Any area of land including building thereon which is used primarily for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery of vehicles not in running condition, and for the sale of parts thereof. Two (2) or more motor vehicles stored outside without current license plates for a period of thirty (30) days shall constitute a junkyard.

**Section 2.12 Definitions Beginning with the Letter "K":**

**KENNEL.** Any lot or premises used for breeding, commercial sale, boarding, or treatment of more than four (4) dogs, cats, or other domestic pets.

**KEYHOLE DEVELOPMENT.** A type of land use in which one shoreline lot serves as an access point for several other nearby lots which do not have direct waterfront access.

Figure 2-5 Keyhole Development



**Section 2.13 Definitions Beginning with the Letter "L":**

**LABORATORY.** A facility for scientific laboratory research in technology intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, heat transfer, and radiation research facilities.

**LAND DIVISION.** A land division as defined in the Land Division Act of the State of Michigan, being Public Act 288 of 1967, as amended.

**LAUNDRY ESTABLISHMENT.** A facility where patrons wash and/or dry clothing or other fabrics in machines operated by the patron.

**LIBRARY.** A public facility for the use, but not sale, of literary, musical, artistic or reference materials.

**LIGHT INDUSTRY.** Any industrial or warehousing operation that meets the standards of this Ordinance; and which is totally contained inside an enclosure and whose operation is totally screened from view, and which does not create excessive off-site noise or pollution and does not make excessive demands on public roads, water and sewage facilities or other community facilities.

**LIVESTOCK.** Cattle, sheep, goats, swine, horses, poultry, and other animals or fowl, which are being produced primarily for use as food, feed or fiber.

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

**LOT.** A plat, plot or parcel of land occupied, or designed to be occupied by one building and the accessory buildings or permitted uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be the land shown on a duly recorded plat and includes a condominium unit in a condominium subdivision where land is associated with the structure.

**LOT AREA.** The area contained within the lot lines or property boundary excluding any public or private street right-of-way. (See Figure 2-6).

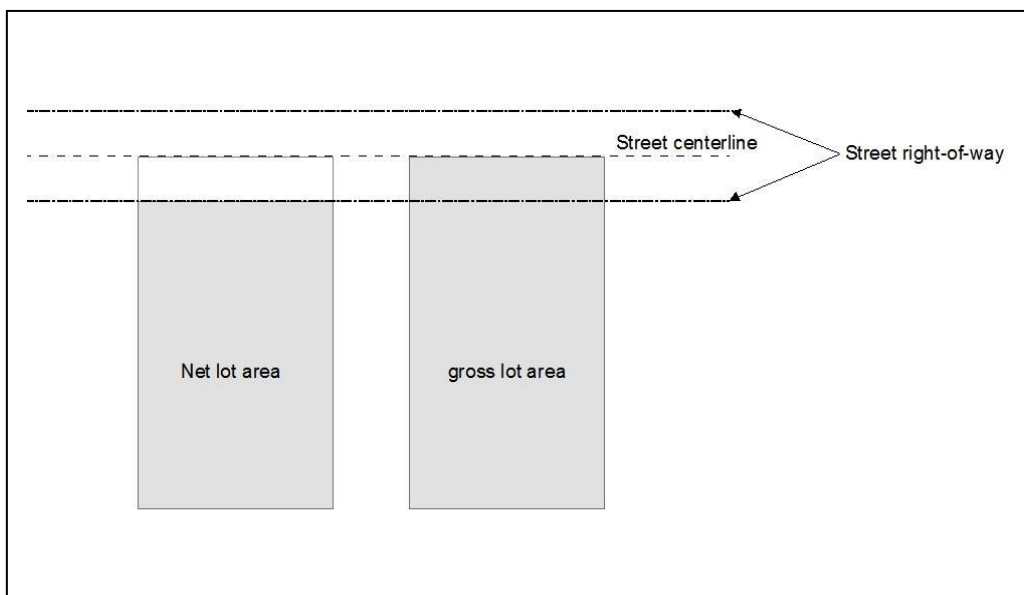


Figure 2-6  
Net and  
Gross Lot  
Area

**LOT, CORNER.** A lot whose lot lines form an interior angle of less than 135 (one hundred thirty five) degrees at the intersection of two street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135 (one hundred thirty five) degrees (see Figure 2-7).

**LOT COVERAGE.** The amount of a lot, stated in terms of percentage, that is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

**LOT DEPTH.** The horizontal distance between the front and rear lot lines, measured along the midpoint between the side lot lines (see 2-8).

**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. (See Figures 2-7 and 2-9). See Section 17.03(3)(g).

**LOT FRONTAGE.** The length of the front lot line.

**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).

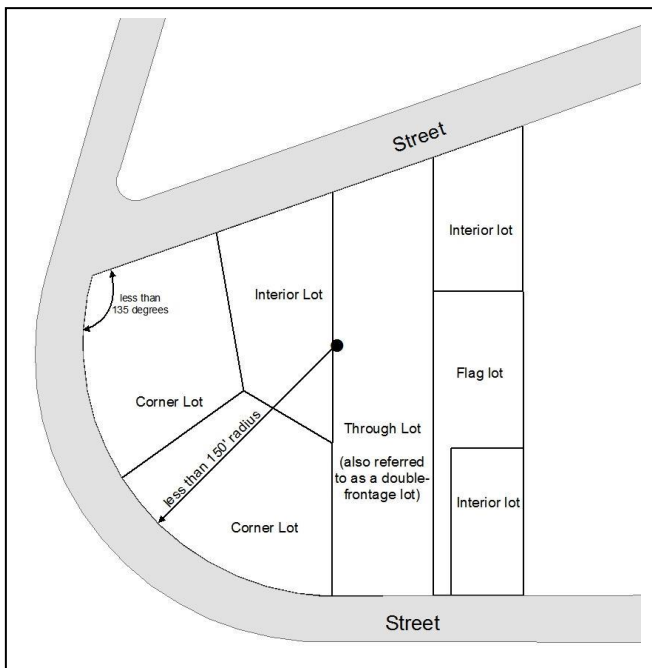


Figure 2-7  
Lot Types

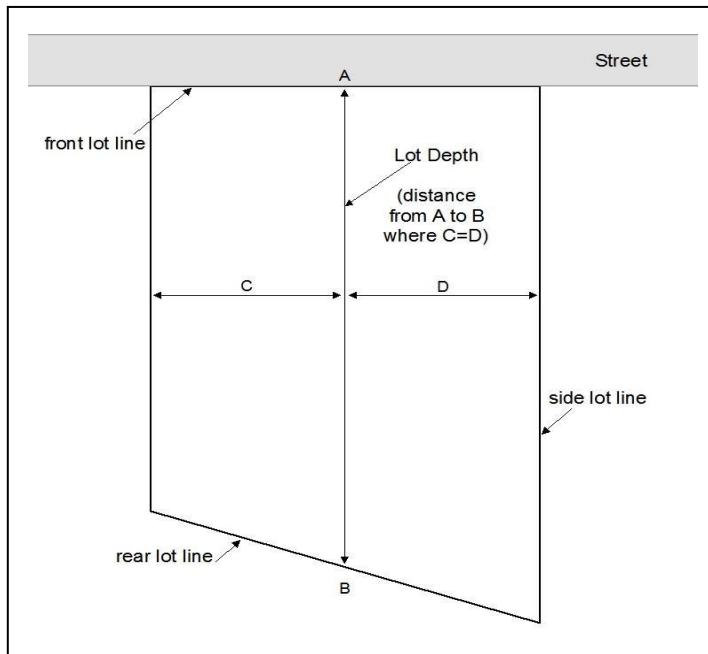


Figure 2-8  
Lot Depth

LOT LINES. The lines bounding a lot or parcel (see Figure 2-9).

a) LOT LINE, FRONT. The line(s) separating the lot from any street right-of-way, private road or other access easement, but not an alley.

1. Abutting a Public Street. The line(s) separating the lot from a public street right-of-way.
2. Abutting a Private Road. The line(s) separating the lot from the a private road or other access easement, but not an alley, as measured along easement line(s) or in cases where the width or center line of the easement are not specified the line shall be measured at a point twenty (20) feet from the traveled centerline of the private road or easement.
3. Corner Lot. A corner lot has two front lot lines and two front yards. The side of the lot which has the narrowest dimension bordering on a public street shall be deemed to be front of the lot, unless the landowner, with the approval of the Zoning Administrator, selects the other side, and doing so does not create a nuisance or harm on abutting properties or the public's ability to provide services to the lot. Once a structure has been erected on the corner lot, the front of the lot is established and cannot be changed as long as the structure remains.

b) LOT LINE, REAR. The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped

lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line (see Figure 2-9 and definition of Yard, Rear).

- c) LOT LINE, SIDE. Any lot line other than a front or rear lot line (see Figure 2-9).

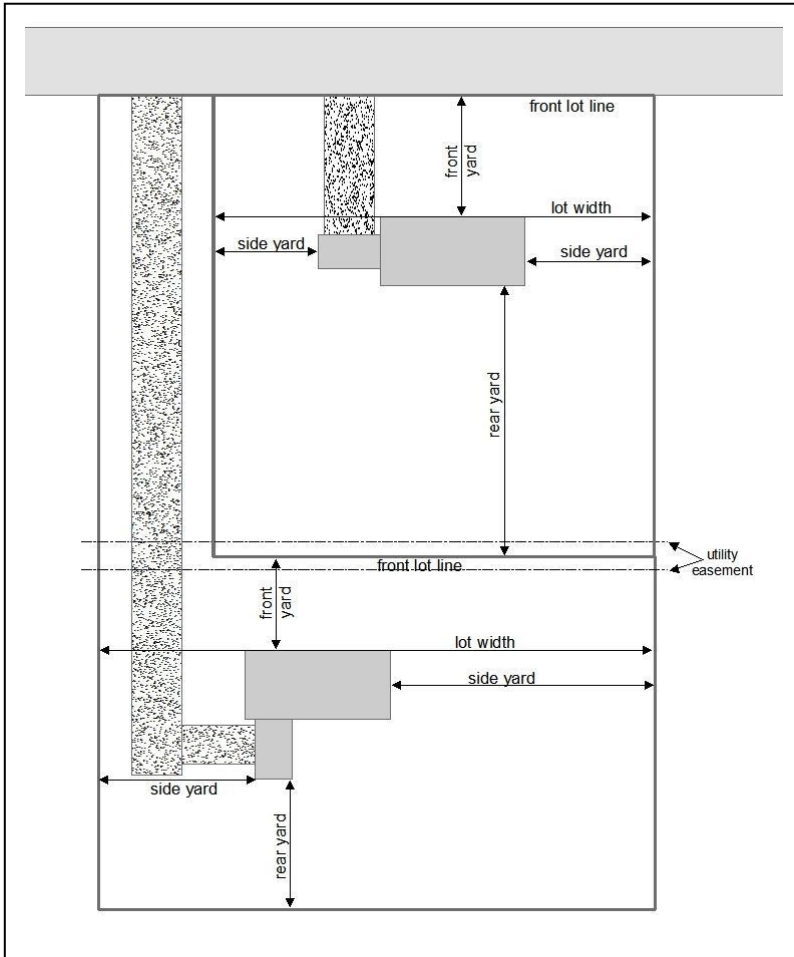


Figure 2-9  
Lot Lines and Yards

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

**LOT WIDTH.** The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line (see Figure 2-9).

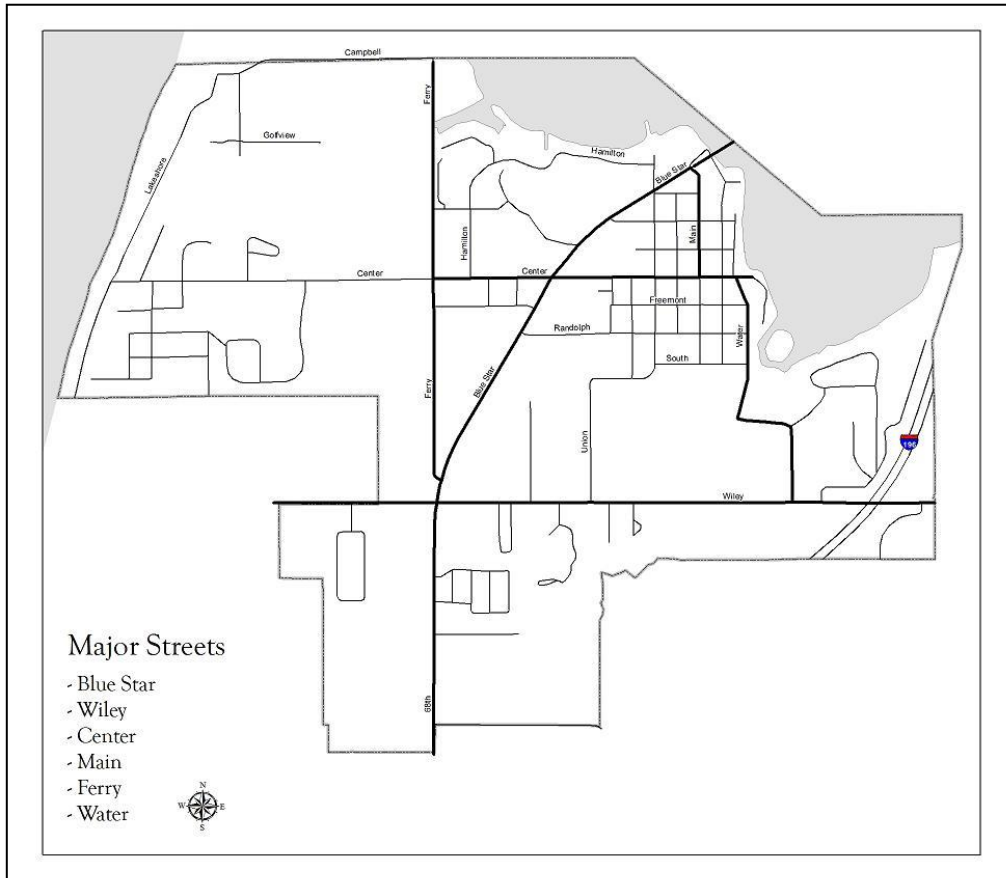
**LOT, THROUGH.** An interior lot having frontage on two (2) more or less parallel streets (see Figure 2-7).

LOT, WATERFRONT. A lot abutting a lake, pond, stream or river. While the structure may be oriented to "front" on the water, the front of the structure for the purposes of this Ordinance shall be that portion facing the front lot line.

**Section 2.14 Definitions Beginning with the Letter "M":**

MAJOR THOROUGHFARE. A public street as identified on Figure 2-10.

Figure 2-10 Major Streets



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

MARIJUANA. Means "marihuana" as it is referred to in the Michigan Medical Marihuana Act of 2008 and as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

MARINA. An establishment with a waterfront location for the refueling and dockage of watercraft used for recreational purposes, and providing repair services for such craft including removal of watercraft from the water or removal of inboard or



outboard engine(s) from the watercraft. A marina may provide uncovered storage. Marinas may include, as accessory uses, a restaurant or snack bar, laundry or sanitary facilities, sundries store, or other customary accessory facilities including but not limited to boat building and charter fishing. A marina may include facilities for boat or motor rental, mechanical or structural repair as noted above, or boat hauling.

**MARINA, MINOR.** A waterfront establishment whose business is offering the sale or rental of boat dockage. Such an establishment may also provide sanitary pump out service, and a limited retail area for food and/or drink, and marine sporting equipment. The area of the limited retail area shall not exceed 300 square feet.

**MARINE HARDWARE SALES AND SERVICE.** A marine retail sales and service use in which boats and other watercraft and their accessories are sold, and where accessory uses including but not limited to towing or minor vessel repair may also be provided.

**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.

**MAUSOLEUM.** A building containing above ground tombs for the internment of remains of a deceased person.

**MEDICAL OR DENTAL OFFICE.** A facility operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

**MEDICAL MARIJUANA GROWING OPERATION.** A facility where a “Primary Caregiver” who is legally registered by the Michigan Department of Licensing and Regulatory Affairs may lawfully grow, cultivate and harvest medical marijuana on behalf of up to (5) “qualifying patients” who are also legally registered by the Department with the growing and maintenance of medical marijuana in accordance with the Michigan Medical Marihuana Act of 2008. Any establishment involved in the growing of more than 12 plants upon one property parcel shall be classified as a growing operation.

**MEDICAL USE.** the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the use of marijuana to treat or alleviate a registered “qualifying patient’s” debilitating medical condition.

**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. A mobile home shall not include modular homes, motor homes, recreational vehicles or travel trailers. (From Public Act 96 of 1987).

**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, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park, or temporary recreation vehicle park.

**MOBILE HOME SITE:** The entire area which is designated for use by a specific mobile home.

**MODULAR HOME.** A dwelling which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed and assembled for permanent location on the lot.

**MOTEL.** A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and generally having a parking space adjacent to or near to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

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

**MOTOR LODGE.** See motel.

**MOVIE THEATER.** A specialized theater for showing movies or motion pictures.

**MUSEUM.** A business or a non-profit entity devoted to the historic nature of the area and/or to the procurement, care, study and display of objects of lasting interest or value.

**Section 2.15 Definitions Beginning with the Letter "N":**

**NATURAL VEGETATION STRIP.** A strip of land preserved in natural state and left undisturbed with natural vegetation and soil to prevent erosion, protect shore lines, and preserve habitat of native plant and animal life.

NEIGHBORHOOD PARK. An open area, usually created as part of a subdivision or planned unit development, including at a minimum, lawn area, trees, shrubbery, walks, and benches and often including a focal point such as a fountain or statue, sandbox, playground equipment, ball field, basketball or tennis court or similar recreation area, depending on the size and relationship to adjacent uses.

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

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

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

NUISANCE. Is an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to:

- a) noise;
- b) dust;
- c) smoke;
- d) odor;
- e) glare;
- f) fumes;
- g) flashes;
- h) vibration;
- i) objectionable effluent;
- j) noise of a congregation of people, particularly at night;
- k) passing traffic; or
- l) invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities;
- m) storm water runoff.

### **Section 2.16 Definitions Beginning with the Letter "O":**

OCCUPANCY, CERTIFICATE OF. A document signed by the Zoning Administrator as a condition precedent to the commencement of a use or change in use or the construction/reconstruction of a structure or building which acknowledges that such use, structure or building complies with the provisions of this Ordinance.

OFFICE BUILDING. A building used primarily for offices that may include ancillary services for office workers, such as a restaurant, coffee shop, or newspaper stand.

OFF-STREET. Not within the right-of-way of a street or private road, and on the lot or premises.

OPEN AIR BUSINESS. A business including the sales or display of retail merchandise or services outside of a permanent structure.

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, DEDICATED. Common open space dedicated as a permanent recorded easement.

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. This elevation shall be expressed in N.G.V.D. 29 datum.

OUTDOOR PUBLIC RECREATION. A public park or other publicly owned tract of land, designated and used by the public for active and passive recreation. Generally is larger than a neighborhood park and has more active recreation than a neighborhood park and may have an area for parking. See definitions of Park and Neighborhood Park.

OUTLOT. A parcel of land within a recorded plat, PUD or condominium project that is set aside for purposes other than a building site such as a future street, or a park.

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.

**Section 2.17 Definitions Beginning with the Letter "P":**

PARAPET WALL. That portion of a wall extending above the roof line.

PARCEL. A lot described by metes and bounds or described in a recorded plat.

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.** Any space used for the off-street or on premises parking of motor vehicles.

**PERSONAL SERVICE ESTABLISHMENT.** An establishment which offers specialized goods and services purchased frequently by the consumer. Included are barbershops, beauty shops, massage facilities, laundry cleaning, pressing, and tailoring, shoe repair and other similar establishments. This shall not include a medical or dental office.

**PLACE OF PUBLIC ASSEMBLY:** Buildings, structures and grounds, including theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people numbering thirty (30) or more.

- a. Place of Public Assembly, Large: A place of public assembly shall be considered a large facility if it has either two thousand (2000) square feet or more in gross floor area, total seating capacity of more than one hundred (100) in the largest room intended for public assembly, or the capability to expand to meet these standards in the future.
- b. Place of Public Assembly, Small: A place of public assembly shall be considered a small facility if it has either less than two thousand (2,000) square feet in gross floor area or total seating capacity of no more than one hundred (100) in the largest room intended for public assembly.

**PLANNED UNIT DEVELOPMENT.** Planned Unit Development (PUD) includes cluster zoning, plan development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. It is a form of land development comprehensively planned as an entity via a site plan which may permit flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such development may contain, residential, nonresidential or a mixture of land uses as provided by the individual zoning district.

**PLAT.** A map of a subdivision of land recorded with the County Register of Deeds pursuant to the Land Division Act of 1967 or a prior statute.

**PRIMARY CAREGIVER.** A person who is at least 21 years old and has agreed to assist a qualifying patient, to whom he or she is connected through the Michigan Department of Licensing and Regulatory Affairs registration process for the use of medical marihuana in accordance with State law.

**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 RECREATIONAL FACILITIES.** Non-municipally owned recreation centers, private clubs, lodges and related facilities. These buildings and related facilities are owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members and not primarily for profit and whose members usually pay dues and meet prescribed qualifications for membership.

**PRIVATE ROAD.** Any right-of-way or area set aside to provide vehicular access to two or more dwellings or within a development that is not dedicated or intended to be dedicated to the City and that is not maintained by the City.

**PROFESSIONAL SERVICE ESTABLISHMENT.** An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, consulting, and other similar services.

**PUBLIC FACILITIES.** Any facility, including but not limited to buildings, property, recreation areas, and roads, which are leased or otherwise operated or funded by a governmental body or public entity.

**PUBLIC SEWER.** A pipe located in a public right-of-way or easement which transports sewage to a sewage treatment plant that is owned by a municipality.

**PUBLIC UTILITIES.** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

**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 any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

**Section 2.18 Definitions Beginning with the letter “Q”**

QUALIFYING PATIENT. A person who has obtained a valid registration card from the Michigan Department of Licensing and Regulatory Affairs allowing them to possess and purchase medical marijuana.

**Section 2.19 Definitions Beginning with the Letter "R":**

RECREATION. The refreshment of body and mind through forms of play, amusement or relaxation. The recreational experience may be active, such as boating, fishing and swimming, or may be passive, such as enjoying the natural surroundings of the shoreline or its wildlife.

RECREATION FACILITY, COMMERCIAL. Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Includes, but not limited to, skating rinks, water slides, miniature golf courses, arcades, bowling alleys, and billiard halls, but not movie theaters.

RECREATION VEHICLE. A vehicle primarily designed and used 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).

RELIGIOUS FACILITY OR RELIGIOUS BUILDING. A building, or buildings, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses including one single family dwelling.

RESORT. A facility for transient guests where the primary attraction is general recreational features or activities.

RESTAURANT, STANDARD. Standard restaurants, clubs, and other establishments which provide food or drink for consumption by persons seated within a building that is not part of a drive-in, or drive-through, and may also provide dancing and entertainment. Additionally defined as a business establishment whose principal business is the selling of unpackaged food and beverages, including liquor, to the customer in a ready to consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at a table or counters located on the premises. This includes Cafes, Tea rooms and outdoor cafes.

RESTAURANT, DRIVE-IN. A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles, regardless of whether or not is also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT, FAST-FOOD. An establishment that offers quick food service, in ready to consume individual servings, for consumption either within the restaurant building or for carry out. This service is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customers table and food is generally served in disposable wrapping or containers. This facility is not considered a drive-through facility.

RIGHT-OF-WAY. A public street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**Section 2.20 Definitions Beginning with the Letter "S":**

SATELLITE DISH ANTENNA. See City Ordinance #107.

SCHOOL. An educational institution under the sponsorship of a private or public agency providing elementary, secondary curriculum, or post secondary education and accredited or licensed by the State of Michigan; but excluding profit-making private trade or commercial schools.

SCREENING: A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation.

SEAWALL: A wall or embankment that acts as a breakwater and is used to prevent beach erosion.

SETBACK. The minimum unoccupied distance between a front, side, or rear lot line and the principal and accessory buildings, as required herein.

SETBACK, FRONT. Minimum unoccupied distance, extending the full lot width, between a building and the front lot line.

SETBACK, REAR. The minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line (see Yard, Rear).

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.

**SEXUALLY ORIENTED BUSINESS:** Establishments, which include but are not limited to:

A. Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any



one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

B. Adult Bookstore or Adult Video Store: A commercial establishment that, as one of its principal business purposes, offers for any form of consideration any one or more of the following:

1. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.
3. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises more than ten (10) percent of the floor area or visible inventory within the establishment.

C. Adult Cabaret: A nightclub, bar, restaurant or similar commercial establishment that regularly features:

1. Persons who appear in a state of semi-nudity or nudity;
2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. Films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities of Specified Anatomical Areas; or
4. Persons who engage in lewd, lascivious or erotic dancing or performance that are intended for the sexual interests or titillation of an audience or customers.

D. Adult Motel: A hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public road right-of-way that advertises the availability of any of the above.
2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

E. Adult Motion Picture Theater: A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

F. Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Sexual Activities or Specified Anatomical Areas.

G. Escort: A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model undergarments or to privately perform striptease for another person.

H. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.

I. Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.

J. Sexual Encounter Center: A commercial establishment that, as one of its principal business purposes, offers for any form of consideration;

1. Physical contact in the form of wrestling or tumbling or erotic movement between persons of the same or opposite sex; or
2. Activities between male and female persons and/or persons of the same or opposite sex when one or more of the persons is in a state of nudity or semi-nudity.

**SIGN.** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which are visible from any street.

**SHOWROOM.** An indoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising a business, product or service.

**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.

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

**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 commercials and solid industrial waste, animal waste, but does not include human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a re-user of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a re-user of slag or slag products.

**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 (see Article 25). Approval for establishing a special use is indicated by issuance of a Special Use Permit.

**SPECIAL USE PERMIT.** A permit issued by the City Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure specifically permitted as such pursuant to standards and procedures established in Article 25.

**STOCKADE FENCING:** Fence style which uses rough sawn lumber produced from the curved exterior of trees to produce fence boards, or a fence using poles or logs as fencing material, or a style of fencing which tapers the vertical fence boards to a point, in order to provide additional security.

**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.

**STORY.** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it (see Figure 2-1).

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

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

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

**STUDIO FOR PERFORMING OR VISUAL ARTS:** A facility designed, constructed, or used for instructional, practice or production purposes in graphic and performing arts, including sculpture, painting, music, photography, drama, dance, yoga and other similar pursuits

**SUBDIVISION.** The division of a lot, tract, or parcel of land into lots for the purpose, whether immediate or future, of sale or of building development according to the platting requirements of the Land Division Act.

**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.

**Section 2.21 Definitions Beginning with the Letter "T":**

**TATTO OR PIERCING PARLOR:** An establishment where tattooing or skin piercing is regularly conducted whether or not it is in exchange for compensation.

**TRADE SCHOOL.** A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills, but does not provide a complete educational curriculum for degree seeking students.

**TRANSPARENCY.** The ability to see through with clarity. An opening in the building wall allowing light and views between interior and exterior. Only clear or lightly tinted glass in windows, doors, and display windows shall be considered transparent. Glass Visible Light Transmittance (VLT) shall be not less than seventy (70) percent. Measured as glass area for buildings and as open area for parking structures. For single- and two-family dwellings, entrance doors of any material may be used to meet the transparency requirement for the building wall facing the street.  
*(Amended October 19, 2009: Ordinance #03-2009)*

**THEATER.** A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

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

TRI-COMMUNITY COMPREHENSIVE PLAN. A document known as the Tri-Community Comprehensive Plan containing the future development policy and future land use map for the City of Saugatuck, Saugatuck Township and the City of the Village of Douglas, together with supporting documentation, as most recently adopted by the City of the Village of Douglas Planning Commission pursuant to Act 285 of 1931, as amended.

**Section 2.22 Definitions Beginning with the letter "U"**

**Section 2.23 Definitions Beginning with the Letter "V":**

VARIANCE. A modification of certain standards of the Zoning Ordinance by the Zoning Board of Appeals; and where such variance will not be contrary to the public interest; and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in practical difficulty, or unnecessary hardship.

VEHICLE WASH FACILITY. A building or portion thereof containing facilities for washing automobiles, non-commercial trucks, motorcycles, and other light load vehicles, using a chain conveyor, blower, steam cleaning device, or hand-held device.

VETERINARY CLINIC. Any building or portion of a building designed or used for the care, observation, or treatment of domestic animals.

VICIOUS ANIMAL. Any animal that, without provocation, attacks, bites, or injures human beings or domesticated animals, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

**Section 2.24 Definitions Beginning with the Letters "W"**

WAREHOUSE. See Distribution Center.

WHOLESALE FACILITY. An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or grocers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

WILD ANIMAL. Any living member of the animal kingdom, including those born or raised in captivity and any hybrid that is part wild, except the following: human beings, domestic dogs, domestic cats, rodents, and captive-bred species of common cage birds.

WIND ENERGY CONVERSION SYSTEM. A windmill or a wind energy conversion system shall mean all of the following:

- a) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a shaft;
- b) A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- c) A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- d) The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- e) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

### **Section 2.25 Definitions Beginning with the letter "X"**

### **Section 2.26 Definitions Beginning with the Letter "Y" :**

YARD. An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as defined herein (see Figure 2-9):

- a) FRONT YARD. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the principal building. There shall be maintained a front yard on each street side of a corner lot.
- b) REAR YARD. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the foundation of the principal building. In the case of corner lots, there shall only be one rear yard which shall be determined by the owner.
- c) SIDE YARD. An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building.

### **Section 2.27 Definitions Beginning with the letter "Z"**

ZONING ADMINISTRATOR. An individual appointed by the City Council to administer this Ordinance.

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

ZONING PERMIT. A permit signifying compliance with the provisions of this Ordinance as to use, activity, bulk, and density.

**ARTICLE 3:  
ZONING DISTRICTS AND MAP**

**Section 3.01 Establishment of Districts**

For the purpose of this Ordinance the City is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names.

- R-1: Residential District
- R-2: Residential District
- R-3: Neighborhood Conservation District
- R-4: Harbor Residential District
- R-5: Multiple Family District
- R-6: Mobile Home Park District
- C-1: Village Central District
- C-2: General Commercial District
- L-1: Light Industrial District
- PUD: Planned Unit Development District

A parcel zoned PUD shall have the underlying zone as a prefix on the Zoning Map, such as R-1 PUD.

**Section 3.02 Zoning District Map**

The boundaries of the respective districts enumerated in Section 3.01 are defined and established as depicted on the map entitled THE CITY OF THE VILLAGE OF DOUGLAS ZONING MAP which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as fully described herein.

This Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the following: "This is to certify that this is the Official Zoning Map of the City Zoning Ordinance adopted on the 18th day of May, 2009. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map after amendment has been approved by the City Council together with an entry on the Official Zoning Map as follows: On (date), by official action of the City Council, the following change(s) were made: (brief description of changes)."

Two (2) copies of the Official Zoning Map are to be maintained and kept up-to-date, one (1) in the City Clerk's office, and one (1) in the Zoning Administrator's office.



### **Section 3.03 Replacement of Official Zoning Map**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the City Council may, by Ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the City, adopted on May 18, 2009 which replaces and supersedes the Official Zoning Map which was adopted on August 25, 1998". Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

### **Section 3.04 Interpretation of District Boundaries**

Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, the Zoning Administrator shall make an interpretation of said map upon the request of any person. Any person aggrieved by any such interpretation may appeal such interpretation, upon written application, to the Zoning Board of Appeals. The Board, in arriving at a decision on such matters, shall apply the following standards:

- 1) Boundaries indicated as approximately following a street or highway shall be construed to be such boundaries.
- 2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- 3) Boundaries indicated as approximately following City boundary lines shall be construed as following such City boundary lines.
- 4) Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official Zoning Map.
- 5) Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.

6) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Zoning Board of Appeals after recommendation from the Planning Commission.

### **Section 3.05 Scope of Regulation**

1) Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building, or structure shall be located.

2) Any use of land not specifically permitted is prohibited, except that the Zoning Administrator shall have the authority to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.

- a) If the Zoning Administrator determines there is no comparable use, then the request shall be submitted to the Planning Commission for consideration of a text change and possible district change to accommodate the use.
- b) If the Zoning Administrator determines there is a comparable use, then, the Planning Commission, upon the granting of site plan approval for the proposed use, may, by its action, cause the use to be declared a comparable permitted use in the zone. However, said declaration of comparable use shall be for that particular site plan application only.
- c) An interested person aggrieved by any such interpretation by the Zoning Administrator or Planning Commission under b) above, may appeal such interpretation to the Zoning Board of Appeals, if so petitioned and in accord with the requirements of Section 29.04 (3). If the Zoning Board of Appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the Planning Commission shall initiate an amendment to the text of the Ordinance to establish the appropriate district(s), type of use (by right or special use), and criteria that will apply for that use. Once the Ordinance has been amended to include the new regulations, then an application may be processed.

3) For the purpose of complying with this Ordinance, no part of a setback area, or other open space, or off-street parking or loading space required about or in connection with any use, building or structure shall be included as part of the

setback area, open space, or off-street parking or loading space similarly required for any other use, building or structure, except as provided in a PUD approved pursuant to Article 27.

4) No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

5) No portion of one lot, once established and/or improved with a building or structure shall be reduced in size unless each lot resulting from each such reduction, division, or sale, shall conform with all of the requirements established herein (see also Article 17).

6) Accessory uses are permitted as indicated for the various Zoning Districts and if such uses are clearly incidental to the permitted principal uses. (See also Section 16.13.)

### **Section 3.06 Zoning of Vacated Areas**

Whenever any street, alley or other public way within the City shall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and shall be used for those uses as is permitted under this Ordinance for such adjoining lands.

### **Section 3.07 Zoning of Filled Lands: Use of Water**

No fill shall be placed in any wetland, lake or stream without proof of a valid permit therefore from the Michigan Department of Environmental Quality. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land which the use abuts.

### **Section 3.08 Conflicting Regulations**

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

more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

### **Section 3.09 Categories Within Zone Districts**

In order to ensure all possible benefits and protection for the zone districts in this Ordinance, the land uses have been classified into three (3) categories:

1) Uses Permitted By Right: The primary uses and structures specified for which the zone district has been established.

2) Uses Permitted By Special Use Permit: Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zone district, but could have potential negative effects upon the primary uses and structures within the zone district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing following review by the Planning Commission. Refer to Article 25 and XXVI.

3) Uses Permitted By Planned Unit Development: Uses and structures compatible with the primary uses and structures within the zoning district, and which are provided a heightened degree of flexibility in site development standards to encourage open space preservation, preservation of natural resources, and energy conservation. Refer to Article 27.

### **Section 3.10 Prior Approvals**

A project approved under the terms and conditions of the prior zoning ordinance shall maintain said approval. For a site plan or a site plan as part of a special land use, the rules, regulations and conditions of the original approval under the prior zoning ordinance shall remain in effect for a period as specified in Section 24.06(3) of the prior zoning ordinance. For a Planned Unit Development, the rules, regulations and conditions of the original approval under the prior zoning ordinance shall remain in effect for a period as specified in Section 27.05(12) of the prior zoning ordinance. If an approved plan expires under the above terms, a new plan will need to be submitted for review and approval under the terms, regulations and conditions of this zoning ordinance.

### Section 3.11 Table of Land Uses

#### Uses Permitted by Right and Special Land Uses

(R=Use by Right; S=Special Land Use)

USE	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	L-1
Accessory Use, when accessory to a permitted use	R	R	R	R	R	R	R	R	R
Adult Day Care Facility				S	S			S	
Adult Foster Care Facility				S	S				
Amusement Center								S	
Animal Grooming							S	R	R
Antique Stores							R	R	
Art Gallery							R		
Automobile/Boat Sales								R	
Automobile Service and Minor Repair Station								S	R
Automobile Service and Major Repair Station								S	R
Bed and Breakfast		S	S	S	S				
Buildings assoc. w/ public facilities	S	S	S	S	S	S			
Cemetery/Mausoleum	S	S	S	S	S	S			
Child Care Center				S	S			S	
Communication Tower								S	S
Conservation Area, Public or Private	R	R							
Contractor's Establishment									R
Convalescent or Nursing Home				S	S	S	S	S	
Day Care, Group (7-12 clients)									
Distribution Center									R
Drive-in Establishment								S	
Drive-through Establishment								S	
Dry Cleaning Establishment								R	
Dwelling, One Family	R	R	R	R	R				
Dwelling, Two-Family			R	R	R				
Dwelling, Multiple-Family				S	R				
Essential Public Services	R	R	R	R	R	R	R	R	R
Family Day Care Home	R	R	R	R	R	R			
Farm Implement Dealer									R

USE	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	L-1
Farm Market							R	S	
Freight Yards/Truck Terminal									R
Funeral Home								R	
Gas Station								R	
Golf Course/Country Club	S	S							
Greenhouse								S	R
Ground floor residential	R	R	R	R	R	R	S		
Health Spa								R	
Home Occupation, Major	S	S	S	S					
Home Occupation, Minor	R	R	R						
Hotel/Motel								S	
Junkyard/ Auto Salvage									S
Kennel								S	R
Laboratories									R
Laundry Establishment								R	
Library							R	R	
Manufacturing, Compounding, Processing and/or Assembly									R
Marina				S					
Marina, Minor			S						
Medical/Dental Office								R	
Mini Storage									S
Medical Marijuana Growing Operation								S	S
Mobile Home Park						R			
Motel/Hotel								S	
Movie Theater							S	R	R
Museum							R		
Neighborhood Parks	R	R	R	R	R	R	R	R	R
Nursery, Plant Materials								R	
Office Building							R	R	
Open Air Business								S	
Outdoor Public Recreation	R	R	R	R	R	R	R	R	
Personal Service Establishment							R	R	
Place of Public Assembly, Small	S	S		S				S	R
Place of Public Assembly, Large					S	S	S	S	R
Private Recreation Facilities							S	S	
Professional Service Establishment				S			R	R	
Recreation Facility, Commercial								S	R

USE	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	L-1
Research and Development									R
Residential Use of Accessory Building			S	S	S				
Residential Above Retail or Office							R	R	
Residential, Ground Floor							S		
Restaurant							R	R	
Retail Business or Retail Sales							R	R	
School	S	S	S	S	S				
Service Establishment Accessory to a Principal Use									R
Sexually Oriented Business								S	S
Showroom							R	R	R
Studio for Performing/Visual Arts				S			R	R	
Tattoo or Piercing Parlor								S	S
Trade and Industrial School									R
Urgent Care Facility									R
Vehicle Wash Facility								S	R
Veterinary Clinic								S	R
Warehouse									R
Wholesale Facility									R
Wind Energy Conversion System	R	R	R	R	R	R	R	R	R

**Section 3.12 Schedule of Regulations**

DISTRICT	MINIMUM LOT DIMENSIONS		MAXIMUM LOT COVERAGE	MINIMUM YARD REQUIREMENTS (FEET)			FLOOR AREA RATIO	MAXIMUM HEIGHT Feet (Principal Bldg)	MINIMUM FLOOR AREA (Square feet)
	Area (sq. ft.)	Width (feet)		(%) of lot area <sup>(a)</sup>	Front <sup>(b)</sup>	Side			
R-1	12,000 w/ sewer 15,000 w/o sewer	100	35%	35 <sup>(b)</sup>	7', one side 18' total	25 <sup>(c)</sup>	0.4	28 <sup>(d)</sup>	1,200 <sup>(a)</sup>
R-2	7,920 w/ sewer 15,000 w/o sewer	75	35%	35 <sup>(b)</sup>	7' one side 18' total	25 <sup>(c)</sup>	0.4	28 <sup>(d)</sup>	1,000 <sup>(a)</sup>
R-3 1 Family 2 Family	7,920	66	35%	20 <sup>(b)</sup>	7', one side 15' total	25 <sup>(c)</sup>	0.4	28 <sup>(d)</sup>	1,000 <sup>(a)</sup>
	15,000	100							(a) (f) (g)
R-4 One Family Two Family Multi-Family	7,920	66	35%	25 <sup>(b)</sup>	7', one side 15' total	25 <sup>(c)</sup>	0.4	28 <sup>(d) (h)</sup>	1,000 <sup>(a)</sup>
	10,000	80			7', one side 15' total				(a) (f)
	20,000 <sup>(k)</sup>	100			10', one side				(a) (f) (g)
R-5 One Family Two Family Multi-Family	7,920	66	35%	35 <sup>(b)</sup>	7', one side 15' total	35	NA	28 <sup>(d)</sup>	1,000 <sup>(a)</sup>
	15,000	80			7', one side 15' total	35			(a) (f)
	20,000 <sup>(h)</sup>	100			10', one side	35			(a) (f) (g)
R-6	See Section 9.03	See Section 9.03	60%	See Section 9.03	See Section 9.03	See Section 9.03		28 <sup>(d)</sup>	1,000 <sup>(a)</sup>



### Footnotes

- (a) Each dwelling unit shall have a minimum amount of square feet of usable floor area, exclusive of porches, garages, basements, or utility areas.
- (b) On a corner lot, both yards fronting a right-of-way shall be considered a front yard.
- (c) Subject to the MDEQ Critical Dune requirements.
- (d) Height of a principal structure shall not exceed twenty-eight (28) feet as measured from the average grade of the front elevation line (see figure 2-3) and shall not exceed thirty-five (35) feet as measured from the average grade of the lot. If the grade of a lot or parcel varies between the front and rear foundation line of the building or structure, the maximum height shall be no more than thirty-five (35) feet measured from the average grade.
- (e) Reserved
- (f) Each two family dwelling unit will meet the following minimum floor areas:
  - One-bedroom unit: Shall have a minimum of six hundred fifty (650) square feet
  - Two-bedroom unit: Shall have a minimum of seven hundred fifty (750) square feet
  - Three-bedroom unit: Shall have a minimum nine hundred (900) square feetEach bedroom in addition to a unit with three bedrooms shall be provided a minimum of one hundred (100) square feet.
- (g) Each multi-family dwelling unit shall contain a minimum of seven hundred fifty (750) square feet, with the exception of studio/efficiency units which shall have a minimum of four hundred (400) square feet.
- (h) Any building or structure, exclusive of a single family dwelling or dwellings, constructed or established within 150 feet of the shore or bulkhead, as defined under Chapter 62 of the General Ordinances of the City of the Village of Douglas, shall not exceed a maximum height of twenty-four (24) feet. Maximum height is to be measured from finished grade to the highest point of the roof structure.

**SECTION 3.12 – CITY OF THE VILLAGE OF DOUGLAS SCHEDULE OF REGULATIONS**

DISTRICT	MINIMUM LOT DIMENSIONS		MAXIMUM LOT COVERAGE	MINIMUM YARD REQUIREMENTS (FEET)			MAXIMUM HEIGHT	MINIMUM FLOOR AREA
	Area (sq. ft.)	Width (feet)	(%) of lot area <sup>(a)</sup>	Front	Side	Rear/Waterfront	Feet (Principal Bldg)	(Square feet)
<b>C-1</b>	4,000	20	80%	0 <sup>(j)</sup>	5 <sup>(j)</sup>	5 <sup>(j)</sup>	28 <sup>(d)</sup>	(k) (l)
<b>C-2</b>	6,600	50	80% <sup>(m)</sup>	10	5	25	28 <sup>(d)</sup>	(k) (l)
<b>L-1</b>	½ acre	100	50% <sup>(m)</sup>	25 <sup>(j)</sup>	15 <sup>(j)</sup>	25 <sup>(j)</sup>	45 <sup>(d)</sup>	NA

**Footnotes**

(j) Where a property in the C-1 district abuts a residential district, the following setbacks shall apply:

Front: Where frontage is partly in a residential district and partly in the C-1 Village Center District, the required front yard setback of the residential district shall apply. See note on Side Yard for a corner lot.

Side: No setback shall be required where a commercial building is placed directly upon the side lot line. However, in all cases where a side yard is situated on a corner lot and abuts a street, the side yard setback shall be 10 feet.

Rear: Where a rear yard abuts a side yard in a residential district, the minimum rear yard setback shall be twenty-five (25). The full the width of a public right-of-way between the rear yard of a lot in the C-1 Village Center District and a side yard of a lot in a residential district may be considered part of the rear yard for setback computation purposes.

(k) Where residential uses are located in a commercial district, minimum floor area requirements shall be the same as items (f), (g) and (h) herein.

(l) In the interest of preserving the small town nature of the City, the gross floor area of a commercial/retail use shall not exceed the following:

C-1 District: Gross floor area shall not exceed 5,000 square feet.

C-2 District: Gross floor area shall not exceed 15,000 square feet

(m) Lot coverage calculations shall include off-street parking except where Low-Impact Development and/or Green Roof technology is implemented such that storm water runoff does not exceed that which would occur on-site if the property were undeveloped and in a natural state.

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**ARTICLE 4:  
R-1 RESIDENTIAL DISTRICT**

**Section 4.01 Intent**

The intent of this District is to provide opportunities for new residential development in a manner compatible with existing residential uses in the area, in a manner which makes efficient use of City sewer and water service, and in a manner which promotes pedestrian oriented subdivision development. Except where topographic or other environmental constraints preclude such connectivity, streets within the R-1 District shall be interconnected. The R-1 Residential District includes considerable amounts of currently vacant land and land used for very low density residential purposes.

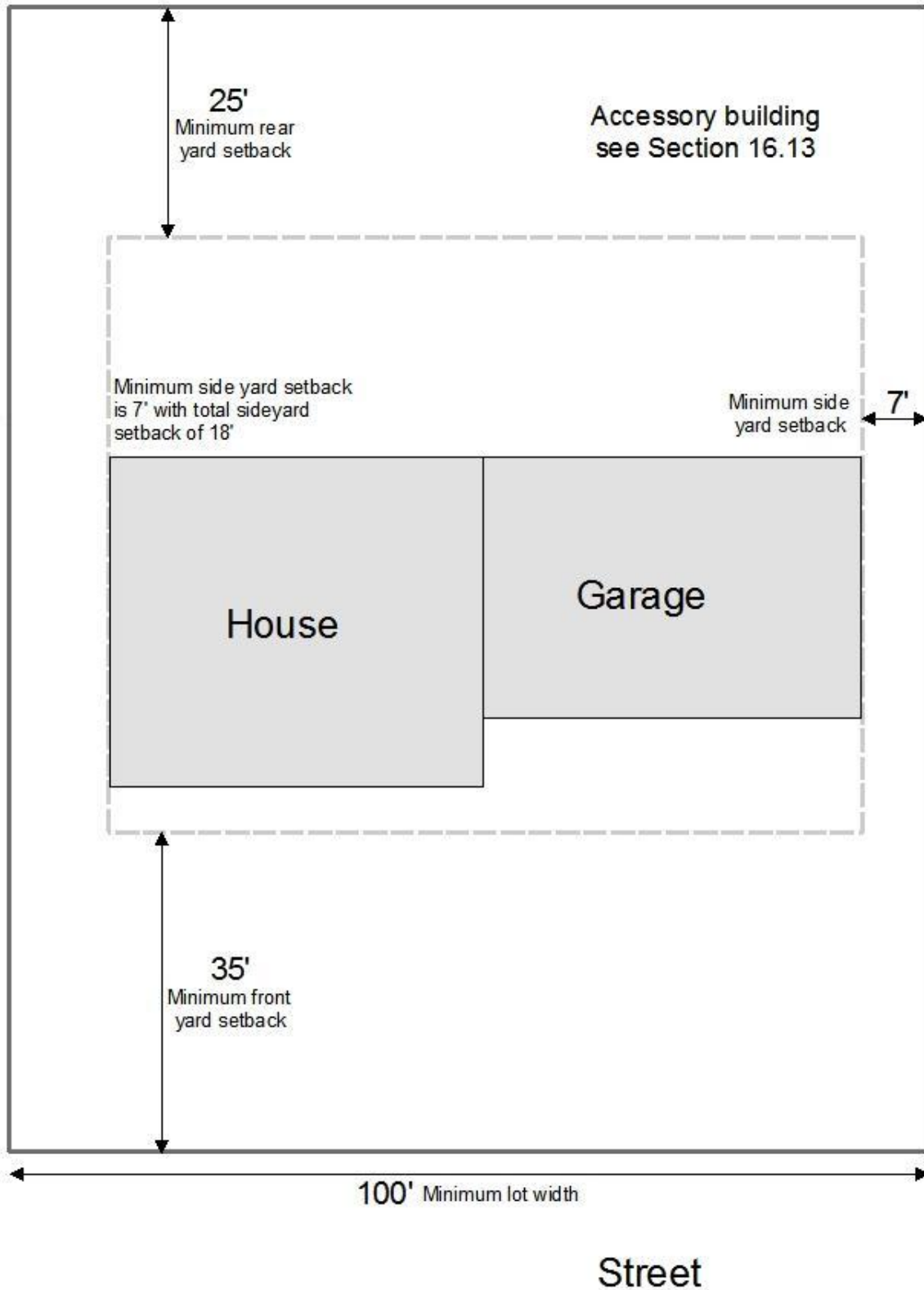
The R-1 Residential District is intended to implement the planned Low Density Residential area presented in the Tri-Community Comprehensive Plan. The R-1 Residential District provisions, and other related provisions in this Ordinance, are intended to permit residential development with similar lot sizes as found in the City.

**Section 4.02 District Summary**

<b><u>A. Permitted Uses</u></b>
<ul style="list-style-type: none"> <li>◆ Accessory Use, when accessory to permitted use</li> <li>◆ Conservation areas public or private including, wetlands, sand dunes, and similar uses</li> <li>◆ Dwelling, One Family</li> <li>◆ Essential Public Services</li> <li>◆ Child Family Day Care Home</li> <li>◆ Home Occupation, Minor (see 16.04)</li> <li>◆ Neighborhood Parks</li> <li>◆ Outdoor Public Recreation</li> </ul>
<b><u>B. Special Land Uses</u></b>
<ul style="list-style-type: none"> <li>◆ Buildings associated w/ Public Facilities, subject to Section 26.29</li> <li>◆ Cemeteries/Mausoleum, subject to Section 26.07</li> <li>◆ Golf Courses/ Country Clubs, subject to Section 26.15</li> <li>◆ Home Occupation, Major, subject to Section 26.17</li> <li>◆ Place of Public Assembly, small subject to Section 26.26</li> <li>◆ Schools subject to Section 26.31</li> </ul>

<b><u>C. Site and Building Placement Standards</u></b>	
Minimum Lot Area:	w/public sewer 12,000 (square feet) w/o public sewer 15,000
Minimum Lot Frontage:	100 ft.
Maximum Lot Coverage:	35%
Minimum Setbacks:	
Front:	35 ft
Side:	7' min./18 ft. total
Rear:	25 ft.
Minimum Floor Area:	1,200 (square feet)
Maximum Principal Building Height:	28 ft.
Floor Area Ratio	0.4
(See Schedule of Regulations)	

# R-1 Residential



**ARTICLE 5:  
R-2 RESIDENTIAL DISTRICT**

**Section 5.01 Intent**

It is the intent of the R-2 Residential District to protect existing low density residential neighborhoods within the City. These neighborhoods currently consist of historic homes nearing one hundred years in age as well as much newer homes, less than 30 years in age. The essential character and architectural style of these neighborhoods shall be maintained, and new residential development in these areas shall be consistent with the current character. Safe pedestrian pathways and low vehicle speeds will be of high priority, fostering convenient access to natural features and neighboring commercial and/or recreational activities.

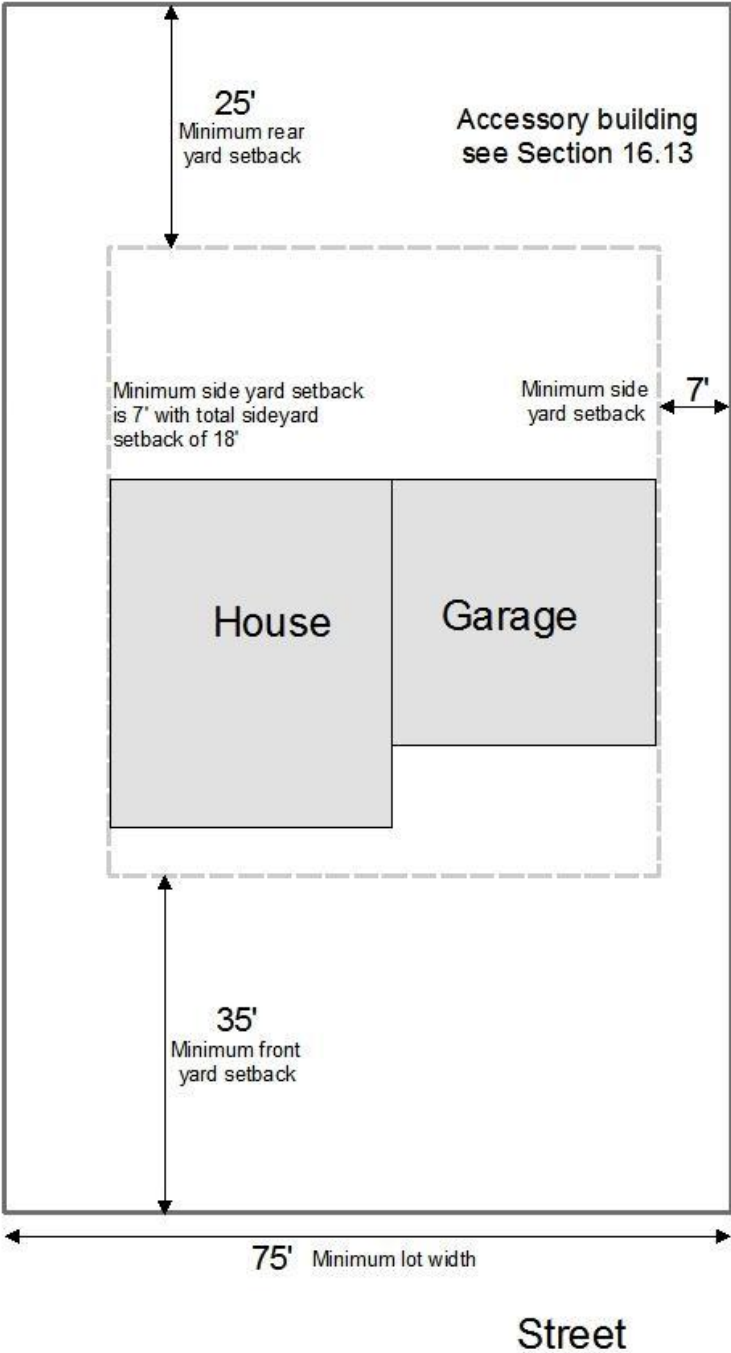
The R-2 Residential District is intended to implement the planned Low Density Residential and Planned Residential areas presented in the Tri-Community Comprehensive Plan.

**Section 5.02 District Summary**

<b><u>A. Permitted Uses</u></b>
<ul style="list-style-type: none"> <li>◆ Accessory Use, when accessory to permitted use</li> <li>◆ Conservation areas public or private including, wetlands, sand dunes, and similar uses</li> <li>◆ Dwelling, One Family</li> <li>◆ Essential Public Services</li> <li>◆ Child Family Day Care Home</li> <li>◆ Home Occupation, Minor (see 16.04)</li> <li>◆ Neighborhood Parks</li> <li>◆ Outdoor Public Recreation</li> </ul>
<b><u>B. Special Land Uses</u></b>
<ul style="list-style-type: none"> <li>◆ Bed &amp; Breakfast, subject to Section 26.05</li> <li>◆ Buildings associated w/ Public Facilities, subject to Section 26.29</li> <li>◆ Cemeteries/Mausoleum, subject to Section 26.07</li> <li>◆ Golf Courses/ Country Clubs, subject to Section 26.15</li> <li>◆ Home Occupation, Major, subject to Section 26.17</li> <li>◆ Place of Public Assembly, small, subject to Section 26.26</li> <li>◆ Schools subject to Section 26.31</li> </ul>

<b><u>C. Site and Building Placement Standards</u></b>	
Minimum Lot Area:	w/ public sewer 7,920 (square feet) w/o public sewer 15,000
Minimum Lot Frontage:	75 ft.
Maximum Lot Coverage:	35%
Minimum Setbacks:	
Front:	35 ft
Side:	7ft min./18 ft. total
Rear:	25 ft.
Minimum Floor Area:	1,000 (square feet)
Maximum Principal Building Height:	28 ft.
Floor Area Ratio	0.4
(See Schedule of Regulations)	

# R-2 Residential



**ARTICLE 6:  
R-3 NEIGHBORHOOD CONSERVATION DISTRICT**

**Section 6.01 Intent**

It is the intent of the R-3 Neighborhood Conservation District to provide for single family dwelling opportunities consistent with the traditional character, pedestrian accessibility and grid street pattern of the City. It is further the intent of this District to stabilize, protect, and encourage the continued residential character of the District and prohibit activities not compatible with the current and future intended residential character.

The R-3 Neighborhood Conservation District is intended to also implement the planned Village Center Residential area presented in the Tri-Community Comprehensive Plan and applies to lots in Felker's High Pines and Lakeshore Subdivisions. No other lands are intended to be zoned into R-3 after the effective date of this Ordinance.

**Section 6.02 District Summary**

**A. Permitted Uses**

- ◆ Accessory Use, when accessory to permitted use
- ◆ Conservation areas public or private including, wetlands, sand dunes, and similar uses
- ◆ Dwelling, One-Family
- ◆ Dwelling, Two-Family
- ◆ Essential Public Services
- ◆ Child Family Day Care Home
- ◆ Home Occupation, Minor (See 16.04)
- ◆ Neighborhood Parks
- ◆ Outdoor Public Recreation

**B. Special Land Uses**

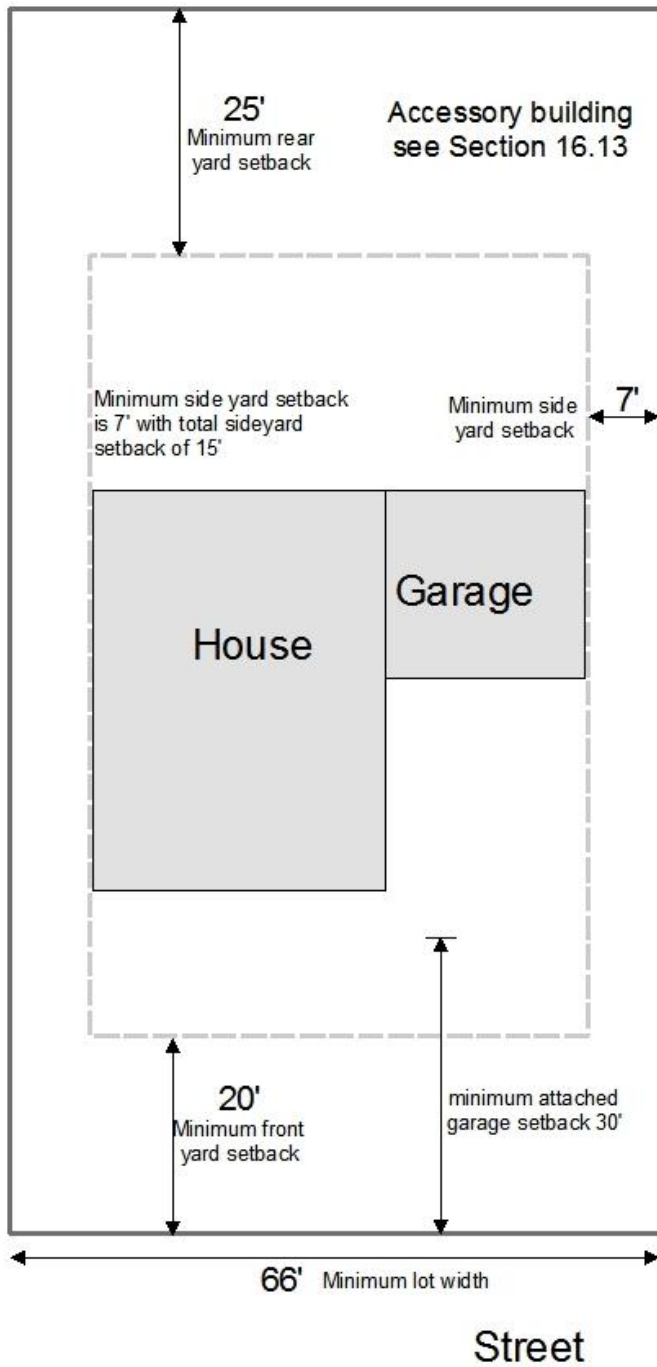
- ◆ Bed & Breakfast, subject to Section 26.05
- ◆ Buildings associated w/ Public Facilities, subject to Section 26.29
- ◆ Cemeteries/Mausoleum, subject to Section 26.07
- ◆ Home Occupation, Major, subject to Section 26.17
- ◆ Marina, Minor, subject to Section 26.20
- ◆ Residential Use of an Accessory Building, subject to Section 26.30

**C. Site and Building Placement Standards**

Minimum Lot Area:	One family	7,920
(square feet)	Two family	15,000
Minimum Lot Frontage	One family	66 ft.
	Two family	100 ft.
Maximum Lot Coverage:		35%
Minimum Setbacks:		
	Front:	20 ft
	Side:	7ft/15ft total
	Rear:	25 ft.
Minimum Floor Area:		
	One Family	1,000 sq. ft.
	Two Family	
	One Bedroom	650 sq. ft.
	Two Bedroom	750 sq. ft.
	Three Bedroom	900 sq. ft.
	Each additional	+100 sq. ft.
Maximum Principal Building Height:		28 ft.
Required Front Porch:		80 square feet
		minimum area
Garage Placement:	The front yard setback for an attached garage shall be 30'. See Section 16.13	
Floor Area Ratio		0.4
(See Schedule of Regulations)		



# R-3 Residential



**ARTICLE 7:  
R-4 HARBOR RESIDENTIAL DISTRICT**

**Section 7.01 Intent**

It is the intent of the R-4 Harbor Residential District to provide for residential development densities and uses consistent with the Tri Community Comprehensive Plan and the character of the area. The R-4 District is intended to provide higher density housing opportunities in close association with the City's harbor area while also permitting limited nonresidential land uses, which are fundamental components of the harbor area and which play significant roles in supporting the desired character of the harbor area and its residential neighborhoods. It is the intent of this District to stabilize, protect, and encourage the residential character of the District, prohibit activities not compatible with the current and future intended harbor character, and preserve the visual integrity of the District including the preservation of important harbor views. It is further intended that new buildings be aesthetically compatible in design and appearance with the general character of buildings in this district.

The R-4 Harbor Residential District is intended to implement the planned residential and recreational character of the City's harbor area as presented in the Tri-Community Comprehensive Plan

**Section 7.02 District Summary**

**A. Permitted Uses**

- ◆ Accessory Use, when accessory to permitted use
- ◆ Child Family Day Care Home
- ◆ Conservation areas public or private including, wetlands, sand dunes, and similar uses
- ◆ Dwelling, One Family
- ◆ Dwelling, Two Family
- ◆ Essential Public Services
- ◆ Neighborhood Parks
- ◆ Outdoor Public Recreation

**B. Special Land Uses**

- ◆ Adult Foster Care/Child Foster Family Facility, subject to Section 26.01
- ◆ Bed & Breakfast, subject to Section 26.05
- ◆ Buildings associated w/ Public Facilities, subject to Section 26.29
- ◆ Cemeteries/Mausoleum, subject to Section 26.07
- ◆ Child Care Center/Adult Day Care Facility, subject to Section 26.08
- ◆ Convalescent or Nursing Home, subject to Section 26.11

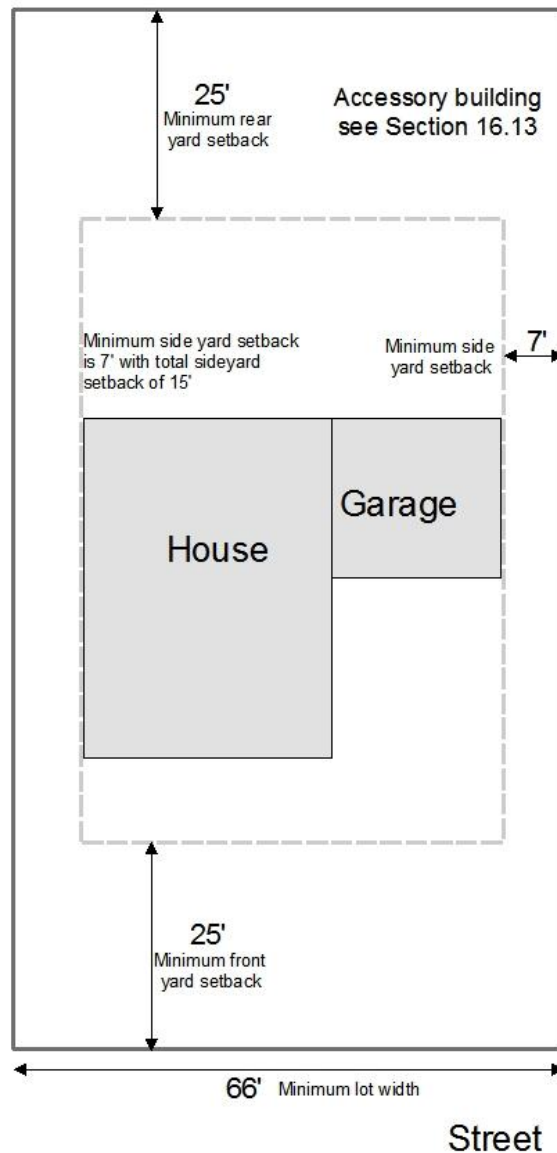
**B. Special Land Uses (cont.)**

- ◆ Home Occupation, major subject to Section 26.19
- ◆ Marina including Marina Hardware and Retail Sales, subject to Section 26.20
- ◆ Multiple Family Development, subject to Section 26.24 and the City of Douglas Design Guidelines for Multifamily Development
- ◆ Place of Public Assembly, small subject to Section 26.29
- ◆ Private Recreation Facility, subject to Section 26.27
- ◆ Professional Service Establishment, subject to Section 26.28
- ◆ Residential Use of an Accessory Building, subject to Section 26.30
- ◆ Schools subject to Section 26.31
- ◆ Studio for Performing/Visual Arts, subject to Section 26.33

**C. Site and Building Placement Standards**

Minimum Lot Area:	One family	7,920
(square feet)	Two family	10,000
	Multi-Family	20,000
Minimum Lot Frontage:	One family	66 ft.
	Two family	80 ft.
	Multi-Family	100 ft
Maximum Lot Coverage:		35%
Minimum Setbacks:		
Front:		25 ft
Side:		7 ft min/15ft total
Rear:		25 ft.
Minimum Floor Area:		
One Family		1,000 sq. ft.
Two Family		
One Bedroom		650 sq. ft.
Two Bedroom		750 sq. ft.
Three Bedroom		900 sq. ft.
Each additional		+100 sq. ft.
Maximum Principal Building Height:		28 ft.
		(See 7.03 A.)
Floor Area Ratio		0.4
(See Schedule of Regulations)		

**R-4 Residential**



**Section 7.03 Notes**

A. Shoreline Structures (Exclusive of Single Family Dwellings): Any portion of a building or structure, exclusive of one family dwellings, constructed or established within 150 feet of the shore or bulkhead, as defined under Chapter 62 of the General Ordinances of the City of the Village of Douglas, shall not exceed a maximum height of twenty-four (24) feet. Maximum height is to be measured from finished grade to the highest point of the roof structure. All construction within 150 feet of a shoreline or the river's edge shall be subject to

the standards of the Waterfront Construction Ordinance (Chapter 151 of the Douglas Code of Ordinances)

- B. Multiple Family structures and related uses and structures shall be designed in accordance with the standards of Section 26.24 of this ordinance as well as the City of Douglas Design Guidelines for Multi-Family Development.
- C. Multiple Family Building and Court Dimensions
  - 1. The front and rear of the multiple family building shall be considered to be the faces along the longest dimension of said building or the front of the multiple building shall be considered to be the direction indicated on the drawings by the designer provided it is not inconsistent with the floor plan of the individual unit; and the side of the multiple family building shall be considered to be the face along the narrowest side of said building.
  - 2. No multiple family building shall exceed one hundred twenty (120) feet in length along any one face of the building.
  - 3. Any court shall have a width equal to not less than fifty (50) feet for the front yard and sixty (60) feet for the rear yard. The depth of any court shall not be greater than three (3) times the width.
- D. Each multi-family dwelling unit shall contain the same minimum total floor area as two-family dwellings (listed above) except for efficiency/studio units which shall have a minimum of four hundred (400) square feet.
- E. Multiple family dwellings shall not exceed a density of six (6) dwelling unit per buildable area on the site. Buildable area is defined as that area of the site exclusive of right-of-way, wetlands, floodplain, steep slopes (over 20%), or other areas of the site rendered unbuildable due to environmental conditions.
- F. The distance between buildings shall be a minimum of thirty (30) feet.

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**ARTICLE 8:  
R-5 MULTIPLE FAMILY DISTRICT**

**Section 8.01 Intent**

It is the intent of the R-5 Multiple Family District to provide for residential development densities within the City with mostly multi-family dwellings as presented in the Tri-Community Comprehensive Plan. It is the intent of this District to protect and encourage the multiple family residential character of the property in the District, to prohibit activities not compatible with the current and future intended character of the District, and to protect abutting districts from any unintended negative impacts from the development of this District.

**Section 8.02 District Summary**

<p style="text-align: center;"><b><u>A. Permitted Uses</u></b></p> <ul style="list-style-type: none"> <li>◆ Accessory Use, when accessory to permitted use</li> <li>◆ Dwelling, Multi-Family (Subject to City of Douglas Design Guidelines for Multi-Family Development)</li> <li>◆ Dwelling, One Family</li> <li>◆ Dwelling, Two Family</li> <li>◆ Essential Public Services</li> <li>◆ Child Family Day Care Home</li> <li>◆ Neighborhood Parks</li> <li>◆ Outdoor Public Recreation</li> </ul> <p style="text-align: center;"><b><u>B. Special Land Uses</u></b></p> <ul style="list-style-type: none"> <li>◆ Adult Foster Care/Child Foster Family Facility , subject to Section 26.01</li> <li>◆ Bed &amp; Breakfast, subject to Section 26.05</li> <li>◆ Buildings associated w/ Public Facilities, subject to Section 26.29</li> <li>◆ Cemeteries/Mausoleum, subject to Section 26.07</li> <li>◆ Child Care Center/Adult Day Care Facility, subject to Section 26.08</li> <li>◆ Convalescent or Nursing Home, subject to Section 26.11</li> <li>◆ Place of Public Assembly Large, subject to Section 26.26</li> <li>◆ Residential use of an Accessory Building, subject to Section 26.30</li> <li>◆ Schools subject to Section 26.31</li> </ul>	<p style="text-align: center;"><b><u>C. Site and Building Placement Standards</u></b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Minimum Lot Area:</td> <td style="padding: 2px;">One family</td> <td style="padding: 2px;">7,920</td> </tr> <tr> <td style="padding: 2px;">(square feet)</td> <td style="padding: 2px;">Two family</td> <td style="padding: 2px;">15,000</td> </tr> <tr> <td></td> <td style="padding: 2px;">Multi-Family</td> <td style="padding: 2px;">20,000</td> </tr> <tr> <td colspan="3" style="padding: 5px 0 0 0;">Minimum Lot Frontage:</td> </tr> <tr> <td></td> <td style="padding: 2px;">One family</td> <td style="padding: 2px;">66 ft.</td> </tr> <tr> <td></td> <td style="padding: 2px;">Two family</td> <td style="padding: 2px;">80 ft.</td> </tr> <tr> <td></td> <td style="padding: 2px;">Multi-Family</td> <td style="padding: 2px;">100 ft</td> </tr> <tr> <td colspan="2" style="padding: 2px;">Maximum Lot Coverage:</td> <td style="padding: 2px;">35%</td> </tr> <tr> <td colspan="3" style="padding: 5px 0 0 0;">Minimum Setbacks:</td> </tr> <tr> <td></td> <td style="padding: 2px;">Front:</td> <td style="padding: 2px;">25 ft</td> </tr> <tr> <td></td> <td style="padding: 2px;">Side:</td> <td style="padding: 2px;">7 ft min/15 ft total</td> </tr> <tr> <td></td> <td style="padding: 2px;">Side: Multi-Family</td> <td style="padding: 2px;">20 ft each</td> </tr> <tr> <td></td> <td style="padding: 2px;">Rear:</td> <td style="padding: 2px;">35 ft.</td> </tr> <tr> <td colspan="3" style="padding: 5px 0 0 0;">Minimum Floor Area:</td> </tr> <tr> <td></td> <td style="padding: 2px;">One Family</td> <td style="padding: 2px;">1,000 sq. ft.</td> </tr> <tr> <td></td> <td colspan="2" style="padding: 2px;">Two Family</td> </tr> <tr> <td></td> <td style="padding: 2px;">One Bedroom</td> <td style="padding: 2px;">650 sq. ft.</td> </tr> <tr> <td></td> <td style="padding: 2px;">Two Bedroom</td> <td style="padding: 2px;">750 sq. ft.</td> </tr> <tr> <td></td> <td style="padding: 2px;">Three Bedroom</td> <td style="padding: 2px;">900 sq. ft.</td> </tr> <tr> <td></td> <td style="padding: 2px;">Each additional</td> <td style="padding: 2px;">+100 sq. ft.</td> </tr> <tr> <td colspan="2" style="padding: 2px;">Maximum Principal Building Height:</td> <td style="padding: 2px;">28 ft.</td> </tr> <tr> <td colspan="3" style="padding: 10px 0 0 0;">(See Schedule of Regulations)</td> </tr> </table>	Minimum Lot Area:	One family	7,920	(square feet)	Two family	15,000		Multi-Family	20,000	Minimum Lot Frontage:				One family	66 ft.		Two family	80 ft.		Multi-Family	100 ft	Maximum Lot Coverage:		35%	Minimum Setbacks:				Front:	25 ft		Side:	7 ft min/15 ft total		Side: Multi-Family	20 ft each		Rear:	35 ft.	Minimum Floor Area:				One Family	1,000 sq. ft.		Two Family			One Bedroom	650 sq. ft.		Two Bedroom	750 sq. ft.		Three Bedroom	900 sq. ft.		Each additional	+100 sq. ft.	Maximum Principal Building Height:		28 ft.	(See Schedule of Regulations)		
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### **Section 8.03 Notes**

#### **A. Multiple Family Building and Court Dimensions**

1. The front and rear of the multiple family building shall be considered to be the faces along the longest dimension of said building or the front of the multiple building shall be considered to be the direction indicated on the drawings by the designer provided it is not inconsistent with the floor plan of the individual unit; and the side of the multiple family building shall be considered to be the face along the narrowest side of said building.
2. No multiple family building shall exceed one hundred twenty (120) feet in length along any one face of the building.
3. Any court shall have a width equal to not less than fifty (50) feet for the front yard and sixty (60) feet for the rear yard. The depth of any court shall not be greater than three (3) times the width.

B. Each multi-family dwelling unit shall contain the same minimum total floor area as two-family dwellings (listed above) except for efficiency/studio units which shall have a minimum of four hundred (400) square feet.

C. Multiple family dwellings shall not exceed a density of six (6) dwelling unit per buildable area on the site or a total of twelve (12) units per acre, whichever is the lesser. Buildable area is defined as that area of the site exclusive of right-of-way, wetlands, floodplain, steep slopes (over 20%), or other areas of the site rendered unbuildable due to environmental conditions. Where multiple buildings are proposed on a single site, the application shall be processed in accordance with the standards for a Planned Unit Development.

D. The distance between residential buildings shall be a minimum of thirty (30) feet unless waived by the Planning Commission as part of a Planned Unit Development approval.

E. All construction within 150 feet of a shoreline or the river's edge shall be subject to the standards of the Waterfront Construction Ordinance (Chapter 151 of the Douglas Code of Ordinances)

F. Any proposed deviation from the Site and Building Placement Standards of Section 8.02(C), or any other provision of this ordinance shall require review as a variance by the Zoning Board of Appeals.

**ARTICLE 9:  
R-6 MOBILE HOME PARK DISTRICT**

**Section 9.01 Purpose**

The purpose of this district is to provide for the development of mobile home parks, and to promote mobile home parks with the character of residential neighborhoods. It is the intent of this ordinance that mobile home parks be located in areas which are served adequately by essential public facilities and services such as access streets, police and fire protection, and public water, sanitary sewer, and storm drainage facilities.

**Section 9.02 District Summary**

<b><u>A. Permitted Uses</u></b>	<b><u>B. Special Land Uses</u></b>
<ul style="list-style-type: none"><li>◆ Accessory Use, when accessory to permitted use</li><li>◆ Essential Public Services</li><li>◆ Family Day Care Home</li><li>◆ Mobile Home Park</li><li>◆ Neighborhood Parks</li><li>◆ Outdoor Public Recreation</li></ul>	<ul style="list-style-type: none"><li>◆ Buildings associated w/ Public Facilities, subject to Section 26.29</li><li>◆ Cemeteries/Mausoleum, subject to Section 26.07</li><li>◆ Convalescent or Nursing Home, subject to Section 26.11</li><li>◆ Place of Public Assembly Large, subject to Section 26.26</li><li>◆ Schools subject to Section 26.31</li></ul>

**Section 9.03 Planning and Development Regulations for Mobile Home Parks**

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

- 2) A mobile home shall be in compliance with the following minimum distances:
- a) Twenty feet from any part of an attached or detached structure of an adjacent mobile home which is used for living purposes.
  - b) Ten feet from an on-site parking space of an adjacent site.
  - c) Ten feet from either of the following: An attached or detached structure or accessory structure of an adjacent mobile home which is not used for living purposes.
  - d) Fifty feet from any permanent building.
  - e) Ten feet from the edge of an internal street.
  - f) Twenty feet the right-of-way line of a dedicated public street within the mobile home park.
  - g) Seven and on half feet from a parking bay.



- h) Seven feet from a common pedestrian walkway.
- 3) The maximum height of accessory structures on a mobile home site shall be 15 feet.
- 4) Parking Requirements
- a) A minimum of two parking spaces shall be provided for each mobile home site.
  - b) Additional parking facilities shall be provided as follows:
    - 1. for storage of maintenance vehicles.
    - 2. at the park office location for office visitors.
    - 3. or general visitor parking, at the ratio of one (1) parking space for every three mobile home sites in the park, in a convenient location for mobile home sites served thereby.
- 5) Streets
- a) Vehicle access to a mobile home park shall be provided by at least one hard surface public road.
  - b) Only streets within the mobile home park shall provide vehicular access to individual mobile home sites in the mobile home park.
  - c) Two-way streets shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted along one side, and 41 feet where parallel parking is permitted along both sides.
  - d) The minimum width of a one-way street shall be 13 feet where no parallel parking is permitted, 23 feet where parallel parking is permitted along one side, and 33 feet where parallel parking is permitted along both sides.
  - e) A dead-end road shall terminate with an adequate turning area. A blunt-end road is prohibited. Parking shall not be permitted within the turning area.
- 6) Outdoor Storage - Common storage areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a mobile home park, but shall be limited to use only by residents of the mobile home park. The location of such storage area shall be shown on the site plan required herein. No part of such storage area shall be located in any yard required on the perimeter of the mobile home park. Such storage area shall be screened from view from adjacent residential properties.
- 7) Site Constructed buildings - All buildings constructed on site within a mobile home park must be constructed in compliance with the Building Codes. Any addition to mobile home unit that is not certified as meeting the standards of the US Department of Housing and Urban Development for mobile homes shall comply with the Building Codes. Certificates and permits shall be required as provided herein.

8) Placement of a Mobile Home Unit - It shall be unlawful to park a mobile home unit so that any part of such unit will obstruct a street or pedestrian walkway.

9) Site Plan Review required - Construction of a mobile home park shall require prior approval of a site plan by the Planning Commission. For purposes of this section only, a site plan shall provide the following information in place of the requirements of Section 14.02.

- a) The site plan shall be prepared on standard 24-inch by 36-inch sheets and shall be of a scale not greater than one inch equals 20 feet or less than one inch equals 200 feet, and of such accuracy that the Planning Commission can readily interpret the plan.
- b) Scale, north arrow, name and date, plus date of any revisions.
- c) Name and address of property owner and applicant; interest of applicant in the property; name and address of developer.
- d) Name and address of designer. A site plan shall be prepared by a community planner, architect, landscape architect, engineer, or land surveyor registered in the State of Michigan.
- e) A vicinity map; legal description of the property; dimensions and area; lot line dimensions and bearings. A metes and bounds description shall be based on a boundary survey prepared by a registered surveyor.
- f) Existing topography, at minimum of 2 foot contour intervals; existing natural features such as trees, wooded areas, streams, and wetlands; natural features to remain or to be removed; 100 year flood hazard area.
- g) Existing buildings, structures, and other improvements, including drives, utility poles and sewers, easements, pipelines, excavations, ditches, bridges, culverts; existing improvements to remain or to be removed; deed restrictions, if any.
- h) Name and address of owners of adjacent properties; use and zoning of adjacent properties; location and outline of buildings, drives, parking lots, and other improvements on adjacent properties.
- i) Locations and size of existing public utilities on or surrounding the property; location of existing fire hydrants; inverts of sanitary and storm sewers; location of existing manholes and catch basins; location of existing wells, septic tanks, and drain fields, if applicable.
- j) Names and rights of way of existing streets on or adjacent to the property; surface type and width; spot elevations of street surface at intersections with streets and drives of the proposed development.
- k) Zoning classification of the subject property; location of required yards; total property area; dwelling unit density; schedule of dwelling units, by type; phasing information.
- l) Grading plan, at a minimum contour interval of 2 feet.
- m) Location and exterior dimensions of proposed buildings and structures other than mobile home dwellings; height and finished floor elevations

- of such buildings and structures; location of mobile home and parking spaces on each mobile home site.
- n) Location and alignment of all proposed streets and drives; rights of way, where applicable; surface type and width; typical street sections; location and details of curbs; curb radii.
  - o) Location and dimensions of proposed parking lots; number of spaces in each lot; dimensions of spaces and aisles; typical section of parking lot surface.
  - p) Location, width, and surface of proposed sidewalks and pedestrian paths.
  - q) Location, use, size, and proposed improvements of open space and recreation areas.
  - r) Location and type of proposed screens and fences; height, typical elevations, and vertical section of screens, showing materials and dimensions.
  - s) Location, type, size, area, and height of proposed signs.
  - t) General proposed utility layout for sanitary sewer, water and storm water systems.
  - u) An overall map at a smaller scale showing how this property ties in with all other surrounding properties should be developed to include:
    1. existing and proposed water mains, sanitary and storm sewers in the area including sanitary sewer service areas;
    2. the road network in the area;
    3. the relationship of existing and proposed drainage courses and retention basins in the general area that impact or are impacted by this development as well as an area wide drainage map showing all the sub areas that affect this site (all drainage must be directed to retention ponds);
    4. the map should also be on a 24 inch by 36 inch sheet.
  - v) Landscape plan showing location, type, and size of plant materials.
  - w) Location, dimension, and materials of proposed retaining walls; fill materials; typical vertical sections.

10. Zoning Permits Required - No mobile home may be placed on a mobile home site until a zoning permit therefore has been issued by the Zoning Administrator. A zoning permit shall not be issued until any required local building permit and other state approvals have been obtained.

11. Occupancy - A mobile home in a mobile home park shall not be occupied until all required approvals have been obtained from the State of Michigan and a certificate of occupancy is issued by the Zoning Administrator.

**ARTICLE 10:  
C-1 VILLAGE CENTER DISTRICT**

**Section 10.01 Intent of C-1 Village Center District**

The intent of this District is to maintain and enhance the vitality of the Village Center, provide services in close proximity to one another, reinforce the relatively intense development pattern of retail and service establishments on the ground floor with residential accommodations above, reduce the need for on-site parking by encouraging pedestrian and bicycle connections to and from the Village Center, and to expand the employment base and residential population of the Village Center. The compact development pattern of the Village Center establishes a pedestrian-oriented environment and stresses urban and civic design while encouraging the reuse of existing buildings. The District provides standards to reinforce the unique physical character of downtown and establishes minimum criteria for building design compatibility while promoting amenities necessary to attract business, residents and visitors.

**Section 10.02 District Summary**

<b><u>A. Permitted Uses</u></b>
<ul style="list-style-type: none"><li>◆ Accessory Use, when accessory to permitted use</li><li>◆ Antique Store</li><li>◆ Art gallery</li><li>◆ Essential Public Services</li><li>◆ Library</li><li>◆ Museum</li><li>◆ Neighborhood Parks</li><li>◆ Office Building</li><li>◆ Outdoor Public Recreation</li><li>◆ Personal Service Establishment</li><li>◆ Professional Service Establishment</li><li>◆ Residential above Retail or Office</li><li>◆ Restaurant, Standard</li><li>◆ Retail Business or Retail Sales</li><li>◆ Showroom</li><li>◆ Studio for Performing/Visual Arts</li></ul>
<b><u>B. Special Land Uses</u></b>
<ul style="list-style-type: none"><li>◆ Animal Grooming, subject to Section 26.03</li><li>◆ Buildings associated w/ Public Facilities, subject to Section 26.29</li><li>◆ Convalescent or Nursing Home, subject to Section 26.11</li><li>◆ Hotel, subject to Section 26.22</li><li>◆ Movie Theater, subject to Section 26.23</li><li>◆ Place of Public Assembly, Large, subject to Section 26.26</li><li>◆ Private Recreational Facilities, subject to 26.27</li><li>◆ Residential, Ground Floor, subject to 26.13</li><li>◆ Schools subject to Section 26.31</li></ul>

<b><u>C. Site and Building Placement Standards</u></b>
Minimum Lot Area: 4,000 (square feet)
Minimum Lot Frontage: 20 ft.
Maximum Lot Coverage: 80%
Minimum Setbacks:
Front: 0 ft
Side: 5 ft., except where a commercial building is placed directly upon the side lot line.
Rear: 5 ft., except where the rear yard abuts a side yard in a residential district the rear yard shall be 25 ft. The full width of a public alley between the rear yard of a lot and a side yard of a lot in a residential district may be considered part of the rear yard for setback computation.
(See Schedule of Regulations)

#### **D. Building Form Standards**

Maximum Principal Building Height:	28 ft.
Maximum Number of Stories:	2
Roof Pitch:	Flat with parapet or 6:12 to 12:12
Minimum Transparency:	
Ground Floor:	60%
Upper Stories:	30%
First Floor Use:	Non-residential
Residential Access:	Separate from Commercial Entry
Recessed Entry:	3 feet to 5 feet
Building Materials:	
Structural Components:	Wood, masonry, pre-cast concrete, or metal.
Building Facades:	Wood, brick, stone, fluted block glass or similar decorative material. With the exception of roofing materials, exterior finish shall not be factory finish metal or vinyl siding. Canvas, nylon, and other synthetic materials may be utilized for decorative and non-structural porticos, canopies, and other attachments.

#### **Section 10.03 Performance Standards**

- a) Storage of materials or goods shall be enclosed entirely within a building or shall be enclosed so as not to be visible to the public from any abutting residential district or public street.
- b) No major repairs or refinishing of products shall be done outside of the principal structure.
- c) No lighting shall in any way impair the safe movement of traffic on any street or highway.
- d) Screening at least six (6) feet in height shall be erected to prevent headlight glare from shining onto adjacent residential property. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles, or be closer than thirty (30) feet to any street right-of-way line.
- e) Material which is normally and reasonably discarded from commercial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than six (6) feet in height.

- f) All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
- g) All building structural components shall be made of wood, masonry, pre-cast concrete, or metal. All building facades shall be constructed or clad with wood, brick, stone, fluted block glass, or similar decorative material. With the exception of roofing materials, exterior finish materials shall not be factory finish metal siding or sheeting. Canvas, nylon, and other synthetic materials may be utilized for decorative and non-structural porticos, canopies, and other attachments.
- h) In recognition of developing technologies in building materials, the Planning Commission may approve other materials in consideration of the following standards.
  - 1. Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image.
  - 2. Relative scale of the building in terms of height and area.
  - 3. The extent to which the building is set back from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.
  - 4. Such other conditions which the Planning Commission may deem relevant in order to protect the health, safety, and general welfare of the City and its inhabitants.
- i) The use of a roof area of a building shall meet the following standards:
  - 1. No more that fifty (50) percent of the roof area shall be used.
  - 2. The area used by the tenants or owners of the building shall be secured by fence or similar structure with a height of four (4) feet.
  - 3. The uses of the roof area shall be compliant with the Noise Ordinance of the City.
  - 4. The area of the roof to be used shall not be closer that eight (8) feet to the edge of the roof.
  - 5. The area of the roof to be used shall contain a surface that is fire resistant as approved by the Fire Chief.
  - 6. The Fire Chief shall review the roof area and provide comments on public safety concerns if any.
- j) Each property subject to site plan review shall be required to provide the following elements unless waived by the Planning Commission as being impractical or unreasonable during the site plan review process.
  - 1. Provision of street trees between the front of the building and the street.

2. Provision of green space in the form of a planting area, flower box, planting structure, or similar landscape element to soften the effect of concrete and asphalt on the site.
  3. Provision of a patio, street furniture or similar public use area to enhance the pedestrian elements of the downtown area.
  4. The placement of street furniture or other elements noted above should not diminish the area or space between the front of the building and the curb of the street to less than eight (8) feet in width.
- k) Where a building is proposed to be constructed with a setback from the primary street frontage of greater than 10 feet, the applicant shall be required to install a minimum five foot landscape strip along the entire linear frontage of the site which shall include landscaping as required within Article 21 as well as a consistent hedge row or stone or masonry sitting wall no taller than three (3) feet and no shorter than eighteen (18) inches to maintain a consistent and defined street edge along the public right of way. The Planning Commission may approve a public use area in lieu of a landscape strip or sitting wall provided that such use area is determined to be readily available to the general public and satisfies the requirements of Section 10.03(j).

#### **Section 10.04 Off Street Parking and Loading**

Whenever a use or activity requiring off-street parking is created through new construction, increased floor area, increased intensity of activity or by structural alteration of a building or increasing the intensity of activity in some other matter, off-street parking spaces shall be calculated and required as follows:

- a) Principal buildings, as defined in Section 2.03, may be utilized to their capacity through structural alteration or rebuilding (excluding basements and additions) for the permitted use(s) occupying such building on the effective date of this ordinance and shall be exempt from providing off-street parking spaces to accommodate such use(s). Uses requiring an equal or lesser number of parking spaces may be substituted for the use of record on the effective date hereof, without providing off-street parking spaces. However, when additions are made to existing buildings, or when uses requiring more spaces than such use are substituted or intensified, off-street parking spaces shall be provided as set forth in Section 10.04 (b).
- b) C-1 District Parking Requirements  
The number of off-street parking spaces required in the C-1 District shall be determined as follows:

1. Any use permitted by right and required to provide parking as described in Section 10.04(a) shall provide fifty percent (50%) of the required parking for each use as identified in Section 19.03. Uses permitted by Special Land Use shall be required to provide one-hundred percent (100%) of the required parking for each use as identified in Section 19.03.
2. The Planning Commission may reduce or waive the parking space requirements of Section 19.03 and Section 10.04(b)(1) where the applicant is able to demonstrate that:
  - i. The proposed use on-site is in keeping with the character and intent of the C-1 District as described in Section 10.01 of the Zoning Ordinance, as well as the Tri-Community Plan;
  - ii. Strict compliance with the required parking provisions for the proposed use would unreasonably prevent the owner from using the site in accordance with the intent of the district or would render conforming unnecessarily burdensome; and
  - iii. Any reduction or waiver of the number of required parking spaces shall not exceed the minimum necessary to accommodate the proposed use, addition or new construction.
3. For such building additions, expansions, new construction, changes of use and/or intensity of use on site which would normally require more than an additional five (5) parking spaces, or which would reduce the total parking on site by more than five (5) parking spaces, or which may be expected to be particularly burdensome upon the existing parking supply in the Village Center, the Planning Commission may require that the applicant fund a parking impact analysis of the proposed use and its potential impacts upon the Village Center District.
4. Where parking modifications are granted, the Planning Commission shall consider the performance standards of Section 10.03 (j) where such standards have the effect of enhancing the pedestrian environment and shall consider requiring amenities such as bicycle racks and/or such other similar measures to be provided on-site and made available to the general public in-lieu of required off-street parking spaces, which have the effect of supporting alternative means of transportation within the community.
5. The Planning Commission may request that the Downtown Development Authority review and provide a recommendation of the proposal prior to making a final decision pertaining to any modifications of the required on-site parking.



6. Required loading spaces, as specified within Article 19 of this ordinance, shall only be waived where adequate loading space is already present on an adjacent and adjoining site and where an easement, acceptable in form and content by the City Attorney, to use such space is provided to the applicant from the owner of such site and is recorded with the Allegan County Register of Deeds.

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**ARTICLE 11:  
C-2 GENERAL COMMERCIAL DISTRICT**

**Section 11.01 Intent of the General Commercial District**

The C-2 General Commercial District is intended to provide for retail and service establishments along the Blue-Star Highway, which meet the general consumer needs of the City and, to a lesser extent, consumer needs beyond the immediate Village area. The district regulations are designed to provide opportunities for both convenient pedestrian shopping and stability of retail development by encouraging contiguous retail frontage, as well as opportunities for limited automotive related and highway service retail uses.

**Section 11.02 District Summary**

**A. Permitted Uses**

- ◆ Accessory Use, when accessory to permitted use
- ◆ Animal Grooming
- ◆ Antique Store
- ◆ Automobile/Boat Sales
- ◆ Dry Cleaning Establishment
- ◆ Essential Public Services
- ◆ Funeral Home
- ◆ Gas Station
- ◆ Health Spa
- ◆ Laundry Establishment
- ◆ Library
- ◆ Medical/Dental Office
- ◆ Movie Theater
- ◆ Neighborhood Parks
- ◆ Nursery, Plant Materials
- ◆ Office Building
- ◆ Outdoor Public Recreation
- ◆ Personal Service Establishment
- ◆ Professional Service Establishment
- ◆ Residential above Retail or Office
- ◆ Restaurant, Standard
- ◆ Retail Business or Retail Sales
- ◆ Showroom
- ◆ Studio for Performing/Visual Arts

**B. Special Land Uses**

- ◆ Amusement Center, subject to Section 26.02
- ◆ Automobile Service and Major/Minor Repair Station subject to Section 26.04
- ◆ Child Care Center/Adult Day Care Facility, subject to Section 26.08
- ◆ Commercial Recreation Facility, subject to 26.09
- ◆ Communication Tower, subject to Section 26.10
- ◆ Convalescent or Nursing Home, subject to Section 26.11
- ◆ Drive-in/Drive-through establishment, subject to Section 26.12
- ◆ Farm Market, subject to Section 26.14
- ◆ Greenhouse, subject to Section 26.16
- ◆ Kennel, subject to Section 26.19
- ◆ Motels/Hotels, including and together with condominium units and time share and other fractional-interest units used in conjunction with or situated on the same premises as the motel/hotel, subject to Section 26.22
- ◆ Open Air Business subject to Section 26.25
- ◆ Place of Public Assembly Large or Small, subject to Section 26.26
- ◆ Private Recreational Facilities, subject to 26.27
- ◆ Schools subject to Section 26.31
- ◆ Sexually Oriented Business, subject to Section 26.32
- ◆ Tattoo or Piercing Parlor, subject to Section 26.34
- ◆ Vehicle Wash Facility subject to Section 26.35
- ◆ Veterinary Clinic, subject to Section 26.36

**C. Site and Building Placement Standards**

Minimum Lot Area: (square feet)	30,000
Minimum Lot Frontage:	100 ft.
Maximum Lot Coverage:	50%
Minimum Setbacks:	
Front:	10 ft
Side:	5 ft.
Rear:	25 ft.
Minimum Floor Area:	1,000 sq. ft.
Maximum Floor Area:	15,000 sq. ft.
Maximum Building Height	28'
(See Schedule of Regulations)	

**Section 11.03 Performance Standards**

- a) Storage of materials or goods shall be enclosed entirely within a building or shall be enclosed so as not to be visible to the public from any abutting residential district or public street.
- b) No major repairs or refinishing of products shall be done outside of the principal structure.
- c) No lighting shall in any way impair the safe movement of traffic on any street or highway.
- d) Screening at least six (6) feet in height shall be erected to prevent headlight glare from shining onto adjacent residential property. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles, or be closer than thirty (30) feet to any street right-of-way line.
- e) Material which is normally and reasonably discarded from commercial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than six (6) feet in height.
- f) All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
- g) Curbing at drive approaches.

- h) All building structural components shall be made of wood, masonry, pre-cast concrete, or metal. All building facades shall be constructed or clad with wood, brick, stone, fluted block glass, or similar decorative material. With the exception of roofing materials, exterior finish materials shall not be factory finish metal siding or sheeting. Canvas, nylon, and other synthetic materials may be utilized for decorative and non-structural porticos, canopies, and other attachments.

In recognition of developing technologies in building materials, the Planning Commission may approve other materials in consideration of the following standards.

- A. Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image.
- B. Relative scale of the building in terms of height and area.
- C. The extent to which the building is set back from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.
- D. Such other conditions which the Planning Commission may deem relevant in order to protect the health, safety, and general welfare of the City and its inhabitants.

#### **Section 11.04 Additional Requirements**

- 1) Performance Standards: The performance standards for this district shall be the same as the C-1 Village Commercial District, contained in Section 10.03.
- 2) Provisions of Article 19: Off-street Parking and Loading Requirements.
- 3) Provisions of Article 24: Site Plan Review.

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**ARTICLE 12:  
[RESERVED FOR FUTURE USE]**

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**ARTICLE 13:  
LI LIGHT INDUSTRIAL DISTRICT**

**Section 13.01 Intent**

It is the intent of the LI Light Industrial District to provide for a variety of light industrial uses, including manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials, as well as commercial establishments not engaging primarily in retail sales. This district is not intended to accommodate heavy manufacturing, processing of raw materials, or uses which employ drop hammers, reciprocating hammers, smelting processes, or other similar uses involving machinery or equipment and causing excessive noise, fumes, or vibration. Industrial uses permitted in this district should be free of incompatible uses, and designed to avoid negatively impacting adjacent uses. The LI Light Industrial District is intended to implement the planned Industrial area as presented in the Tri-Community Comprehensive Plan.

**Section 13.02 District Summary**

<b><u>A. Permitted Uses</u></b>
◆ Accessory Use, when accessory to permitted use
◆ Animal Grooming
◆ Automobile Service and Minor/Major Repair Station
◆ Commercial Recreation Facility
◆ Contractor's Establishment
◆ Distribution Center
◆ Essential Public Services
◆ Farm Implement Dealer
◆ Freight Yard/Truck Terminal
◆ Greenhouse
◆ Kennel
◆ Laboratories
◆ Manufacturing, Compounding, Processing and/or Assembly
◆ Movie Theater
◆ Neighborhood Parks
◆ Place of Public Assembly, Large or Small
◆ Research & Development
◆ Service Establishment Accessory to a Permitted Use
◆ Showroom
◆ Trade/Industrial School
◆ Urgent Care Facility
◆ Vehicle Wash Facility
◆ Veterinary Clinic
◆ Warehouse
◆ Wholesale Facility

<b><u>B. Special Land Uses</u></b>	
◆ Communication Tower, subject to Section 26.10	
◆ Junk yard/Auto Salvage, subject to Section 26.18	
◆ Mini Storage, subject to Section 26.21	
◆ Schools subject to Section 26.31	
◆ Sexually Oriented Business, subject to Section 26.32	
◆ Tattoo or Piercing Parlor, subject to Section 26.34	
<b><u>C. Site and Building Placement Standards</u></b>	
Minimum Lot Area:	21,000 sq. ft.
Minimum Lot Frontage:	100 ft.
Maximum Lot Coverage:	50%
Minimum Setbacks:	
Front:	25 ft
Side:	15 ft.
Rear:	25 ft.
Maximum Principal Building Height:	45 ft.

### **Section 13.03 Industrial Parks**

All Industrial Parks shall be subject to the following conditions:

- a) Permitted uses shall include all uses permitted by right within this district. Special uses identified in Section 13.02 may be permitted, subject to the special use provisions of Article 26.
- b) The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
- c) The development of an industrial park shall be in accordance to an overall plan for development of the park, which plan shall be approved by the City Planning Commission.
- d) The developer shall provide within the industrial park a sanitary sewage system which shall be of sufficient size and design to collect all sewage from structures within the industrial park, which system shall connect with City system. If sewers are not available, the park's sanitary sewer system shall be designed so as to dispose of all sewage and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the State of Michigan, Allegan County Health Department, Allegan County Drain Commissioner and the City.
- e) The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will in the opinion of the County's Engineer collect, carry off, and dispose of all predictable surface water runoff within and draining into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the State of Michigan, the Allegan County Drain Commissioner and the City.
- f) If a public water system is not available, the developer shall provide within the industrial park a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
  1. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
  2. Such water system shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Allegan County Health Department, the Allegan County Drain Commissioner and the City.
- g) All industrial parks shall have direct access to a major thoroughfare.
- h) Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.

- i) All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other). No part of any parking access and/or service area may be located closer than one hundred-fifty (150) feet of any residential property line.
- j) Parking, loading, or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
- k) Any industrial park adjoining any residential development shall be provided with a buffer zone of at least sixty (60) feet which buffer zone shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes as provided in Section 21.01(3). A landscaped planting area shall also be provided along all street frontage which shall not be less than sixty (60) feet in width.
- l) Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors.
  - 1. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.
- m) Maximum building coverage on any lot within the industrial park shall not exceed fifty (50) percent.
- n) Minimum lot sizes within an industrial park shall be one-half (1/2) acre.

### **Section 13.04 Performance Standards**

- a) External areas for storage shall be screened on all sides by an opaque fence of not less than six feet in height.
- b) When a side or rear lot line abuts or is adjacent to property located within a residential district a berm or buffer yard shall be required in addition to the minimum yard requirements, specific driveways and plantings of which shall be determined through the site plan review process.
- c) Sound: The intensity level of sounds shall be consistent with the standards as set forth in Section 95 of the General City Ordinances, Health & Safety; Nuisances.
- d) Vibration: All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured by any lot line of its source.
- e) Odor: The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air

of as to produce a public nuisance or hazard beyond lot lines, is prohibited.

- f) Gases: The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- g) Glare and Heat: Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
- h) Light: Exterior lighting shall be so installed that the surface of the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line five (5) feet above the ground in a residential district.
- i) Electromagnetic Radiation: Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation shall be used as standards for this Ordinance.
- j) Smoke, Dust, Dirt and Fly Ash: Any atmospheric discharge requiring a permit from the Michigan Department of Natural Resources or federal government shall have said permit(s) as a condition of approval for any use in this district.
- k) Drifted and Blown Material: The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.
- l) Radio Active Materials: Radio-active materials shall not be emitted to exceed quantities established as safe by the US Bureau of Standards, as amended from time to time.
- m) Other Forms of Air Pollution: It shall be unlawful to discharge into the atmosphere any substance not covered in parts C, D, and H and in excess of standards approved by the Michigan Department of Natural Resources.
- o) Liquid or Solid Wastes: It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Natural Resources.
- p) Hazardous Wastes: Hazardous wastes as defined by the Michigan Department of Natural Resources shall be disposed of by methods approved by the Michigan Department of Natural Resources.

1. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
2. Material which normally and reasonably discarded from industrial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than six (6) feet in height.

### **Section 13.05 Additional Requirements**

All uses and structures in the LI District shall be subject to the following:

Provisions of Article 19: Off-street Parking and Loading Requirements.

Provisions of Article 24: Site Plan Review.

Provisions of Article 21: Landscaping, Buffering and Fencing.

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**ARTICLE 14:  
[RESERVED FOR FUTURE USE]**

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**ARTICLE 15:  
NONCONFORMING USES OF LAND AND/OR STRUCTURES**

**Section 15.01 Intent and Purpose**

The intent of this Article is to permit legal nonconforming lots, structures or uses to continue until they are removed, or otherwise cease existence. No building or structure, or part thereof, shall be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of and building, structure or land, or part thereof, except in conformance with the provisions of Article 15.

It is recognized that there exists within the districts established by the Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended that would be prohibited, regulated or restricted under the terms of this Ordinance.

**Section 15.02 Nonconforming Lots**

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family detached dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this Ordinance. This provision shall apply even if such lot fails to meet the requirements for area and/or width in the district in which it is located; provided that yard dimensions and other requirements, of the lot, comply with the regulations for the district in which it is located, unless one of the following applies:

- a) A yard requirement variance is obtained through approval of the Zoning Board of Appeals.
- b) Wherever multiple contiguous lots of record are in single ownership, and each is below the minimum requirements for lot width, area, or both in a district, then the lots shall be combined in the minimum number necessary to meet the lot size requirements of the district in which they are located. In so doing the combined lot shall be considered a single lot for zoning purposes. See definition of "lot" in Article 2.
- c) Where an existing residentially zoned platted lot has an area of not less than ninety percent (90%) of its zoning district requirements and where such lot can provide the side yard requirements of its zoning district, a single family dwelling is permitted. An existing platted lot in single ownership of less than ninety percent (90%) of its zoning district requirements may be utilized for a single family dwelling, and for such purpose the required side yards may be reduced by the same percentage the area of such lots bears to its zoning district

- requirements, provided that no side yard shall be less than five (5) feet and that off-street parking requirements of Section 19.03 are met.
- d) See Section 16.13(5).

### **Section 15.03 Nonconforming Use of Land**

It shall not be necessary for a legal nonconforming use, existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However the following restrictions apply:

- a) Documentation of the pre-existing status of any nonconforming use shall be the responsibility of the applicant.
- b) A nonconforming use shall not be changed, increased, enlarged renewed, or extended to occupy a greater land area or cubic content than was occupied at the effective date of amendment or adoption of this Ordinance.
- c) A nonconforming use shall not be moved in whole or in part to any other lot or portion of the same lot occupied by such use at the effective date of amendment or adoption of this Ordinance.

### **Section 15.04 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 or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a) No such structure may be enlarged or altered in a way which increases the degree of a structure's nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located. Alterations or enlargements of structures that do not alter the nonconforming nature of the structure may be permitted, provided the alteration or enlargement complies with the provisions of this ordinance.
- Furthermore, any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.
- b) Should such structure be destroyed by any means to an extent of more than sixty (60%) percent of replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Article.

- c) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- d) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed thereafter.
- e) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

### **Section 15.05 Repairs and Maintenance**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50%) percent of the replacement cost of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Article shall not be increased. Nothing in this Article shall be construed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **Section 15.06 Change of Tenancy or Ownership**

A change of tenancy or ownership shall not affect the nonconforming status of a nonconforming structure or use, as long as there is no change in the character or nature of the nonconforming use contrary to the requirements of this Article.

### **Section 15.07 District Changes**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Article shall also apply to any existing uses or lots that become nonconforming as a result of the boundary changes.

### **Section 15.08 Hardship Cases**

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Zoning Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alteration or enlargement may be granted only with a finding by the Board that

approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

### **Section 15.09 Illegal Nonconforming Uses**

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without a valid zoning or building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

### **Section 15.10 Abandonment of Nonconforming Uses**

Any legally established nonconforming use which remains discontinued after receipt of notice by mail to the owner of record, and posting of the property in a conspicuous place, stating that "the vested right of continuance will be terminated unless the use of land or occupancy of the structure is re-established within 365 days", shall be conclusively presumed to be abandoned and shall lose all rights to continuance as a legal nonconformity.

## **ARTICLE 16: GENERAL PROVISIONS**

### **Section 16.01 Intent and Purpose**

The following general provisions establish regulations which are applicable to all zoning districts unless otherwise indicated.

### **Section 16.02 Reserved for Future Use**

### **Section 16.03 Reserved for Future Use**

### **Section 16.04 Home Occupation**

It is the policy of the City to encourage entrepreneurship and a reasonable degree of activity within residential areas during normal business hours. Such activity contributes to the vitality of the community and increases safety within neighborhoods. However, excessive commercial activity, such as traffic, odors, deliveries and signage, within a neighborhood may undermine its residential character. The intent of this section is to establish reasonable standards to regulate home occupation activities that are compatible with the residential character of a neighborhood.

- 1) Minor-home occupations:
  - a) Must be registered with the Zoning Administrator. Registration shall be provided on forms developed by the City and may require a fee as determined by the City Council. Such registration shall document that the minor home occupation shall be conducted in accordance with the terms of this section.
  - b) Must be conducted entirely within a residential building or within an accessory structure, and must not be evident in any way from the street or from any neighboring premises.
  - c) Must not change the character of the building in which it is conducted and must not constitute, create or increase a nuisance.
  - d) Must be carried on only by the inhabitants of the building plus not more than one non-resident.
  - e) Must employ only mechanical equipment which is similar in power and type used for household purposes and hobbies.
  - e) Must not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the home business shall not create an electrical interference with the transmission of television, cellular, wireless service, or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.

- f) Must provide sufficient solid waste receptacles of a residential nature sufficiently screened and maintain the property free of debris.
- g) Must not devote more than twenty-five (25) percent of the principal building and accessory buildings to such home occupation.
- h) Must not require parking spaces in excess of two (2) spaces, located in the driveway or on the street directly adjacent to the property.
- i) Must not generate vehicle trips in excess of ten (10) trips per day.
- j) May have a sign attached to the front wall of the principal building not to exceed two (2) square feet in area.
- k) On-site sale of merchandise shall be limited to:
  - i. Items commonly traded or collected or occasionally bought and sold by hobbyists (i.e. antiques, stamps, coins, comics, etc.), but not including automobiles or firearms.
  - ii. Crafts and artistic products produced on-site.

### **Section 16.05 Zoning of Annexed Lands**

Whenever any portion of any township becomes a part of the City or whenever any territory is annexed to and becomes part of the City, the then existing zoning regulations for the territory being incorporated into the City shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the Douglas City Council shall lawfully adopt other zoning regulations or ordinances.

### **Section 16.06 One Building to a Lot**

No more than one principal building shall be permanently established on a residentially zoned lot or parcel, unless specifically provided for elsewhere in this Ordinance as in the case of a multiple family development (see Section 8.02), residential use of an accessory building by Special Use Permit (see Section 26.29), a condominium subdivision (see Section 16.24) or Planned Unit Development pursuant to the requirements of Article 27.

### **Section 16.07 Moving Buildings**

No existing building or other structure within or outside of the City shall be relocated upon any parcel or lot within the City unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site; the building and all materials therein are in conformity with the Building Code enforced in the City; and the building or structure can be located upon the parcel and conform to all other requirements of the respective zoning district. The Zoning Administrator shall make the initial determination of compatibility. In the event the Administrator desires additional input prior to making a final decision, the Administrator may request the Planning Commission to review the material and provide a recommendation to the Zoning Administrator.

### **Section 16.08 Permitted Yard Encroachments**

The minimum yard size and setback requirements of this Ordinance are subject to the following permitted encroachments.

1) Existing buildings or structures shall be permitted to encroach upon the minimum yard area and 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. Features such as cornices, eaves, gutters, chimneys, pilasters, outside stairways, fire escapes, and similar features may project into a required yard area no more than three (3) feet.

2) Unenclosed terraces, patios, porches and decks between twelve (12) and thirty (30) inches above the surrounding finished grade at any point are permitted to encroach on required yards, provided they are not closer than ten (10) feet from any side or rear property line. No yard encroachment is permitted in yards which abut public or private streets. The Zoning Administrator may permit patios and decks that are less than twelve (12) inches above the surrounding finished grade at any point to be constructed to within three (3) feet from any side or rear property line, provided there still remains adequate access in the event of an emergency; except that no yard encroachment is permitted in yards which abut public or private streets (see Section 16.13 (9) or for decks over water).

3) Awnings may project into a required yard area no more than three (3) feet.

4) Children's swing sets and similar accessory play structures less than nine (9) feet in height may encroach on a yard requirement provided they are not closer than five (5) feet from a side or rear lot line, and are not in the front yard. However, on a corner lot, on the side not considered the front building line, a children's swing set and similar accessory play structure may be placed, provided it does not obstruct clear views for passing motorists or is closer than 5 feet to the property line.

### **Section 16.09 Reserved for Future Use**

#### **Section 16.10 Flag Poles**

Not more than three (3) flag poles may be erected on any lot. The maximum permitted height of any flag pole is thirty-five (35) feet.

#### **Section 16.11 Height Requirement Exceptions**

The following are exempted from height limit requirements when accessory to a permitted principal use, provided that no portion of the excepted structure shall be used for human occupancy:

- 1) Those purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers and monuments, and do not exceed seventy-five (75) feet in height.
- 2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height, but do not exceed one hundred (100) feet in height.
- 3) Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above height limitations and shall have no window openings.
- 4) Public utility structures, but not including communication towers, except upon receipt of a Special Use Permit.
- 5) The height of a wind energy conversion system is provided in Section 16.32.

### **Section 16.12 Essential Public Services**

Essential public services shall be permitted as authorized and regulated by law and other ordinances of the City, the intention being to exempt such essential public services from the application of this Ordinance, except that essential public services do not include public facilities separately regulated by Section 26.28, any essential service that requires a building (such as electric substations, telephone substations, gas regulator stations) and communication towers regulated by Section 26.10.

### **Section 16.13 Accessory Uses, Buildings, and Structures**

Accessory buildings, structures and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations.

- 1) Attached: An accessory building, including carports which are attached to the principal building, shall comply in all respects with the requirements of this Ordinance applicable to the principal building, except in the R-3 District, the front yard setback shall be a minimum of 30 feet. Breezeways, as a roofed attachment between the garage or carport and the principal building, shall be considered a part of the principal building, but shall not be considered habitable floor area.
- 2) Separation Distance: An accessory building or structure unless attached and made structurally a part of the principal building, shall not be closer than six (6) feet to any other structure on the lot.



- 3) Side and Rear Yard Setbacks: No accessory building shall be closer than ten (10) feet to the rear lot line and no closer than the established side yard setback for the district.
- 4) Street Setbacks: Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- 5) Lot Coverage: Accessory buildings or structures shall not occupy more than twenty-five (25) percent of the area of any side or rear yard. The total area of accessory buildings or structures, excluding swimming pools, shall not exceed the ground floor area of the principal building. Accessory buildings or structures may occupy up to sixty (60) percent of the area of any rear yard if it is a nonconforming lot of record, and provided the building meets applicable side and rear yard setback standards.
- 6) Height: No detached accessory building or structure to a principal permitted residential use shall exceed two (2) stories or the height permitted in the district. Detached accessory buildings for nonresidential uses in nonresidential districts may be constructed to equal the permitted maximum height of structures in said districts. This restriction shall not apply to accessory structures allowed by Special Use Permit.
- 7) Front Yard Prohibition: Buildings accessory to principal buildings shall not be erected in the front yard except that accessory structures may be located between the principal structure and the primary street right of way where a property has frontage along the Kalamazoo River, Kalamazoo Lake or Lake Michigan, notwithstanding all other requirements of this ordinance. Accessory structures located between the principal structure and the street right of way shall meet the minimum front yard setback requirements of the underlying zoning district and shall be side-loaded such that no garage door shall directly face the street.
- 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 the principal structure. Where two or more abutting lots are held under one ownership in a residentially zoned district, the owner may erect an accessory building on a lot separate from that one where the principal building is located, provided both lots are used as one with a single tax description.
- 9) Deck and Docks: Any deck structure becomes a dock when posts are below the ordinary high water mark of a lake, pond, river, stream, or wetland. Permanent docks and seawalls require a permit from the Michigan Department of Natural Resources. (See also Waterfront Ordinance, #101)
- 10) A lot shall not contain more than two (2) accessory buildings unless reviewed and approved by the Planning Commission. In such case where more than two (2) accessory buildings are permitted, the Planning Commission may require additional

screening and buffering in accordance with the standards of Article 21. The maximum lot coverage standards of the applicable zoning district, as well as all other standards of this section, shall apply.

### **Section 16.14 Temporary Building, Structures and Uses**

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

1) Fire Damage: During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days. An extension for up to one (1) year may be granted by the Zoning Administrator if significant progress is being made or in the event of unforeseeable circumstances.

2) New Construction: Temporary buildings and structures incidental to construction work, except one-family residences. Said temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Board of Appeals and upon a finding of hardship supported by the particular facts in the case.

3) Churches: Temporary building incidental to a church, provided that the building is certified to be in compliance with all construction, fire, and sanitation codes by the relevant local or state agencies.

4) Habitation of Accessory Structures and Travel Trailers: No garage, barn, or accessory buildings, or cellar, whether fixed or portable, shall be used or occupied as a dwelling. Travel trailers or motor homes may be occupied for a period not to exceed fifteen (15) days in one calendar year on property upon which a principal building is located or in an approved travel trailer park or campground.

5) Christmas Tree Sales: The display and sale of Christmas trees in a commercial district or at a church or campground including incidental temporary signage is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed forty-five (45) days. All unsold trees must be removed from the property by December 31 of each calendar year. No temporary zoning permit is necessary for Christmas tree sales where a nursery is permitted by right or Special Use Permit.

6) Garage Sales: Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the following conditions:

- a) Any garage sale, rummage sale or similar activity shall be allowed without a temporary zoning permit for a period not to exceed four (4) days within a six (6) month period. Such activities in operation for a period of time in excess of four (4) days shall require a temporary zoning permit from the Zoning Administrator.
- b) In no instance shall more than four (4) garage sales, rummage sales or similar activity be held in any one location within any twelve (12) month period.
- c) All such sales shall be conducted a minimum of thirty (30) feet from the front lot line and fifteen (15) feet from a side lot line.
- d) All signs advertising a garage sale shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.

7) Outdoor Display of Merchandise: Outdoor display and sales of merchandise is permitted within Village Center or General Commercial districts, but is limited to only merchandise that is brought back into a principal or accessory building on the premises, and/or enclosed within a solid enclosure whose contents cannot be observed from the outside at the close of business each day and is also restricted only to merchandise that is customarily sold on the premises by a permanently established business on that lot. These regulations shall not permit the display of and sales of motor vehicles or items intended for tow. The permitted outdoor display area shall not exceed twenty-five (25) percent (%) of the use's indoor retail sales floor area, except a minimum of two hundred (200) square feet of outdoor display shall be permitted in all cases and no more than eight hundred (800) square feet shall be permitted in any case.

8) Temporary Real Estate Offices: Are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The permit shall be valid for not more than one (1) year, but may be renewed by the Zoning Administrator. The office shall be removed upon completion of the development of the subdivision.

9) Auctions: The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within thirty (30) feet of any street or road right-of-way.

10) Firewood Sales: Firewood sales shall be limited to firewood cut from that parcel or lot only. Storage of firewood for sale and use by persons off the premises shall be restricted to the side and rear yards.

11) Performance Guarantee: The Zoning Administrator may require a performance guarantee in the form of cash, or irrevocable letter of credit be deposited with the

City Treasurer in an amount equal to the estimated cost of removing any temporary use or structure authorized under this Section should it not be removed by the applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the City harmless against any claim for damages if the City were to subsequently use the performance guarantee to remove the temporary structure or use after its authorized period has expired. The performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed by the applicant.

12) Application: A temporary zoning permit may be approved, modified, conditioned, or denied by the Zoning Administrator. The Zoning Administrator may refer the application to the Planning Commission.

13) Permits: A written temporary zoning permit will be issued for all temporary uses or temporary structures and shall contain the following information:

- a) The applicant's name.
- b) The location and effective dates of the temporary use or structure.
- c) Conditions specified by which the permit was issued, such as:
  1. use and placement of signs.
  2. provision for security and safety measures.
  3. control of nuisance factors.
  4. submission of performance guarantee.
- d) Signature of the Zoning Administrator on the permit.
- e) Signature of the applicant, if required, agreeing to the provisions above.

14) Conditions of Approval:

- a) The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary 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, with particular regards to 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 the City Sign Ordinance.
- g) Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

- h) The Zoning Administrator may impose conditions with the issuance of the permit which are designed to 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 there under.
- i) Permits which are renewable shall have an application filed for renewal at least fifteen (15) days prior to the expiration date of the current permit, except that applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit.

15) Revocation: Upon expiration or revocation of a temporary zoning permit for a temporary use or structure, 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:

- a) That circumstances under which the original application was filed have materially changed;
- b) That the temporary zoning permit was obtained by misrepresentation or fraud.
- c) That one (1) or more of the conditions of the temporary zoning permit have not been met; and
- d) That the use is in violation of any statute, Ordinance, law, or regulation.

16) Appeal: An appeal of a decision by the Zoning Administrator or Planning Commission relative to denial of a temporary zoning permit for a temporary use or structure or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Article 29 of this Ordinance.

### **Section 16.15 Temporary Housing Permits**

The Zoning Administrator may issue temporary housing permits for structures for dwelling purposes, including mobile homes, subject to the following limitations and procedures.

1) Emergency Housing: When a dwelling is destroyed by fire, collapse, explosion, Acts of God, or acts of a public enemy to the extent that it is no longer safe for human occupancy, as determined by the Building Inspector, a temporary housing permit may be issued to allow a mobile home of less than twenty (20) feet in width to be placed on the property upon the request of the owner. Said permit shall be in effect for no more than six (6) months, any extension must be approved by the Planning Commission who may grant the same for a period of not more than one (1) year during which time a permanent dwelling shall be erected on the property.

2) Conditions: A temporary housing permit shall not be granted, for any reason, unless there is a written finding that:

- a) Evidence that the proposed location of the temporary dwelling will not be detrimental to property within three-hundred (300) feet.
- b) Proposed water supply and sanitary sewer facilities have been approved by the Allegan County Health Department.
- c) All applicable dimensional requirements for setbacks, bulk and yard requirements within said district shall apply to temporary dwellings and in no case shall the temporary dwelling be located so as to block a motorist's view of a driveway or street.
- d) A performance guarantee in the amount of three thousand dollars (\$3,000) shall be required from the property owner prior to placing a mobile home for temporary use, to ensure removal of the mobile home at termination of the permit. Or, by specific agreement of the City Planning Commission, the owner may provide a letter of credit from a local bank or savings institution.

### **Section 16.16 Swimming Pools**

1) Classification: A swimming pool, whether above or below ground, shall be considered as an accessory building for the purposes of determining required yard spaces and maximum lot coverage subject to Section 16.13(5) of this Ordinance.

2) Application: The application for a Zoning Permit to erect a swimming pool shall include the name of the owner, the manner of supervision of the pool, a plot plan and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the Zoning Administrator.

3) Fencing: Yard areas with pools are to be fenced to discourage unsupervised access.

- a) Such fencing is to be a minimum of five (5) feet high, and equipped with a self-closing and self-latching gate.
- b) Latching devices are to be located at a minimum height of four feet above the ground.
- c) Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured.

4) Sanitation: Any swimming pool shall not be used unless adequate public health measures are periodically taken to ensure that the use thereof will not cause the spread of disease. The swimming pool shall be kept clean and the water used there shall be filtered and sterilized by chlorination. Sanitation standards as now or any time adopted by the State Department of Health, the County Health Department or the City to protect the public health shall be conformed with.

- 5) Placement: No swimming pool shall be located in an easement.
- 6) Setbacks: No swimming pool shall be located in any required front yard.
- 7) Lighting: No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance to surrounding properties.
- 8) Overhead wiring: Service drop conductors and any other open overhead wiring shall not be installed above a swimming pool.

### **Section 16.18 Keeping of Animals**

- 1) Wild Animals: No wild or vicious animal shall be kept permanently or temporarily in any district in the City except in an AAZPA (American Association of Zoological Parks and Aquariums) accredited facility.
- 2) Domestic Pets: The keeping of domestic pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any residential zoning district provided that the number of pets does not exceed those for which the kennel provisions of this Ordinance apply and the General Law Ordinance of the City. Livestock are not considered household pets.

### **Section 16.19 Maintenance of Junk Prohibited**

It shall be unlawful to have, possess, or maintain junk, or inoperable or abandoned motor vehicles on any property in the City, see Ordinance #114.

### **Section 16.20 Environmental Protection Standards**

- 1) Site Plans, Special uses, And Construction Activities: All site plans, special uses, planned unit development, condominium subdivisions and construction activities shall conform with the provisions of this Ordinance and the regulations and standards of the following:
  - a) Published surface water drainage standards of the Allegan County Drain Commission.
  - b) Applicable fire safety and emergency vehicle access requirements of the State Construction Code, State Fire Marshall and local Fire Code.
  - c) Allegan County Soil Erosion and Sedimentation Ordinance.
  - d) Requirements of the Michigan Department of Public Health and the Allegan County Health Department.
  - e) Allegan County Building Code and/or the State Construction Codes.
  - f) Michigan Department of Natural Resources requirements for air or water quality protection, wetlands, stream crossings, fills in or near water bodies or in floodplains, and for waste disposal.

- g) All local, county, state and federal regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances.

2) Sensitive Lands:

- a) Where a portion of a parcel is characterized by wetlands, hydric soils, floodplains, sand dunes, or slopes greater than 12%, new development on the parcel shall occur on those buildable portions of the parcel without such sensitive resources.
- b) The Zoning Administrator shall not issue a Zoning Permit for any land use which requires any other agency, county, state, or federal permit(s), until such permit(s) has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.
- c) The City may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

3) Clearing of a Site: It shall be unlawful for any person, individual, partnership, corporation, association or other legal entity to engage in land clearing of any site, parcel, or lot within the City without first receiving an approved Zoning Permit. To do so constitutes a violation of this Zoning Ordinance. Stripping and removal of topsoil from the site is prohibited. Land clearing means: The removal of vegetation from any site, parcel or lot in an amount greater than ten thousand (10,000) square feet in size or the removal of more than 20 trees more than six (6) inches in diameter at breast height within fifty (50) feet of a public street or approved private road, except when land is cleared and cultivated for bona fide agricultural or garden use in a district permitting such use. Mowing, trimming or pruning of vegetation to maintain it in healthy, viable condition is not considered clearing.

4) Grading and Filling: In order to protect adjacent properties, public roads, public water courses, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this Ordinance.

- a) Flow Restrictions: 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 and is managed in a manner which avoids: increased flow onto adjacent properties or public roads, the erosion or filling of a roadside ditch, the blockage of a public water course or the creation of standing water over a private sewage disposal drainage field.
- b) Elevation Restrictions: Filling with earth or other materials of a parcel of land to an elevation above the established grade of adjacent developed land is prohibited without the expressed written approval of the City Engineer and Zoning Administrator.



- c) Natural watercourses which provide drainage from or through a proposed site shall be maintained in a natural state, or as an open grass swale, unless design flow clearly warrants the enlargement of the watercourse or deepening of the drain. The installation of underground pipes or tile drains is discouraged except when necessary for the purpose of public safety.
- d) See also the requirements of Section 16.22 (3)

### **Section 16.21 Shorelines**

The following regulations apply to every new waterfront lot created after the effective date of this Ordinance and on every existing lot on which a dwelling is being erected for the first time along the shorelines of the Kalamazoo River or Lake Michigan. These requirements are not subject to regulatory flexibility associated with a PUD project.

1) Designation of Shoreline Protection Strip: A shoreline protection strip shall be established with the following characteristics:

- a) A natural vegetation strip from the ordinary high water mark to a distance of thirty (30) feet inland shall be established and maintained except a seawall may be constructed when it is determined by the Zoning Administrator that a seawall is the established practice of the majority of lots in the vicinity. The seawall determination can only be made at the time when a dwelling is proposed for construction and must conform with all applicable federal, state and local laws.
- b) Natural shrubbery, trees, or other vegetation shall be preserved as far as practicable, and where removed shall be replaced with other naturally occurring vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty. A mowed lawn is not a desirable vegetation strip adjacent to the shoreline. Native plants, shrubbery and trees are encouraged when new vegetation is planted.
- c) Existing soil and organic matter shall not be altered or disturbed within the natural vegetation strip.
- d) Within the natural vegetation strip no structures shall be permitted, with the exception of docks, boat ramps, pump houses, previous walkways, and elevated walkways which provide the property owner with reasonable access to the water. Dock lighting is discouraged. All dock lighting shall be shielded and directed so as to prevent light and glare on adjoining properties or into the night sky.
- e) No unsightly, offensive or potentially polluting material including, but not limited to lawn clippings, leaves, garbage, trash, refuse, junk cars, junk appliances or toxic materials shall be dumped or stored within the natural vegetation strip .

- f) These provisions shall not apply to the removal of dead, diseased or dying trees at the discretion of the landowner, or to silvicultural thinning upon recommendation of a professional forester.

2) Setbacks:

- a) All principal uses of land adjacent to the Kalamazoo River or Lake Michigan shall be set back according to the requirements in b) below, except for the following uses: pump houses, recreational docks, boat houses, fishing piers, erosion control devices and associated facilities when located and designed so as not to unreasonably interfere with, degrade or decrease the enjoyment of existing uses and water resources.
- b) Setbacks from the ordinary high water mark of any natural or artificially created lake shall be:
  - 1. Fifty feet for any principal structure.
  - 2. One hundred feet for any well or septic system.
  - 3. Fifty feet for every parking lot or parking area.
  - 4. Fifty feet for any roads, driveways, or recreational trails unless no alternatives exist, then they may be placed closer, but must be designed to minimize adverse impacts.

3) All waterfront development shall comply with the City Waterfront Construction Ordinance #101.

**Section 16.22 Roads, Water, Sewage and Stormwater Standards**

1) Roadway Network: All site plans and land uses requiring a Zoning Permit shall comply with driveway and traffic safety standards of the Michigan Department of Transportation and the Allegan County Road Commission. Large scale development will be expected to provide de-acceleration lanes, right turn lanes, bypass lanes, and other access management improvements. (See Article 18 and Section 16.31).

2) Potable Water and Sewage Disposal:

- a) Any structure for human occupancy after the effective date of this Ordinance shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes. All other buildings shall provide potable water and waste water disposal per the requirements of the building regulations of the City of the Village of Douglas.
- b) All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Allegan County Public Health Department as well as those of other applicable local, county, state, or federal agencies. A sanitary sewer system serving two (2) or more dwellings shall meet all

federal, state, county and City requirements for a public sanitary sewer system and shall be operated and maintained as a public system.

3) Storm water Management:

- a) All lots shall retain storm water runoff on-site, or detain it so as to allow discharge without any impact on adjacent lands, streams or water bodies, above the existing predevelopment runoff impact.
- b) Development of all lots shall conform with the soil erosion and sedimentation requirements of the County and any special requirements of the Drain Commission.
- c) The Zoning Administrator shall have the authority to require the owner to develop and submit, as part of the zoning permit application, an approved plan for detaining storm water where hydric soils, wetlands, steep slopes or similar conditions are present. In this event, the Zoning Administrator may require that the plan be prepared by a registered civil engineer or other suitable professional and may withhold the zoning permit until such evidence is submitted.

**Section 16.23 Conditional Approvals**

1) Conditions on Discretionary Decisions. The Planning Commission, Zoning Board of Appeals, and City Council may attach conditions to the approval of a site plan, special use, planned unit development, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

- a) Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- b) Protect the natural environment and conserve natural resources and energy.
- c) Ensure compatibility with adjacent uses of land.
- d) Promote the use of land in a socially and economically desirable manner.

2) Requirements for Valid Conditions; Conditions imposed shall meet all of the following requirements:

- a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- c) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land

use or activity under consideration, and be necessary to ensure compliance with those standards.

3) Record of Conditions: Any conditions imposed shall be recorded in the record of the approval action.

4) Subsequent Change of Required Conditions: These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

5) Performance Guarantees: Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 23.06.

### **Section 16.24 Condominiums**

1) **PURPOSE.**

(a) Tracts of land that are developed and sold as condominium or site condominium developments are not subject to regulation under the Michigan Land Division Act of 1967. The City determines it is in the best interest of public health, safety, and welfare to regulate the creation of condominium and site condominium developments to assure that these developments will not adversely affect the occupants thereof, adjacent properties, or the City.

(b) This Section regulates condominium developments, whether for residential use or non-residential use.

(2) **DEFINITIONS.** For purposes of this Section, the following words and phrases are defined as follows:

(a) "Building envelope" means the area around a condominium building within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the condominium project. In a residential condominium project, the building envelope refers to the area around each condominium building within which the dwelling unit(s) and any accessory structures may be built.

(b) "Condominium project" means a project consisting of not less than two condominium units established in compliance with the Condominium Act, Act 59 of the Public Acts of Michigan of 1978, as amended.

(c) "Condominium project plan" means the plans, drawings and information prepared for a site condominium project as required by Section 66 of the Condominium Act and as required by this Section for review of the project by the Zoning Administrator, Planning Commission and the City Council.

(d) "Condominium unit" means a condominium unit established in compliance with the Condominium Act which consists of a volume of surface or subsurface vacant air space, designed and intended for

separate ownership and use as described in the condominium master deed. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a condominium unit shall be deemed to be a dwelling, if for residential use, or shall be deemed to be a building or portion thereof, if for an approved nonresidential use.

Except as otherwise provided by this Section, words or phrases shall have the meanings as defined in the Condominium Act.

- (3) **COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS.** No construction, grading, tree removal, soil stripping or other site improvements or changes shall be commenced for a condominium project until:
- (a) A final condominium project plan has been approved by the City Council;
  - (b) All conditions to commencement of construction imposed by the City Council have been met; and
  - (c) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.
- (4) **APPLICATION FOR CONDOMINIUM APPROVAL.** An application for condominium approval shall include the following information:
- (a) A condominium project plan which includes the documents and information required by Section 66 of the Condominium Act.
  - (b) To the extent it is not already included in the condominium project plan, the following information shall also be provided:
    - (i) The information required for site plan review by Article 24 of this Ordinance.
    - (ii) Layout and dimensions of each condominium building, and the building envelope for such building. The condominium project plan for all types of condominium developments, whether containing detached or attached units, shall depict a building envelope around each building so as to demonstrate compliance with the minimum lot area requirement, the minimum lot width requirement, and the minimum building setback requirement of the zone district in which the building is located, and where applicable, the building placement and separation requirements of the zone district in which the building is located; provided, however, that if the condominium

is a planned unit development under Article 27, the City Council, upon recommendation of the Planning Commission, may approve departures or modifications in the requirements stated in this subparagraph (ii), under the terms of Article 27 of this Ordinance and accordingly, the condominium project plan may depict any such requested departures or modifications.

- (iii) Written approval of the proposed design and location of the entrance to the condominium development from the Allegan County Road Commission as applicable.
- (iv) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed including a copy of the draft master deed and by-laws.
- (v) A storm drainage and a storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- (vi) A utility plan showing all water and sewer lines and easements to be granted to the appropriate municipality or public utility for installation, repair and maintenance of all utilities.
- (vii) A narrative describing the overall objectives of the proposed condominium project.
- (viii) A narrative describing the proposed method of providing potable water supply, and sanitary sewage disposal facilities and other utilities.
- (ix) RESERVED FOR FUTURE USE private streets, if any, within the proposed condominium project.

(5) REVIEW OF PRELIMINARY PLANS BY THE PLANNING COMMISSION.

- (a) Condominium project plan review shall be commenced by filing with the City Clerk 15 copies of a preliminary condominium project plan which complies with Section 16.24(4), together with an application fee and escrow deposit established by resolution of the City Council.
- (b) The City Clerk shall forward the copies of the preliminary plan to the Zoning Administrator who shall review the preliminary plan and forward copies to the City Planner, City Attorney, and City Engineer, who shall review the plan and provide comments thereon to the Planning Commission. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected

application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the Planning Commission on completion of review thereof by the City Planner, the Attorney and the Engineer.

- (c) The Planning Commission shall review the preliminary condominium project plan in accordance with the standards of Section 16.24(7) and other applicable procedures, standards and requirements provided by this Ordinance.
- (d) After reviewing the preliminary condominium project plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed condominium project, including any suggested or required changes in the plan. The Planning commission shall provide a copy of its written recommendations to the applicant and to the City Council.

(6) REVIEW AND APPROVAL OF FINAL PLANS BY CITY COUNCIL.

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the City Clerk a minimum of 15 copies of a final condominium development plan which complies with the requirements of this Section and of Section 16.24(7). The City Clerk shall forward the copies of the final plan to the Zoning Administrator who shall review the final plan and forward copies thereof to the City Planner, City Attorney, and the City Engineer, who shall provide any comments to the City Council regarding the plan.

If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the Zoning Administrator shall forward it to the City Council on completion of review thereof by the City Planner, the Attorney and the Engineer.

- (b) The final condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission.
- (c) After receiving the Planning Commission's recommendations on the

preliminary plan and a final condominium development plan from the applicant, the City Council shall proceed to review and may approve, deny or approve with conditions, the plan in accordance with the standards provided by Section 16.24(7) and other applicable procedures, standards and requirements provided by this Ordinance.

- (d) As a condition of approval of a final condominium project plan:
  - (i) The City Council shall require that the plan be submitted to the County Health Department, County Road Commission, County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Public Health, Michigan Department of Environmental Quality, and other appropriate state and county review and enforcement agencies (“the Agencies”) having direct approval or permitting authority over any aspect of the proposed condominium project.
  - (ii) The City Council may impose additional reasonable conditions of approval as provided by Section 16.23 and any other provisions of this Ordinance, any other City ordinance, state law or regulation, or any other applicable law or regulation.
  - (iii) The City Council, in its discretion, may require reasonable performance guarantees or assurance deemed satisfactory in the circumstances and authorized by law. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved final condominium project plan, including any conditions thereto, and construction and placement of all the improvements required thereby. In its discretion, the City Council may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Council.

(7) **STANDARDS FOR APPROVAL.** To receive approval, a condominium project plan shall satisfy the following requirements:

- (a) The plan shall satisfy the standards and requirements for site plan approval in Article 19 of this Ordinance, except that if the condominium project is proposed as a Planned Unit Development, subparagraph (b) shall apply, rather than this subparagraph (a).
- (b) If the condominium project is proposed as a Planned Unit Development, the plan shall satisfy the standards and requirements for approval in Article 27 of this Ordinance.
- (c) The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, shall comply with



all requirements of the Condominium Act or other applicable laws, ordinances or regulations. The Zoning Administrator, City Planner, City Attorney, City Engineer, City Fire Chief, Kalamazoo Lake Sewer and Water Authority, Allegan County Drain Commission or other appropriate persons shall be consulted as necessary to make this determination.

- (d) Each condominium building shall comply with all applicable provisions of this Ordinance, including, but not limited to, minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height and other minimum provisions of the applicable zone district; provided, however, that if a condominium building is located in a planned unit development under Article 27, the City Council, upon recommendation of the Planning Commission, may approve departures or modifications in the requirements stated in this subparagraph (d), under the terms of Section 27.4 of this Ordinance.
  - (e) If a condominium project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Allegan County Road Commission.
  - (f) Private streets may be permitted to provide access to and throughout a condominium project, subject to the following requirements:
    - (i) All private streets shall comply with Section 18.02 of this Ordinance.
    - (ii) Provisions in the Master Deed and Bylaws shall obligate the developer and/or owner's association to assure that all the private streets are regularly maintained, repaired and snowplowed so as to assure that they are safe for travel at all times. The Master Deed and/or Bylaws shall also include a provision indemnifying and holding the City harmless from any and all claims for personal injury and for property damage arising out of the failure to properly construct, maintain, repair and replace the private streets.
  - (g) Each unit in the condominium project shall be provided with public utility services in accordance with City requirements.
- (8) **CONSTRUCTION IN COMPLIANCE WITH APPROVED PLAN.** No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a condominium project except in compliance with a final condominium project plan as approved by the City Council, including any conditions of approval.
- (9) **COMPLETION OF IMPROVEMENTS.** No building or occupancy permit for a condominium unit in an approved condominium project shall be issued until construction of all required improvements has been completed and approved

by the City, or security for completion of such improvements has been provided.

- (10) EXPANDABLE OR CONVERTIBLE CONDOMINIUM PROJECTS. Approval of a final condominium project plan shall not constitute approval of expandable or convertible portions of a condominium project unless the expandable or convertible areas were specifically reviewed and approved by the City Council in compliance with the procedures, standards and requirements of this Section.
- (11) REVISIONS OF APPROVED FINAL CONDOMINIUM PROJECT PLAN. Changes to a development for which a final condominium plan has been approved are subject to this section.
- (a) Any change which constitutes an exempt change shall not be subject to review by the City under this Section, but a copy of the exempt change shall be filed with the City Clerk. "Exempt change" means:
- (i) A change in the name of the development; in the name of a street within the development; or in the name of the developer;
  - (ii) A change in the voting rights of co-owners or mortgagees; or
  - (iii) Any other change in the condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the Zoning Ordinance.
- (b) Any change which constitutes a minor change shall be reviewed and either approved, denied, or at the discretion of the Zoning Administrator referred to the Planning Commission for action. Any such minor change referred to the Planning Commission may be reviewed and either approved or denied by the Planning Commission. A minor change includes any change that will result in:
- (i) A decrease in the number of condominium units;
  - (ii) A reduction in the area of the building envelope for any condominium unit;
  - (iii) A reduction of less than 5 percent in the total combined area of the general common elements of the condominium project;
  - (iv) A reduction in the total combined area of all limited common elements of the condominium; and,
  - (v) A reduction in the cubic square footage of the proposed units.

- (c) Any change not defined as a minor change shall be considered a major change. A major change shall be reviewed by the Planning Commission and shall also be reviewed by the City Council and either approved, denied, or approved with conditions, as provided in this Section for the original review and approval of condominium project plans.
- (12) INCORPORATION OF APPROVED PROVISIONS IN MASTER DEED. All provisions of an approved condominium development plan shall be incorporated by reference in the Master Deed for the condominium project. The City shall require review and approval by the City Attorney prior to recording. A copy of the Master Deed as recorded with the County Register of Deeds shall be provided to the City within 10 days after recording.
- (13) TIME LIMITATION ON DEVELOPMENT.
- (a) Each condominium development permitted pursuant to this Section shall be under construction within one year after the date of approval of the final condominium development plan by the City Council. If this requirement is not met, the City Council may, in its discretion, grant an extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the condominium development.
  - (b) If the condominium development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission and City Council under the terms of this Section.
  - c) All development is in conformance with the provision of the zoning ordinance.

### **Section 16.25 Single Family Dwelling Unit Standards**

All single family dwelling units, including site constructed housing, modular housing, mobile homes or other manufactured housing and earth sheltered dwellings shall comply with the following standards:

- 1) A single family dwelling unit shall contain a minimum of one-thousand (1,000) square feet exclusive of basements, garages, porches and breezeways and comply in all respects with the building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with federal or state standards or regulations for construction (as in the case of mobile homes) and where such

standards or regulations for construction are different from those imposed by the building code, then such federal or state standards or regulations shall apply.

2) A single family dwelling shall have a minimum core area of living space of at least twenty (20) feet by twenty (20) feet in size and shall be at least twenty-four (24) feet in width.

3) The single family dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single family dwellings. In the event that 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, and shall be set on a concrete footing with a masonry wall extending from perimeter to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt extending from perimeter to ground, such skirt shall be of commercial quality or equivalent, and with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards".

4) In the event that a single family dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.

5) The single family dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the Allegan County Health Department.

6) The single family dwelling shall contain storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one-hundred (100) square feet, whichever shall be less. (See Section 16.13).

7) The single family dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity including:

- A. A roof pitch that conforms with the Building Code for the type of site constructed housing or a manufactured roof with a roof pitch that conforms with HUD requirements when placed on a manufactured dwelling, with either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
- B. No fewer than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected

to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same..

- C. 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 subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of thirty (30) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located in the City within three hundred (300) feet of the subject dwelling where such area is developed with dwellings; or, where said area is not so developed, by the general character, design and appearance of residential dwellings located in the City. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home such as an earth sheltered dwelling whose location will not significantly disrupt the character of the area.

8) The single family dwelling shall not contain additions or rooms or other areas which are not constructed with similar or better quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

9) The single family dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction, plumbing, electrical equipment and insulation within and connected to the mobile home shall conform to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

10) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinances of the City pertaining to such parks.

### **Section 16.26 Signs**

The City Sign Ordinance and sign permit requirements shall apply to all uses permitted in this Ordinance.

### **Section 16.27 Underground Utilities**

Upon the effective date of this Ordinance, all service lines for electrical, telephone, cable TV, or other form of utility cable service serving developments with more than

a single lot shall be installed below ground, between the existing point of availability and the buildings or structures within the interior of a lot.

### **Section 16.28 Setback from Overhead and Buried Utility Lines**

In accordance with Act 53 of 1974, as amended, no excavation or construction shall begin without prior notice, inspection and, marking of utility lines. In order to coordinate permitting procedures, and ensure compliance with Act 53 of 1974, as amended; no principal or accessory building shall be established within seven (7) feet of an overhead electrical line without the prior written consent of the public utility having jurisdiction. Further, no principal or accessory building shall be situated beneath an electrical service line.

### **Section 16.29 Neighborhood Parks**

#### 1) Location Standards:

- a) Neighborhood parks are permitted as designated in the Ordinance.
- b) A neighborhood park shall have direct abutting access to an existing public street, private road, or a sidewalk or bicycle path that is open to the general public.

#### 2) Site Requirements:

- a) Neighborhood parks shall not have an area greater than one (1) acre. No minimum area is required.
- b) Off-street parking is not required unless a ball field, tennis court, basketball court or similar recreational facility is provided.
- c) The hours of operation shall be conspicuously posted on the property.
- d) A bicycle rack capable of holding six (6) or more bicycles.
- e) All playground equipment shall be commercial grade and installed in accordance with the manufacturer's instructions. Any other construction on the site shall require approval by the Building Inspector.

#### 3) Performance Standards:

- a) Appropriate screening shall be provided to limit noise reaching adjacent land uses.
- b) Fencing may be required where necessary to protect adjoining lots.
- c) Renting of pavilions, space for exclusive use, or commercial use of the facility is prohibited.

### **Section 16.30. Keyholing**

In any zoning district where a parcel of land is contiguous to a lake, channel, or stream, such parcel of land may be used as access property or as common open space held in common by a subdivision, associated or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use

under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront, only if the following conditions are met:

- 1) That said parcel of land contain a minimum of seven thousand (7,000) square feet; fifty (50) lineal feet of water frontage for each individual dwelling unit or each single family unit to which such privileges are extended or dedicated. The minimum depth for such a parcel shall be one - hundred forty (140) feet. No access property so created shall have less the two - hundred (200) feet of water frontage with at least fifty (50) lineal feet of water frontage for each individual dwelling unit. Frontage shall be measured by straight line which intersects each side lot line at the water's edge.
- 2) That in no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be wetland by the Michigan DNR; and that in no event shall a swamp, marsh, or bog be altered by dredging, the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.
- 3) That in no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
- 4) That access property, as provided for in and meeting the conditions of this ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial or business use.
- 5) That piers or docks on such access property shall not be closer than fifty (50) feet from another pier or dock, nor longer than 120% of the average of the four (4) adjacent residential lot piers or docks on either side of the access property to a maximum length of fifty (50) feet of lot frontage.

### **Section 16.31. Clear Vision Corner**

The following regulations shall apply to all landscaping, fences, walls, screens, or similar devices at the intersection of driveways with public streets or approved private roads or where streets or private roads intersect:

- 1) A fence, wall, sign, screen or planting shall not exceed three (3) feet in height if located within the twenty (20) foot clear vision zone shown in Figures 18.1 through 18.4.
- 2) A fence, wall, sign, screen or planting shall not be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility as determined by the Zoning Administrator or Planning Commission, as applicable.

3) No structure, hazard or obstruction shall be placed or maintained in the right-of-way of any public street, except as may be approved by the road authority with jurisdiction over the street.

### **Section 16.32. Wind Energy Conversion System**

Wind Powered Generators. To be treated as an accessory structure, wind powered generators shall meet the standards of this section.

- 1) Wind Powered Generators shall be sized and intended only to supplement the electricity need of the property on which they are located.
- 2) Such structures shall only be located in the rear yard, but outside the required rear or side yards.
- 3) The diameter of the generator blades shall not exceed eight (8) feet.
- 4) A free standing Wind Powered Generator shall comply with the maximum height permitted for the zoning district. A Wind Powered Generator attached to the primary use may not be taller than ten (10) feet above the roof structure.
- 5) A Wind Powered Generator shall be so located on the premises that a distance at least equal to the height of the generator blades at their apogee is provided to the nearest property line.
- 6) The installation of a Wind Powered Generator shall meet all applicable structural and electrical codes.
- 7) A Wind Powered Generator shall be compliant with the City Noise Ordinance.



**ARTICLE 17:  
LAND DIVISION REGULATIONS**

**Section 17.01 Creation of a Platted Subdivision**

New plats shall conform with the requirements of:

- 1) the Land Division Act of 1967, P.A. 288 of 1967,
- 2) Ordinance No. 118, Subdivision Ordinance of the City of the Village of Douglas, and
- 3) all related requirements of this Ordinance.

**Section 17.02 Land Division of Platted Lots**

1) Regulations to Conform With: In accordance with Section 263 of Act No. 288 of the Public Acts of 1967, as amended, M.C.L. 560.263, the division of a lot, outlot or other parcel of land within a recorded plat is prohibited, unless such division is consistent with Section 3.05(5), all other provisions of this Ordinance, and is approved by the City Council after receiving a recommendation from the Zoning Administrator.

2) Application Information: An application for a division of a platted lot shall include the same information as required in subsection 17.03(1) below.

3) Effective Date of Approval: The division of a platted lot for the purpose of adding property to adjacent lots shall not become effective until the date of the actual transfer of property. If the property transfer has not occurred within one hundred and twenty (120) days of the approval action, the City Council shall hold a public hearing prior to determining whether to extend the approval period, or terminate the approval. An extension shall be granted unless there has been a change in local regulations or conditions on abutting properties that no longer make continuation of the original approval in the public interest.

4) A lot line adjustment between two or more adjacent parcels that are exempt from the Land Division Act, PA 288 of 1967 as amended, shall be administratively reviewed and approved by the Zoning Administrator. An application shall be filled as outlined in Section 17.03(1) and a fee paid as per a fee schedule adopted by the City Council.

**Section 17.03 Division of Unplatted Land**

The division of any unplatted land within the City after the effective date of this Section shall receive the approval of the City Council to ensure conformance with the requirements of this Ordinance and the Land Division Act, Public Act 288 of 1967, as well as to prevent the creation of unbuildable lots, thereby protecting purchasers of newly created lots. Prior to action by the City Council, the Zoning

Administrator shall advise as to conformance of the proposed land division with the requirements of this Ordinance and the Land Division Act. A lot line adjustment between two or more adjacent parcels that are exempt from the Land Division Act, PA 288 of 1976 as amended, shall be administratively reviewed and approved by the Zoning Administrator. The following provisions establish the procedure and requirements for review of proposed divisions of land and lot line adjustments.

1) Application Procedure: Application for a land division shall be made to the Zoning Administrator and contain the following information:

- a) The zoning district in which the existing and proposed parcel(s) are located.
- b) The dimensions and legal description of the parcel of land that is proposed for division (parent parcel).
- c) The size and an accurate legal description of the proposed lot or lots to be created and the size of the remaining property with all dimensional requirements of that district depicted, as well as access, street or private road information meeting the requirements of this Ordinance.
- d) A copy of the recorded plat or other official maps depicting the size of lots and other parcels of land in the vicinity.
- e) An affidavit signed by the applicant stating the purpose of the land division and whether or not public sanitary sewer, storm sewer or public water service is existing, available or proposed for each lot created by the proposed division.
- f) A scaled drawing illustrating the proposed land division.
- g) The applicant's ownership interests in the property including proof of fee ownership of the land proposed to be divided.
- h) Proof that all standards of the Land Division Act and this Ordinance have been met.
- i) The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, of 1997, the effective date of the Land Division Act.
- j) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- k) If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer shall be provided.

2) Application Must be Complete: The Zoning Administrator shall review the application and if it is complete, begin review for conformance with this Ordinance and the Land Division Act. If the application is not complete, it shall be returned to the applicant with a list of incomplete information.

3) Zoning Administrator Action: The Zoning Administrator shall recommend approval of only those requests which fully comply with the following standards. The Zoning Administrator shall make a written record of his/her findings and submit them to the City Council for consideration. The written findings shall show conformance or nonconformance with the following standards:

- a) The proposed lot as divided or as joined with an adjacent parcel constitutes a lot conforming with the requirements of the zoning district in which it is located.
- b) The remaining property after the division has occurred constitutes a lot(s) conforming with the requirements of the zoning district in which it is located either in itself or when joined with adjacent property.
- c) A parcel is not being divided into more divisions than permitted by the Land Division Act, P.A. 288 of 1967, as amended, and all the requirements of the Land Division Act are met (see especially Sections 108 and 109 of the Land Division Act).
- d) The division does not involve an outlot intended for a future street access or is otherwise required to further subdivide adjacent property.
- e) All lots resulting from the proposed division that are either occupied by a residential building or are intended for residential, commercial, industrial or other development building sites are to be at least the minimum width, area, square footage, and depth of lots in the district in which the land is located, unless the lots are not to be served by public sanitary sewer and public water service in which case they shall be of a size sufficient to receive a permit for a septic system from the County Health Department. Any lot created after the effective date of this Ordinance shall have a lot width-to-depth ratio not greater than 1:3, unless along the Kalamazoo River.
- f) All newly created lots shall have a buildable area and access to a public or approved private road. The buildable area of a lot shall be a contiguous area of land sufficient in size to erect a principal structure meeting the requirements of this Ordinance, excluding land subject to flooding, poor drainage, slopes greater than twelve (12) percent, rock outcrops, protected sand dunes, regulated wetlands, and/or land encumbered by easements that together or individually would prevent the use of the land for a permitted purpose under existing local, county, state or federal regulations.
- g) The creation of flag lots is not permitted.

4) City Council Action: Following receipt of the recommendation of the Zoning Administrator, the City Council shall approve, disapprove or approve with reasonable conditions to assure compliance with applicable ordinances and the protection of the public health, safety and general welfare, the requested land division within the time required by the Land Division Act. If disapproved, the reason for disapproval shall be stated in the motion.

5) Effective Date of Approval: An approved land division is effective for one hundred and twenty (120) days, after which it shall be considered revoked unless within such a period a document is recorded with the County Register of Deeds office and filed with the Zoning Administrator accomplishing the approved land division or transfer.

6) Record of Approved Land Divisions: The Zoning Administrator shall maintain an official record of all approved and accomplished land divisions or transfers and shall forward copies of each record to the Assessor.

7) Approval of Land Divisions not Meeting Ordinance Requirements: A proposed land division that does not fully comply with the applicable width, depth, area, lot, yard, and accessibility requirements of this Ordinance may be approved in any of the following circumstances:

- a) Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds in a form acceptable to the City, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the City records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height and shall not be used for human habitation.
- b) Where, in circumstances not covered by paragraph (a) above, the Zoning Board of Appeals may grant a variance from the width, depth, lot, yard, depth to width ratio, frontage, and/or other area requirements with which the parcel failed to comply, provided the standards of Section 29.05 are met.
- c) Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties that are not platted, and that does not result in either parcel violating this Ordinance or the Land Division Act.

#### **Section 17.04 Survey Required Prior to Use**

Prior to the issuance of any Zoning Permit or Building Permit to use land divided according to the provisions of this Article, a survey map of the land shall be prepared according to the survey map requirements of 1970 Public Act 132, as amended (MCL 54.211) by a land surveyor licensed by the State of Michigan. The survey shall show the dimensions and legal description of each land division created, the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads. The survey shall be recorded with the County Register of Deeds.

**Section 17.05 Consequences of Noncompliance with Land Division Approval Requirement**

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits or zoning approvals (e.g. Zoning Permits, Variances, Special Use Permit or site plan approval), and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions of this Ordinance, and as otherwise be provided by law.

**Section 17.06 Fees**

Fees may from time to time be established by resolution of the City Council to cover the costs of review of land division applications under this Article.

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**ARTICLE 18:  
ACCESS CONTROL AND PRIVATE ROADS**

**Section 18.01 Access Controls**

1) Curb Cuts and Driveways: Curb cuts, driveways, and passing lanes for other than one (1) lot single family or two family dwellings shall be located only upon the approval of the City Engineer; provided, however, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.

- a) All plans for structures to be erected, altered, moved or reconstructed, and the use of premises within the City shall contain a plan for the proposed driveway access to the premises. Said plan shall be approved by the Zoning Administrator prior to the issuance of a building permit. No such plan shall be approved unless such driveway access is onto a public street or an approved private road. Driveways shall, at a minimum, meet the following standards:
1. All driveways shall enter perpendicular to a public street or approved private road and no closer than ten (10) feet from the lot line of an adjoining parcel; except in the C-2 District, where driveways shall be no closer than 60 feet from the lot line of an adjoining parcel.
  2. No portion of the driveway entrance within the right-of-way shall have a grade of greater than seven (7) percent (7 foot vertical rise in one hundred (100) feet of horizontal distance).
  3. The driveway shall meet clear vision standards of Section 16.31.
  4. Residential driveways shall be a minimum of forty (40) feet from the nearest right-of-way line of an intersecting road or street except on platted lots existing as of September 15, 2007.
  5. Non-residential driveways shall be a minimum of sixty (60) feet from the nearest right-of-way line of an intersecting road or street except on platted lots existing on the effective date of this Ordinance.
  6. Driveways on major thoroughfares shall be limited to one driveway per lot, and said driveways shall be designed such that a vehicle is not forced to back out onto the street right-of-way. Said driveways shall permit the entrance and exit movement of vehicles and shall be limited to one ingress lane and one egress lane, except in the C-2 District, where a 3-lane configuration may be permitted by the Planning Commission as part of the site plan review process.
  7. One way double drives (U shape) are permitted provided the distance between the center lines of the two drives is greater

than fifty (50) feet, except in the C-2 District, where this distance shall be at least one hundred fifty (150) feet. These dimensions shall be measured at the right-of-way line. Directional signs or arrows may be required designating the entrance and exit drives, up to a certain square footage as stipulated by the Planning Commission.

8. The maximum driveway approach width for two-way drives is twenty four (24) feet and eighteen (18) feet each for one-way drives.
  9. One driveway is permitted on public streets other than major thoroughfares and private roads. A single driveway shall permit the entrance and exit movement of vehicles. One way double drives (U shape) are permitted provided the distance between the center lines of the two drives is greater than fifty (50) feet. Directional signs or arrows may be required designating the entrance and exit drives, up to a certain square footage as stipulated by the Planning Commission..
  7. No driveway shall serve more than one (1) dwelling except where shared access is otherwise permitted in this Ordinance (e.g., multiple family dwellings).
  8. New driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all requirements of this Ordinance and the City Engineer are met.
  9. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by the City or County Road Commission or Michigan Department of Transportation, as applicable.
  10. Driveways shall be designed to minimize runoff and erosion.
  11. Culverts shall be installed in line with and on the same grade as the road ditch.
  12. Driveways shall be maintained at a minimum width of twelve (12) feet with a permanent durable and dustless surface and shall be graded to prevent standing water.
- b) The Zoning Administrator or designated Building Inspector shall inspect the driveway as developed for compliance to the above standards prior to issuance of a certificate of occupancy.

2) Nonresidential Access: No access to a nonresidential use of land shall cross residentially-zoned property.

3) Lots to Have Access: All parcels or lots hereinafter created in the City shall have frontage on a public street, or an approved private road or recorded easement, and take their lot access from such frontage so as to provide safe, convenient access for



fire protection, other emergency vehicles, and any required off-street parking. Except that corner lots shall take their access from an approved private road or public street in a platted subdivision or condominium subdivision. Wherever a corner lot exists at the intersection of two (2) major thoroughfares, then access shall be taken from the thoroughfare presenting the least hazard in the opinion of the City Engineer.

### **Section 18.02 Private Roads**

1) Private Roads Permitted: Private roads are permitted provided they conform to the requirements of this Section.

2) Existing Road Width: Where a private road in existence prior to September 15, 2007 has no recorded easement width, the easement width will be considered to be forty (40) feet for the purposes of establishing setbacks and measured equal distance from the midpoint of the road surface.

3) Access required: All private road easements shall include maintenance agreement provisions and shall be approved by the City Attorney before being recorded with the County Register of Deeds.

4) Construction Standards.

- a) A private road that serves three (3) or more parcels in a division of land other than subdivisions as defined by the Land Division Act of 1967, as amended, shall meet or exceed the cross-sectional construction standards established by the Allegan County Road Commission for public roads, except that the paving of a private road is not required unless the private road has two (2) or more connections to a public street, or seven (7) or more lots or dwelling units gain access from the private road.
- b) For existing private roads with two (2) or more connections to a public street or which provide access for seven (7) or more lots which are not under the jurisdiction of a maintenance agreement specifying paving and/or repaving funding, the City Council may apportion the paving costs via a special assessment to all benefiting property owners or decide that all the costs should be borne by the developer of the private road, whichever under the circumstances, seems fair following a hearing at which each of the affected property owners is notified by mail at least fifteen (15) days before the hearing.

5) Right-of-Way and Road Bed Width: All private roads shall have a minimum right-of-way easement width of at least sixty-six (66) feet unless waived by the City Council. Waiver to a narrower width may be considered when seven (7) or less lots are involved, and is discretionary depending on public health, safety, emergency vehicle access, utility line extension and service considerations pertinent to both the property in question and the surrounding area. In no case shall a right-of-way

easement width be less than thirty-three (33) feet in width. Road bed widths for private roads serving seven (7) or less lots shall be at least sixteen (16) feet. Road bed widths for private roads serving more than seven (7), but less than fifteen (15) lots, may not be less than nineteen (19) feet. Road beds for private roads serving fifteen (15) or more lots shall be not less than twenty-four (24) feet.

6) Dedication of Rights-of-Ways or Easements: While not required to be dedicated to the public, no structure or development activity shall be established within approved rights-of-way or easements of a private road.

7) Connection to Public Streets: Construction authorization from the Allegan County Road Commission is required for connection to County roads. When applicable, a permit is also required from the County under the Soil Erosion and Sedimentation Control Act, Act 347. At the discretion of the City Council, a proposed private road may be disapproved unless it connects to another private road or public street when necessary to provide safe traffic flow and/or emergency vehicle access.

8) Cul-de-sacs: Cul-de-sacs shall meet City cross-section specifications and the following requirements:

- a) Any cul-de-sac shall terminate at the property line, except when precluded by a natural barrier or when the cul-de-sac terminates at a lot or parcel within the development that fronts upon the cul-de-sac.
- b) Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 18.3. Frontage on a lot on a cul-de-sac may not be less than eighty (80) percent of the minimum lot width required for the zoning district in which it is located.
- c) Not more than four (4) lots or parcels shall have frontage on a cul-de-sac.
- d) The minimum radius of cul-de-sacs shall meet Allegan County Road Commission standards.

9) Limit on Length: Private roads with only one connection to a public street or another approved private road meeting the requirements of this Ordinance shall not exceed one thousand three hundred and twenty (1,320) feet in length.

10) Maximum Number of Lots Served: A private road in a development with more than twenty-five (25) lots or units shall have at least two (2) points of intersection with another private road and/or public street, so as to protect existing and future residents in case of an emergency or in the event of blockage of an access point and to promote safe traffic flow.

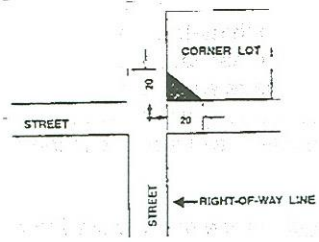


Figure 18-1

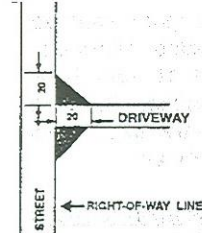


Figure 18-2

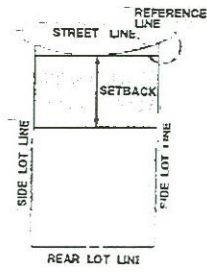


Figure 18-3

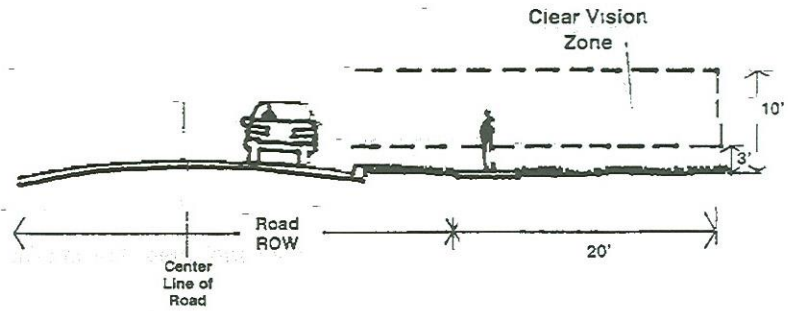


Figure 18 - 4

11) Private Road Construction Application: Application for road construction shall either be made at the same time as for a proposed land division or at least thirty (30) days prior to the meeting date for which the applicant requests consideration. Prior to approval by the City Council, the applicant shall prepare and provide eight (8) sets of a general property development plot plan complying with the requirements of Section 23.03(4)c unless the development requires a site plan pursuant to the requirements of Section 24.02 of this Ordinance. The following additional information shall be submitted:

- a) Road maintenance agreement signed by applicant/owner(s) to be recorded with the City and Allegan County Register of Deeds providing for:
  1. A method of initiating and financing of such road in order to keep the road up to properly engineered specifications and free of snow or debris.
  2. A workable method of apportioning the costs of maintenance and improvements to current and future uses.
  3. A notice that if repairs and maintenance are not made, the City Council may bring the road up to established Allegan County Road Commission standards for public roads and assess owners of parcels on the private road for the improvements, plus an administrative fee in an amount not to exceed twenty-five (25) percent of total costs.
  4. A notice that no public funds of the City of the Village of Douglas are to be used to build, repair, or maintain the private road or road sign.
  5. Funding of the posting and maintenance of the road sign.
- b) Road easement agreement signed by the applicant/owner(s) to be recorded with the City and Allegan County Register of Deeds providing for:
  1. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
  2. A provision that the owners of any and all of the property using the road 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, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the road.

12) Application Review and Approval or Rejection:

- a) The Zoning Administrator shall send the plans for the private road to the City Engineer for review and comment; and the proposed road maintenance agreement and road easement agreement shall be sent to the City Attorney for review and comment.
- b) City Engineer and City Attorney recommendations shall be forwarded to the Planning Commission and City Council.

- c) The private road shall be reviewed by the Planning Commission and a recommendation as to conformance or nonconformance with this Ordinance shall be supplied in writing to the City Council. Said review may be conducted as part of a site plan review process, or at the applicant's discretion, separately if no other development approvals from the City are needed.
- d) If the private road plans are approved by the City Council, construction authorization will be issued by the Zoning Administrator. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.
- e) The Zoning Administrator will arrange for inspections by the City Engineer during construction of, and upon completion of the private road.
- f) The City Engineer's reports shall be forwarded to the City Council.

13) Issuance of Permit for Structures Served by Private Roads: No building or certificate of occupancy shall be issued for a structure or use provided access by a private road until such private road is approved by the City Council.

14) Performance Guarantee: The City Council shall require that a performance guarantee meeting the requirements of Section 23.06 in an amount necessary to cover the cost of any remaining improvements needed at the time the City Council grants approval.

15) Failure to Perform: Failure by the applicant to begin construction of the private road according to approved plans on file with the City within one (1) year from the date of approval shall void the approval and a new plan shall be required by the City subject to any changes made herein or subject to any changes made by the Allegan County Road Commission or the City in its standards and specifications for road construction and development. The private road shall be completed within one and one-half (1 1/2) years of the date of approval of the private road.

16) Posting of Private Roads: All private roads shall be designated as such and shall be clearly posted with a clearly readable name which can be easily seen in an emergency and which conforms with standards used to create City street signs. The sign shall be paid for, posted, and thereafter maintained by the property owner's association or developer. The Zoning Administrator shall check with the County to avoid a duplicate of road names and give approval of same if the Council did not do so.

17) Notice of Easements: All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in same form that it has been recorded with the County Register of Deeds, substantially conforming to the following:

"This parcel of land has private road access across a permanent easement which is a matter of record and a part of the deed.

This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only.

Neither the County nor City has any responsibility for maintenance or upkeep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Michigan P.A. 134 of 1972, as amended.)”

18) Fees: Application fee for review of a proposed private road is to be established by the City Council. Said fee could be separate from or combined with review fees for special uses, planned unit development or site plan review.

## **ARTICLE 19: OFF STREET PARKING AND LOADING**

### **Section 19.01 Intent of Parking Provisions**

It is the intent of this Ordinance to require an adequate number of parking spaces; to require the maintenance of parking areas; and to better assure that the configuration of parking areas would provide a safe circulation pattern for motorists and non-motorists alike.

### **Section 19.02 Computing Space Requirements**

1) Fractional Space: When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

2) Requirements for a Use Not Mentioned: In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. The Zoning Administrator shall make this determination and a record of the rationale applied shall be documented in a file established for that purpose. An appeal may be taken to the Zoning Board of Appeals.

3) Use of Parking Areas: No commercial repair work, servicing or selling of any kind shall be conducted in any parking area or parking garage. Parking areas shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.

- a) No signs are permitted within parking areas, except for one (1) directional sign at each point of access. Said directional sign may bear the name of the enterprise the lot is intended to serve and shall not exceed three (3) square feet in area; shall not obstruct clear vision needed for traffic safety; and shall not project beyond the property line of the premises.

4) Building Additions or Other Increases in Floor Area: Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premise use, parking shall be provided and maintained in the proper ratio to the increased floor area or capacity except that the Planning Commission may waive the parking requirement for additions or modifications which would result in required parking equal to or fewer than four additional parking spaces where it is determined that adequate parking currently exists on the site and appropriate pedestrian and/or bicycle facilities are installed..

5) Joint Use of Parking Areas: Two (2) or more buildings or uses may collectively provide the combined and required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In the instance of such dual use of off-street parking spaces where operating hours of buildings do not conflict or overlap, the Planning Commission may grant an exception to the preceding standard and permit a consolidation of the combined sum of required parking. The sharing of parking shall be guaranteed via a legally binding and recorded agreement between the owner of the parking area and the owner of the building or use which is located on a different lot served by the parking area. Such agreement shall be submitted to the City Attorney for review and approval and address the issue of how parking will be shared and adequate if the parties modify operating hours or other factors. The Planning Commission may waive the requirement for a recorded agreement where it finds sufficient alternative documentation of an assured long-term shared parking arrangement.

6) Multiple Use: When a single parcel of land or building contains more than one use or activity that requires parking spaces, then each use as classified in Section 19.03 of this Ordinance shall be considered separately in calculating the total number of parking spaces required.

### **Section 19.03 Parking Space Requirements**

The number of required off-street parking spaces in the districts shall be provided with the following:

1) One and Two Family Dwellings: Two (2) spaces for each dwelling unit.

2) Multiple Dwellings: Two (2) spaces for each dwelling unit in an apartment or multiple family dwelling plus one space per each three (3) dwelling units for guest parking. A multiple family residential dwelling unit containing less than 900 square feet shall provide only one (1) parking space.

3) Auditoriums (incidental to schools), Churches, Stadiums, Gyms, Theaters, and Buildings of Similar Use with Fixed Seats: One (1) space for each four (4) seats plus one (1) space for every two (2) employees on the largest work shift.

4) Automobile Service and Repair Stations: Two (2) spaces for each repair and service stall (a service stall is not considered a parking space), plus one space per every two (2) employees on the largest work shift.

5) Banks: One (1) space per employee on the largest work shift plus one (1) space for each four hundred (400) square feet of usable floor area.

6) Barber Shops and Beauty Parlors: Two (2) spaces for each beauty and/or barber chair, but in no instance less than three (3) spaces.



7) Boarding and Lodging Houses, Fraternities, Sororities: One (1) space for each bedroom plus one (1) additional space for the owner or operator.

8) Bowling Alleys: Three (3) spaces for each alley plus one (1) space for each employee on the largest work shift plus fifty (50) percent of the spaces otherwise required for any accessory uses (e.g. restaurant, pro shop, etc.).

9) Clinics: Two (2) spaces for each examination or treatment room, plus one (1) space for each doctor or dentist and other employees on the largest work shift.

10) Clothing, Furniture, Appliance, Hardware, Automobile, Machinery Sales, Shoe Repair, Personal Services (other than beauty and barber shops): One (1) space per three hundred (300) feet of usable floor area.

11) Commercial and Institutional Recreational Facilities: One space per three (3) patrons to the maximum capacity of the facility.

12) Convalescent Homes, Convents, Montessori, or Similar Uses: One (1) space for every employee on the largest working shift, plus a paved, unobstructed stacking space for pick-up and drop-off, plus one (1) space per four (4) persons of licensed capacity.

13) Dance Halls, Pool and Billiard Rooms: One (1) space for every three (3) persons allowed within maximum capacity load.

14) Day Care Facilities (day care center and group day care home, but not a family home day care): One (1) space for each employee on the largest working shift, plus a paved, unobstructed stacking space for pick-up and drop-off, plus one (1) space per four (4) persons of licensed capacity.

15) Drive-In Banks, Cleaners, Car Laundries, and Similar Businesses: Stacking space for five (5) cars between the sidewalk area and the principal structure and one (1) space for each employee on the largest work shift.

16) Drive-in Restaurants: One (1) space for every four (4) seats plus one (1) space for each employee on the largest work shift.

17) Excavation Operations and Asphalt Batching Plants: One (1) space for every employee on the largest work shift.

18) Funeral Homes and Mortuaries: One (1) space for every twenty-five (25) square feet of floor area of chapels and assembly rooms.

19) Golf Clubs, Swimming Pool Clubs, Tennis Clubs or Other similar Uses: Four (4) spaces for each green, plus one (1) space for every two (2) employees on the

largest work shift, plus fifty (50) percent of the spaces otherwise required for any accessory uses (e.g. restaurant, pro-shop, etc.).

20) Group Homes (adult foster care): One (1) space per employee on the largest work shift, plus one (1) space for every three (3) residents of the home.

21) Greenhouse: A minimum of six (6) spaces for off-street parking, outside of the public road right-of-way shall be required. Additional parking spaces shall be required at the rate of one (1) space per three hundred (300) square feet of usable floor area exclusive of the growing area.

22) Reserved for future use.

23) Hospitals, Sanitariums: One (1) space for each three (3) patient beds, plus one (1) space for each employee on the largest work shift, plus one (1) space for each visiting doctor.

24) Industrial or Manufacturing Establishments: One (1) space for each employee for industry's largest work shift.

25) Junk yard: One (1) space for each employee on the largest work shift, plus a minimum of six (6) spaces for off-street parking, outside of the public road right-of-way shall be required.

26) Kennels (commercial): One (1) space for each five (5) animals of the facility's capacity, plus one (1) space for each employee on the largest work shift.

27) Laundromat: One (1) space for every three (3) washing or drying machines.

28) Libraries and Museums: One (1) space for every eight hundred (800) square feet of usable floor area plus one (1) space for every two (2) employees on the largest work shift.

29) Marinas: Twenty (20) drive-through vehicle and trailer parking spaces for each boat launching facility plus an additional one (1) space for each 1600 square feet of park, playground, or picnic area, plus one (1) space for each two hundred (200) square feet of beach area, plus seven-tenths (0.7) space for each boat slip.

30) Miniature or Par 3" Golf Courses: Two (2) spaces for each hole plus one (1) space for each employee on the largest work shift.

31) Mini Storage: One (1) parking space shall be provided for each three (3) rental units within the buildings, and one (1) parking space shall be provided for each employee exclusive of drives and access to the units.

32) Mobile Home Park: Two (2) spaces for each mobile home site plus one (1) space per five (5) units for guest parking.

33) Motels, Auto Courts, Hotels: One (1) space for each sleeping unit, plus one (1) additional space for each five (5) rooms, plus one (1) space for each employee on the largest work shift.

34) Post Office: One (1) space for each employee on the largest work shift, plus one (1) for each four hundred (400) feet of usable floor area and if drive-up mail drop service is provided then an off-street queuing area of five (5) car lengths, one hundred (100) feet by ten (10) feet wide shall be provided in addition to the required parking area.

35) Private Recreational Facilities: One (1) space for every three (3) persons allowed based on the capacity of the facility as determined by the fire chief.

36) Offices: One (1) space for every two hundred (200) square feet of usable floor area.

37) Restaurants, Cafeterias, Coffee Shop, Café, Taverns, Bars: One (1) space for every three (3) seats up to the capacity of the facility as determined by the fire chief, plus one (1) for each employee on the largest work shift.

38) Retail Stores, (except as otherwise specified herein): One (1) space for every three hundred (300) square feet of usable floor area.

39) Supermarket, Self-Service Food Store, Department Store, Billiard or Pool Room, Personal Service Shop: One (1) space for every two hundred (200) square feet of gross floor area in the basement and on the first floor each, plus one (1) space for each two hundred (200) square feet of gross floor area on the second floor, plus one (1) for each three hundred (300) square feet on the third floor, plus one (1) for each four hundred (400) square feet on any additional floors.

40) Warehouses: one space for each employee on the largest work shift.

41) Wholesale Businesses (selling at wholesale not to the general public): One (1) space for every eight-hundred (800) square feet of gross floor area.

42) Wholesale Clubs or Stores (serving the general public): One (1) space for every four hundred (400) space of gross floor area.

#### **Section 19.04 Location of Parking Areas**

1) Off-street parking facilities shall be located as hereafter specified. When a distance limit is specified it shall be the walking distance measured from the nearest point of the parking facility to the nearest normal entrance of the building or use that

such facility is required to serve. Property owners shall be responsible to have at all times maintained the minimum standards, as follows:

- a) For all residential buildings and for all nonresidential buildings and uses in residential zones, required parking shall be provided within one hundred (100) feet of the building or use they are required to serve.
- b) For all commercial and nonresidential buildings and uses in business zones, required parking shall be provided on the premises within three hundred (300) feet of the building or use they are required to serve.
- c) For industrial buildings or use, required parking shall be provided on premise or within five hundred (500) feet of the buildings or uses they are required to serve.
- d) Parking areas shall be set back a minimum of five feet from any public right-of-way and in no case shall a new parking area be placed between the principal building on site and the primary street frontage. Parking lots shall be set back from all other property lines a minimum of one half (1/2) the applicable setback requirement unless connected to a parking lot on an adjacent lot, in which case the parking lot may be constructed to the property line.

### **Section 19.05 Site Development Requirements**

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements. These requirements shall apply to all developments where a new building is proposed as well as to lots in which the gross floor area is proposed to be enlarged or expanded by more than 50%.

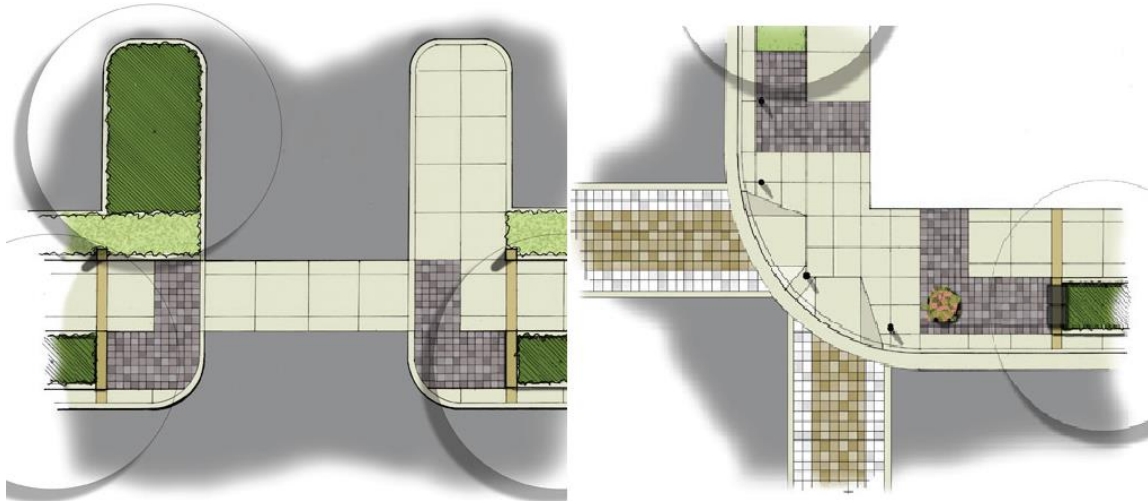
1) Marking and Designation: Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles. Individual parking spaces shall be delineated by paint markings on paved parking surfaces; and the delineations shall parallel the minimum dimensions required for parking spaces.

2) Driveways: Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. Driveways which intersect with a public street or private road shall meet the requirements of Section 18.01.

- a) Except for parking space provided for one-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than twenty-four (24) feet wide and so located as to secure the most appropriate development of the individual property.
- b) Each entrance to and exit from an off-street parking area shall be at least twenty-five (25) feet from any adjacent lot within a residential district.
- c) A minimum separation distance of 12 feet shall be installed between all driveways and buildings or parking areas within 30 feet of a public right of way.

- d) A clearly defined pedestrian crosswalk shall be installed across all driveways. Crosswalks shall be permanently defined by the installation of an alternate material than that used for the majority of the drive, such as stamped and stained concrete, brick or similar materials.

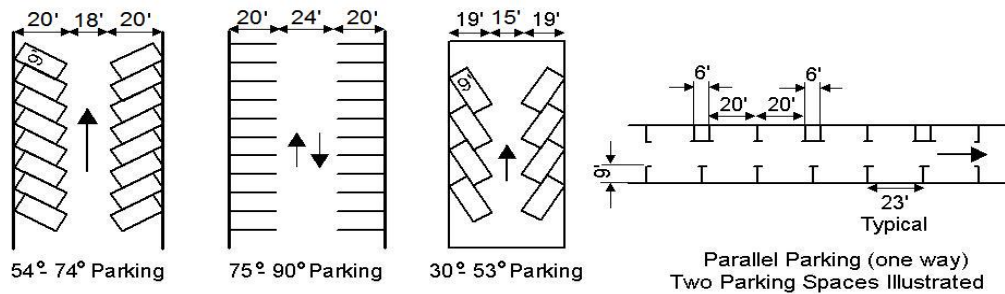
**Defined Crosswalk**



3) Site Maneuverability: Each parking space, within an off-street parking area, shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street right-of-way shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern, as follows: (See Figure 19.1)

- a) For right angle parking patterns seventy-five (75) to ninety (90) degrees, the maneuvering lane width shall be a minimum of twenty four (24) feet.
- b) For parking patterns fifty-four (54) to seventy-four (74) degrees, the maneuvering lane width shall be a minimum of eighteen (18) feet.
- c) For parking patterns thirty (30) to fifty-three (53) degrees, the maneuvering lane width shall be a minimum of fifteen (15) feet.
- d) All maneuvering lane widths of less than twenty four (24) feet, shall permit only one-way traffic movement.

4) Size: All parking spaces shall be at least nine (9) feet wide and twenty (18) feet in length. Up to thirty (30) percent of the required spaces over twenty (20) may be marked for small cars and these spaces may be eight (8) feet by eighteen (16) feet.



Parking Area Dimensions

5) Surface: All driveways and parking areas shall be constructed as provided below:

- a) All driveways, required loading areas and drive aisles intended for regular use shall be constructed of asphalt, Portland cement, paving blocks or similar surfaces.
- b) Parking areas located in the rear of a building may be constructed with crushed concrete, limestone, granite or similar surfaces approved by the City Engineer, subject to the provisions of section 19.05 (5,a). All parking areas shall be graded and maintained at least semi-annually to eliminate dust and rutting. Driveways shall be kept clean of loose gravel particles to avoid runoff into public streets and rights of way. Failure to properly maintain a gravel parking lot shall be considered a nuisance per the standards of the general code of ordinances and may be abated by the City at the cost of the property owner.
- c) Parking lots which are less than 10,000 square feet in area may be constructed entirely of impervious surfaces such as asphalt or Portland Cement.
- d) No property parcel shall contain greater than 10,000 square feet of impervious parking surface unless approved by the Planning Commission as a Joint Use of Parking Area provided within Section 19.02 (5) and only where the applicant has proposed a best practices approach to stormwater management per Article 21 of this ordinance.
- d) Hearty grass covered areas typically used to accommodate overflow or seasonal parking are encouraged. All parking areas shall be graded and drained to dispose of all surface water accumulated within the area.
- e) The total number of required parking spaces shall be reduced by one (1) space for each two (2) parking spaces constructed of pervious pavement, pervious pavers or similar solid materials designed to

provide a significant reduction of surface stormwater runoff. Parking lots constructed of gravel, crushed concrete and similar loose materials shall not qualify for the above noted parking reductions. Where the number of required improved parking spaces is reduced, the Planning Commission may require that overflow parking per Section 19.05(5,d) above be included within the site plan if deemed necessary to accommodate expected seasonal demand.

6) Lighting: Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation.

- a) Lighting shall be designed and constructed in such a manner to:
  1. ensure that direct or directly reflected light is confined to the development site
  2. that all light sources and light lenses are shielded
  3. that any light sources or light lenses are not directly visible from beyond the boundary of the site.
- b) Lighting fixtures shall be a down-type having one hundred (100) percent cut off with no protruding lenses. The light rays shall not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test.
- c) Unless as otherwise approved by the Planning Commission, light sources shall not be visible.
- d) Recreation area and amusement area lighting shall be equipped with baffling or other devices to assure that the above requirements are achieved.
- e) The applicant shall submit the specifications for the lights, poles, fixtures and light sources to the City for approval prior to installation.
- f) The lights shall be put on timers or other devices to come on only as needed after the use closes or the last employee leaves or where a security concern requires a longer lighting period.

7) Landscaping: Where a parking area with a capacity of four (4) or more vehicles is required landscaping shall be provided pursuant to the requirements of Article 21.

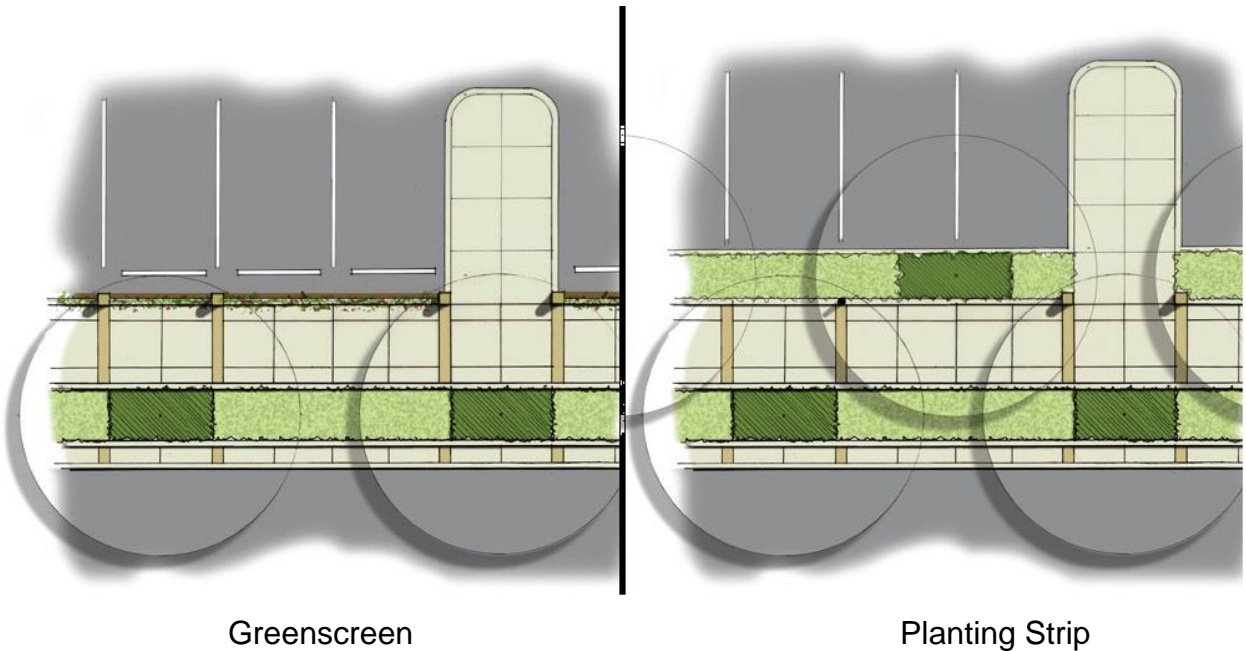
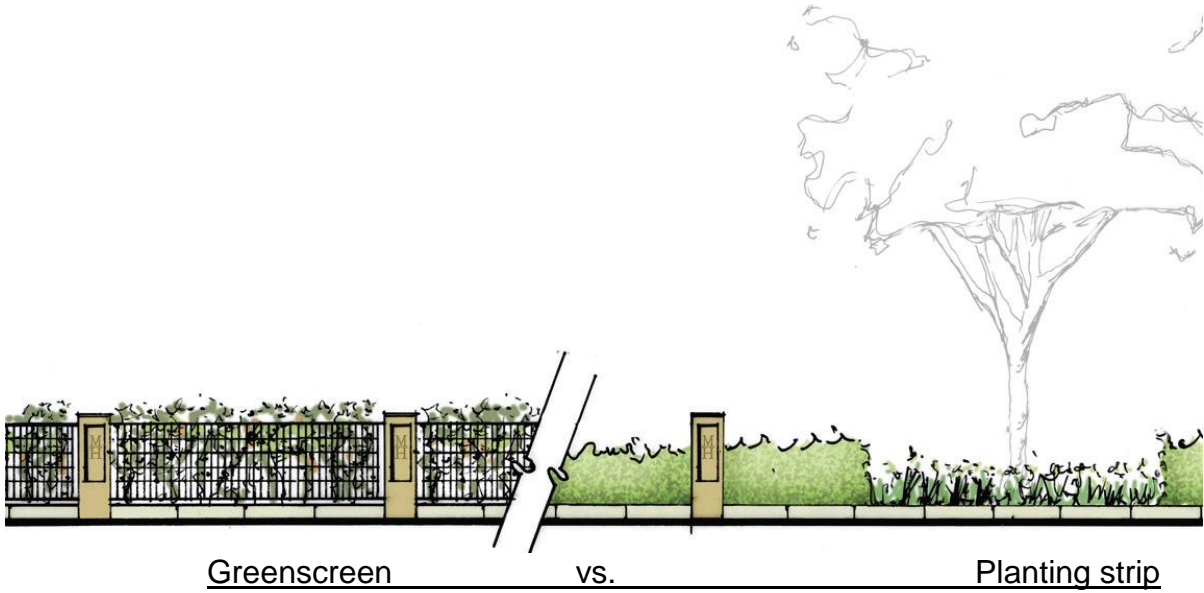
8) Screening: All parking areas shall be screened from adjacent residential properties by a vertical screen no less than three (3) feet in height and shall include no fewer than one tree per 20 feet of parking area which abuts the residential property, to be planted between the parking area and the residential property.

All parking, loading and unloading areas adjacent to a public right of way shall be screened using one of the following methods.

- a) A minimum three (3) foot tall lattice fence and evergreen vines shall be installed and maintained along the entire length of the parking area fronting upon a public right of way. One ten (10) foot opening in the

- fence may be allowed for each 40 parking spaces in order to accommodate pedestrian accessibility to the parking lot, OR
- b) A minimum five foot landscape strip to be maintained with evergreen hedge plantings and street trees as identified within the City of Douglas recommended species list.

Parking Screen Profile





8) Handicapped Parking: Handicapped parking spaces shall be provided in number and location according to the requirements of the American's with Disabilities Act and all applicable Building Code requirements. Handicapped parking spaces shall count toward the required number of parking spaces.

**Section 19.06 Loading and Unloading Space Requirements**

1) Intent and Purpose: In order to prevent undue interference with public use of streets and alleys, every use 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.

2) Additional Parking Space: Loading space required under this Section shall be provided in addition to off-street parking space as required under Section 19.02 and shall not be considered as supplying off-street parking space.

3) Space Requirements: There shall be provided adequate space for standing, loading, and unloading service not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, open or enclosed, for uses listed in the following table, or for similar uses similarly involving the receipt or distribution by vehicles of material or merchandise. Such loading spaces may be shared by more than one business per the standards of Section 19.02(5).

TABLE OF LOADING SPACE REQUIREMENTS

USABLE FLOOR AREA                      Minimum Spaces Required (square feet)

Commercial uses, such as retail stores, personal services, amusement, automotive service.	First 5,000: none next 20,000 or fraction thereof: one space, each additional 20,000 or fraction thereof one space
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Hotels, Offices Clinics	First 5,000; none next 50,000 or fraction thereof; one space; each additional 100,000 or fraction thereof; one space.
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Wholesale and storage contractor's yards.	First 20,000; one space, including building and each additional 20,000 or fraction thereof; one space.
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Manufacturing uses	First 20,000 or fraction thereof
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	one space; each additional 20,000 or fraction thereof; one space.
Funeral Homes and Mortuaries	First 5,000 or fraction thereof; one space; each additional 10,000 or fraction thereof; one space.
Hospitals	First 20,000, one space; next 100,000 or fraction thereof; one space; each additional 200,000 or fraction thereof one space.
Schools, Churches, Clubs, Public Assembly Buildings Auditoriums, Post Offices, Convalescent Homes	For each building, one space
For similar uses not listed	For each building 5,000 or over; One Space

4) Access: Access to a truck standing, loading, and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley.

5) Screening: All loading and unloading areas and outside storage areas, which face or are visible from residential properties or public thoroughfares, shall be screened on all visible sides, by a vertical screen consisting of structural (fence) or plant materials no less than six (6) feet in height in accordance with the provisions of Article 21.

**ARTICLE 20:  
[RESERVED FOR FUTURE USE]**

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**ARTICLE 21:  
LANDSCAPING, BUFFERING AND FENCING**

**Section 21.01 Landscaping, Fencing, Walls, and Screening**

The intent of this section is to promote the public's health, safety, and general welfare by: minimizing noise, air, stormwater and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between incompatible land uses; regulating the appearance of property abutting public rights-of-way; protecting and preserving the appearance and character of the community and its residential neighborhood areas, preventing soil erosion and soil depletion; and promoting best practices in stormwater management.

In addition, it is the goal of this section to create the environment for retaining as many existing, desirable and mature trees as possible during the development and construction processes.

Application of Standards: These requirements shall apply to all uses for which site plan review is required under Article 24, Site Plan Requirements and any other use so specified in this Ordinance. No site plan shall be approved unless it illustrates landscaping, greenbelt buffer zone(s), and/or screening consistent with the requirements of this section.

A Fence Permit is required to erect a fence on property principally used for single or two-family residential purposes. However, all fences erected or replaced after the effective date of this Ordinance shall conform with the requirements of this Ordinance and specifically Subsection 12 of this Section.

2) Landscape Plan Required: A separate detailed landscape plan, may upon determination of the Zoning Administrator, be required to be submitted as part of a site plan review (see Article 24) or by other provisions of this Ordinance. Whether separate, or part of other site plan drawings, the landscape plan shall include, but not be limited to, the following items:

- a) Location, spacing, size, and root type [bare root (BIR) or balled and burlaped (BB)] and descriptions for each plant type proposed for use within the required landscape area.
- b) A scale of at least: 1" = 20'.
- c) Existing and proposed contours at intervals not to exceed two (2) feet and, where requested by the Zoning Administrator, one-hundred (150) feet beyond the site.
- d) Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
- e) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

- f) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
- g) Identification of existing trees and vegetative cover to be preserved as well as that to be removed.
- h) Identification of grass and other ground cover and method of planting.
- i) Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

3) Screening Between Land Uses:

- a) Upon any improvement for which a site plan is required, or whenever a nonresidential use or multiple family dwelling abuts a residentially zoned or used property, the Planning Commission may require that screening be constructed at least six (6) feet in height along all adjoining boundaries with residentially zoned or used property. Either a buffer zone or solid wall may be used to provide the screening as provided below, or when the distance between structures or adjoining lots is greater than twice the minimum setbacks would require, a fence meeting the requirements of Subsection 10 may be required at the discretion of the Planning Commission. A buffer zone, at least ten (10) feet in width, may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings shall meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of the three (3)-year period, in the event that the landscaping has not totally blocked the view of areas required to be screened. The Planning Commission may waive some or all of these provisions for a planned unit development where the waiving of said provisions will strengthen the planned unit development concept.
- b) Where there is a need to provide a greater noise or dust barrier or to screen more intense development at the discretion of the Planning Commission, a solid wall shall be required. Such wall shall be five (5) feet or more in height as measured on the side of the proposed wall having the higher grade, and shall be constructed on both sides with face brick, poured-in-place simulated face brick, precast brick panels having simulated face brick, or stone.

4) Parking Lot Landscaping: Separate landscaped areas shall be required either within or at the perimeter of parking lots.

- a) There shall be one (1) tree for every eight (8) parking spaces, with minimum landscaped space of fifty (50) square feet.

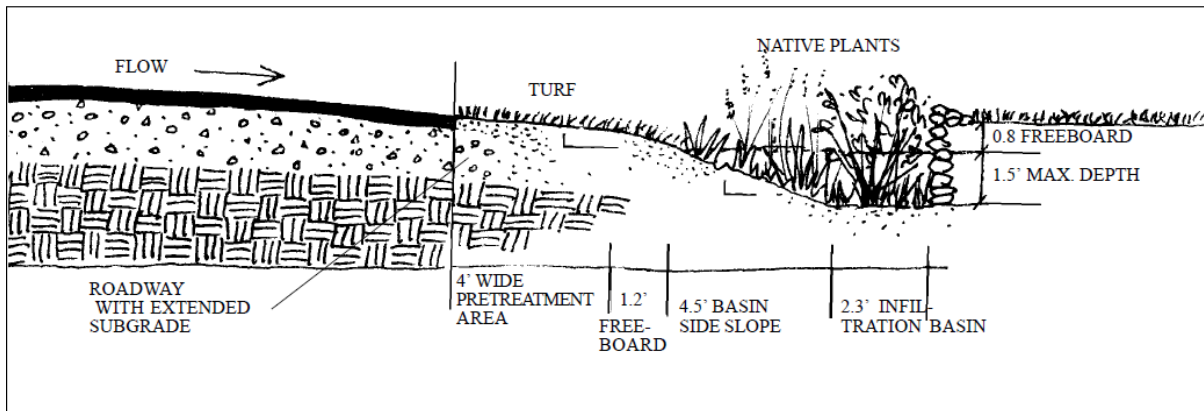
- b) A majority (51% or more) of landscaped areas shall consist of deep-rooted perennial plantings as opposed to sod or shallow rooted turf grass.
- c) Landscaping shall be integrated with safe pedestrian movement from parking areas to all buildings on site as well as to the public rights of way adjacent to the site. This shall consist of a clearly marked pedestrian aisleway which provides both visual and textural differentiation from the vehicle parking surface and may include stamped and stained concrete, brick pavers or similar materials in compliance with the Americans with Disabilities Act.

5) Site Landscaping:

- a) Except in the case of a planned unit development and in addition to any buffer zone and/or parking lot landscaping required by this section, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.
- 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 not to exceed five (5) percent of the site area.
- c) Landscaping along public rights of way shall include a minimum of one (1) tree at least fifteen feet in height or a minimum caliper of three (3) inches (whichever is greater at the time of planting) for each thirty (30) lineal feet, or major portion thereof, of frontage abutting said right of way. Tree species shall be selected from the City of Douglas recommended species list. The remainder of the landscaping within the right of way shall comply with the recommendation of the Blue Star Corridor plan or other streetscape plans on file at the time of application and may include grass, ground cover, shrubs, and/or other natural, living, landscape material.

7) Stormwater Management: All parking lots shall include on site stormwater management which incorporates one or more of the following:

- a) Rainwater gardens shall be a minimum of 10 feet from any building foundation and shall be constructed to a depth of 6 to 18 inches. Rainwater gardens shall be designed to include a minimum four (4) foot buffer of turfgrass between perennial plantings and any impervious surface and shall be graded to a slope of no more than ten (10) percent. Plants shall be selected to reduce maintenance and which are tolerant of snow storage and winter salt and sand. All proposed rainwater gardens shall be reviewed and approved by the City Engineer prior to approval and inspected by the City Engineer following construction. Failure to construct or maintain any component of the stormwater management plan shall be considered a violation of this ordinance and enforced per the standards of a civil infraction within the Douglas code of ordinances.



Profile of a Typical Rainwater Garden

- b) Infiltration Basins: a stormwater runoff impoundment designed to capture the entire volume of a 5 year storm event, hold this volume and infiltrate it into the ground over a period of days. An infiltration basin shall not be designed to retain a permanent pool of water. The bottom of an infiltration basin shall be vegetated with deep-rooted native plant species as approved by the Planning Commission.
- c) Alternative stormwater management designs may be approved where recommended by the City Engineer and when determined to meet the intent of this ordinance.

7) Minimum Size and Spacing Requirements: Where landscaping is required, plants shall be of a minimum size and spacing where an eighty percent (80%) screen can be reasonably expected to be achieved in three years under normal growing conditions.

8) Landscape Elements: The following minimum standards shall apply:

- a) Quality. Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to the climate, conform to the current minimum standards of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
- b) Composition. A mixture of plant material, such as evergreens, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
- c) Berms. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point and extending the length of the berm. Berm slopes shall



be protected with sod, seed, shrubs or other form of natural ground cover.

d) Existing Trees.

1. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the City, protective techniques such as fencing or barriers, shall be installed at the drip line around the perimeter of the plant material during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the City.
2. In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the City, the Contractor shall replace them with trees which meet Ordinance requirements.
3. Trees labeled "To be removed" on a site plan or landscape plan prepared under Section 21.01(2) shall be replaced, with a similar species, or by a similar tree from among those listed in subsection e which follows, and in minimum size as required in the size elements of Section 21.01(7).

e) Installation, Maintenance and Completion. All landscaping required by this Ordinance shall be planted prior to obtaining a certificate of occupancy or a performance guarantee will be secured pursuant to Section 23.06 for the amount of the cost of landscaping to be released only after the landscaping is completed.

f) Recommended Plant List is available in the office of the City Clerk and Zoning Administrator.

9) Installation and Maintenance:

- a) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.
- b) The owner of property 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 within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

10) Screening: Unless otherwise specified or determined by the Planning Commission or Zoning Board of Appeals, screening is to be six (6) feet in height.

Gateposts and other superstructures over site entrances and exits may be up to fourteen (14) feet in height. Fencing and screening materials of a height greater than three (3) feet shall not be located within a required front setback or side setback adjacent to a street. The finish side of every fence shall face away from the property on which it is located.

- a) Mechanical Equipment (this subsection does not apply to single-family residential uses, or to any use in an industrial zone except if it abuts a residential area). When located outside of a building, support equipment including air conditioning and heating devices, 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:
  - 1. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
  - 2. 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.
- b) Outdoor Storage in Commercial and Industrial districts: To be screened on all sides by a solid wall or fencing.
- c) Public Utility Substations in any district: To be screened on all sides by a solid wall or fencing, and landscaping.
- d) Side and Rear Lot Lines: The side and rear lot lines of all nonresidential uses are to be screened as follows:
  - 1. Adjacent to a Residential Use or Zone: See requirements of subsection 3 above.
  - 2. Industrial and Commercial Zones: A solid wall or fencing is to be located on the side and rear lot lines of any site within an Industrial or Commercial zone that abuts a non-industrial or noncommercial zoning district or land use.
- e) Loading Areas: Shall be fenced and screened whenever abutting a different zone or residential property pursuant to the provisions of Subsection 3 above.
- f) All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height, with six (6) feet high view-obstructing doors. A dumpster cannot be stored in a building unless approved by the Fire Chief.

11) Exceptions to Screening Requirements:

- a) Buildings Abutting Lot Lines: Required screening or fencing may be omitted along any lot line where a building wall exists immediately, or at the minimum five (5) foot setback abutting the lot line.
- b) Location Adjustment: Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped, or in naturally vegetated areas, retained in their natural vegetative state at the discretion of the Planning Commission.
- c) 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.
- d) Planning Commission Modification: Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.
- e) Zoning Board of Appeals: The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

12) Fence Standards.

- a) General Standards:
  - 1. A zoning permit shall be required for all fences.
  - 2. The applicant shall provide a survey of the property to determine the proper location for the fence.
  - 3. No fence shall be permitted in the street right-of-way or easement.
- b) In zones other than for single or two family dwellings.
  - 1. Solid board fences with wood posts not less than four inches by four inches (4" x 4") and solid board cover not less than one (1) inch thick (normal size measurements). Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet on center. The finished side of the

wood shall face abutting properties. Stockade type fencing is not permitted.

2. Wrought iron, open mesh, chain link or slatted fencing, provided that a minimum ratio of one part open space to six-parts of opaque fencing material (83% opaque) used to infill the wall of a fence is maintained.
3. Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. The outer face of such wall (the face away from the use which is to be screened) to be of clay, brick, stone, embossed or pierced concrete block, or other decorative masonry material.

b) In residential zones and where single or two family dwellings are the principal permitted uses:

1. Same as a) above except that stockade fencing is permitted, and, the finished, or outer face of the fence may face the property being fenced.
2. Picket and similar generally recognized residential type fencing is also allowed.
3. No fence may exceed six (6) feet above the lot line, except that where limited special circumstances, such as fencing around a raised deck or pool, or where unusual grade considerations may apply, then the Zoning Administrator is permitted to exercise discretion in determining the bottom grade of the fence. Practically speaking, fences may be constructed on lot lines.
4. In residential zones or uses, no fence shall exceed three (3) feet of height above the average grade at the center of the lot, within fifteen (15) feet of the front lot line, or any lot line adjoining a street. Except that, a fence may be constructed if visual barriers are not created and the fence is at least 88% open (one (1) part structure to eleven (11) parts open). No plant material or shrubbery that exceeds three (3) feet in height shall be allowed to be part of a fence constructed under this exception.

c) Swimming Pools: See Section 16.16.

13) Barrier Fences: Barrier fences containing barbed wire, electric charges or sharp materials at the top of a fence or wall are prohibited unless needed to protect the public safety and approved by the Planning Commission.

14) Fire Hazard: No fence shall be approved that constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity. In addition, no fence shall be approved that 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.

**ARTICLE 22:  
[RESERVED FOR FUTURE USE]**

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**ARTICLE 23:  
ADMINISTRATION AND ENFORCEMENT**

**Section 23.01 Administration**

The administration and enforcement of this Ordinance shall be the responsibility of the Zoning Administrator and City Council. The Administrator and Council shall have the right to delegate said responsibility to appropriate City officers or employees. The person administering and enforcing this Ordinance shall be known as the Zoning Administrator. The Zoning Administrator shall have the power of a public officer in the enforcement of this Ordinance.

**Section 23.02 Duties of the Zoning Administrator**

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform the following duties:

- 1) Issue Permits: All applications for zoning permits shall be submitted to the Zoning Administrator who shall issue Zoning Permits when all applicable provisions of this Ordinance have been met.
- 2) File of Applications: The Zoning Administrator shall maintain files of all applications for Zoning Permits, and shall keep record of all permits issued; these shall be filed in the office of the Zoning Administrator and shall be open for public inspection.
- 3) Inspections: The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. The Zoning Administrator may seek a search warrant through the City Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
- 4) Record of Complaints: The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.
- 5) Violations: The Zoning Administrator shall equally apply the regulations in this Ordinance to all property owners. Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime a violation is identified.
- 6) Report to the City Council: The Zoning Administrator shall report to the City Council periodically at intervals not greater than quarterly, summarizing for the period since the last previous report, all Zoning Permits issued and all complaints of



violation and any action taken on each complaint. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while performing the duties prescribed herein.

### **Section 23.03 Permit Procedures and Regulations**

1) Intent and Purpose: It is the intent and purpose of this Section to create a review and permit process for the administration of this Ordinance. The process shall require the issuance of one permit which shall be the Zoning Permit. Issuance of such a Permit, pursuant to subsection 3 below, shall indicate that the plans and specifications for any particular land use that has been requested, complies with the Zoning Ordinance.

2) Jurisdiction: The excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of, or moving of any building or structure shall not be undertaken; or any land shall not be used; or any existing land use changed to a different type or class; or the use or occupancy of any building or premises, or part thereof, hereafter shall not be undertaken, without the issuance of the proper and appropriate certificates and permits pursuant to the stipulations of subsections 3 and 4 below. Except upon written order of the Zoning Board of Appeals no such permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.

#### 3) General Conditions:

- a) Zoning Permits: No building or structure shall be erected, altered, moved or repaired (including but not limited to porches, decks, patios or terraces) until a Zoning Permit has been issued.
- b) Expiration of Permit: Any permit granted under this Section shall become null and void after twelve (12) months from the date of granting such permit unless the development proposed has passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before the voidance is effective. The permit shall be renewable upon reapplication and upon payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal.
- c) Revocation: The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance or in the case of any false statement or misrepresentation made in the supplication. The owner or his agent shall be notified of such revocation in writing.
- d) Fees: Fees for review of development proposals, inspections, and the issuance of permits or certificates required under this Ordinance shall be deposited with the City Treasurer in advance of processing any

application or issuance of any permit. The amount of such fees shall be established by the City Council, and shall cover the cost of inspection and supervision resulting from the review, administration, and enforcement of this Ordinance. Such costs may include, but are not limited to, all costs associated with conducting a public hearing or inspection, including newspaper notice, postage, photocopying, staff time, Planning Commission, Council and/or Zoning Board of Appeals time, mileage, and any costs incurred or associated with reviews and attendance at meetings relating to development proposals by qualified professional planners, engineers, or legal counsel. Such fees may be collected in escrow pursuant to the escrow policy adopted by the Council or as may be amended from time to time. Any unexpended balance of the escrow shall be returned to an applicant according to the procedure described below:

1. For any application for approval of a Site Plan, Special use, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten (10) dwelling units, or more than ten thousand (10,000) square feet of enclosed space, or which requires any more than twenty (20) parking spaces. An escrow fee may be requested for any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.
2. The escrow shall be used to pay professional review expenses of engineers, community planners, attorneys, and any other professionals whose expertise the City Council values to review the proposed application and/or site plan of the applicant. The escrow shall also include fees for the attendance at meetings by such planners, engineers, or attorneys relating to the development proposal before the planning commission, city council, or zoning board of appeals. Professional review may result in a report to the City indicating the extent of conformance or non-conformance with this Ordinance and may identify any problems which may create a threat to public health, safety, or general welfare. Mitigation measures or alterations to a design plan may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review (except to the extent the opinion or

report is subject to the attorney/client privilege) and a copy of the statement of expenses for professional services rendered.

3. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
  4. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any Zoning Permit or other permit issued by the City in response to the applicant's request.
- e) Issuance: Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of the Ordinance, and upon receipt of evidence that all other required permits or approvals by other public agencies have been granted, the Zoning Administrator shall issue the appropriate permit. In any case where a permit is refused, the cause(s) shall be stated in writing to the applicant.
  - f) Nonconforming Uses: It shall not be necessary for a legal nonconforming use, existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to Article 15 until a Zoning Permit has been issued by the Zoning Administrator. In such cases the Permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.
  - g) The Zoning Administrator shall withhold any Zoning Permit pending verification that an applicant has received required county, state or federal permits including, but not limited to, soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Unless the Planning Commission or City Council conditionally approve the development activity upon the receipt of any of the above mentioned county, state or federal approvals.
  - h) A performance guarantee may be required as a condition to the issuance of any Zoning Permit in order to ensure conformance with the requirements of this Ordinance. Said guarantee can be required to

ensure that required landscaping, screening, buffering, fencing, paving, parking, lighting, streets, sidewalks, drains, curbs and any other requirements of this Ordinance have been met prior to final occupancy. A performance guarantee may take the form of cash, bank letter of credit or other instrument as acceptable to the City, but shall be in an amount sufficient for the City to complete the required improvement or condition if the property owner fails to do so. Any remaining performance guarantee (see Section 23.06) shall be returned when a certificate of occupancy has been granted if it has not been expended to achieve Ordinance compliance.

- i) No structure or use shall be occupied without first receiving a certificate of occupancy. A certificate of occupancy shall be issued by the Zoning Administrator following an inspection that confirms that all requirements of a previously issued Zoning Permit, if any, or if not, of this Ordinance have been met.
- 4) Zoning Permit: An application for a Zoning Permit shall be considered for approval by the Zoning Administrator when said application contains the following information.
- a) In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, either a report from the Allegan County Health Department certifying in writing the approval of a private sanitary sewage disposal system, or when public sanitary sewage service are available or required by local Ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.
  - b) When a municipal, public or private water supply system is required by law or proposed by the applicant either a report from the Allegan County Health Department, certifying approval of private water supply systems, or when municipal or public water supply is required by local Ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.
  - c) Two (2) copies of an accurate, readable, scaled drawing showing the following shall be required except in the case of minor alterations, repair, and demolitions as determined by the Zoning Administrator. Such a drawing is not required for any use requiring a site plan pursuant to Article 24.
    - 1. The location, shape, area and dimension of the lot.
    - 2. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered, or moved on the lot.
    - 3. The intended uses.
    - 4. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.
    - 5. The yard, open space and parking lot dimensions, parking space dimensions, and number of spaces.

6. A vicinity sketch showing the location of the site in relation to the surrounding street system, and adjacent land uses to the site (Commercial and Industrial zones only).
7. Any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

5) Inspections:

- a) The Zoning Administrator shall inspect the site prior to the beginning of construction including the pouring of footings, or excavation for a foundation.
- b) The property owner or permit applicant for any structure shall provide to the Zoning Administrator a wall survey prepared by a licensed surveyor. No construction beyond foundation walls shall be allowed until the Zoning Administrator verifies setback requirements have been satisfied.

**Section 23.04 Enforcement**

1) Inspection of Violation: The Zoning Administrator shall inspect each alleged violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a Notice of Violation, in writing, which specifies conditions found to be in violation. If the circumstances warrant, such as an immediate threat to public health or safety, or a serious negative impact on abutting properties, the Zoning Administrator may issue a stop work order in addition to the notice of violation. If a stop work order is issued, the provisions of subsections 2) allowing a 30 day period to correct the violation and 3) for a hearing, below, do not apply and legal measures to ensure the violation is corrected immediately shall be taken.

2) Notice of Violation: Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records. The notice shall advise the owner, or party of interest in writing, that within thirty (30) days the violation shall be corrected or the owner, or party of interest shall request a hearing on the violation before the City Council. If so requested, the Zoning Administrator shall notify the owner or party of interest of the time and place of a hearing to be held before the City Council. At said hearing the person to whom the Notice of Violation is addressed shall have the opportunity to show cause why said violation should not be ordered to be corrected or why said enforcement action would cause an undue hardship.

3) Hearing: The City Council shall take testimony of the Zoning Administrator, the owner of the property, and any other interested party or witness. Upon findings of

said hearing the City Council may extend the time by which the violations must be corrected for a period not to exceed six (6) months. However, the City Council shall not allow such violations to exist longer than this period.

4) Correction Period: All violations shall be corrected within a period of thirty (30) days after the violation notice is issued. Should a violation not be corrected within this time period and if no hearing is requested before the Council, the Zoning Administrator shall be authorized to initiate other legal measures with the City Attorney to remedy the violation.

5) Prosecution: If the owner or party in interest fails to appear, or neglects to correct the violation within the time period specified by the City Council, the City Council shall prepare a report of their findings for the City Attorney recommending that the appropriate action be taken. The City Attorney may then initiate legal proceedings. In the event a stop work order has been issued by the Zoning Administrator, the City Attorney may begin immediate legal proceedings without waiting for the City Council to meet.

### **Section 23.05 Penalties and Remedies**

1) Civil: Any building, structure, activity, or use of land maintained, constructed, altered, or moved in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

2) Criminal: Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations and conditions and safeguards established in connection with variances and special uses and violations of approved site plans, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500) or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

3) Remedies: The City Council may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

4) Appearance Summons: The use of appearance summons is hereby authorized and violations of this ordinance may be adjudicated as civil infractions.

## **Section 23.06 Performance Guarantees for Compliance**

1) **Requirements**: In authorizing any Zoning Permit, Private Road Construction Permit, Special Use Permit, Planned Unit Development approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished: (1) to ensure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; (2) to ensure the discontinuance of a temporary use by a stipulated time; and (3) 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 covered by the performance guarantee include, but are not limited to: streets and other roadways, utilities, parking, 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, irrevocable bank letter of credit, or similar instrument acceptable to the City Treasurer, which names the property owner as the obligor and the City as the obligee.
- b) **Time when Required**. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity of the project, unless approved otherwise. If appropriate, based on the type of performance guarantee submitted, the City shall deposit the funds in an interest bearing account in a financial institution with which the City regularly conducts business.
- c) **Amount**. The amount of the performance guarantee should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee may be prescribed by resolution of the City Council. If none are specified or applicable to the particular use or development, the City Council shall by resolution establish a guideline which it deems adequate to deal with the particular problem while ensuring the protection of the City and its inhabitants.

3) **Return of Performance Guarantee**: The Zoning Administrator, 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 Guarantee**: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the City Treasurer of completion

of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall, as appropriate, indicate approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

- a) The Zoning Administrator shall either approve, partially approve or reject the improvements or conditions and shall notify the obligor in writing of the action within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, 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 to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee. Any balance remaining would be returned to the applicant.

5) Performance Guarantee for Razing of Building: The Zoning Administrator may require a performance guarantee prior to the razing or demolition of principal structures and accessory structures having more than one hundred forty-four (144) square feet in gross floor area. The amount shall be determined according to a guideline of one thousand dollars (\$1,000.00) for each one thousand (1,000) square feet or fraction thereof of gross floor area of the structure to be razed. A performance guarantee shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Chief or the City Council may from time to time prescribe, including filling of excavations and proper termination of utility connections.

6) Record of Performance Guarantees: The Zoning Administrator shall maintain a record of authorized performance guarantees.



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## **ARTICLE 24: SITE PLAN REVIEW**

### **Section 24.01 Approval Required**

It is the purpose of this Section to specify standards and data requirements that shall be followed in the preparation of site plans when required by this Ordinance. Site plan approval is required for the following:

- 1) Uses requiring Special Use Permits in all zoning districts.
- 2) All principal uses (both by right and all special uses) within the C-1, C-2, L-1, and R-5 zoning districts; for mobile home parks in the R-6 district; and for all platted subdivisions in any district.
- 3) II Planned Unit Developments.
- 4) Any conversion or expansion of a nonconforming use to either a conforming use or another proposed nonconforming use.
- 5) Any use requiring more than five (5) parking spaces.
- 6) Any development, except single-family residential, for which off-street parking areas are provided.
- 7) All "site condominiums", condominium projects, and condominium subdivisions developed pursuant to the Condominium Act (MCLA 559.101 et seq).
- 8) All developments in wetlands, sand dunes and 100 year floodplains, for which a permit is required by the Michigan Department of Natural Resources, except single family homes and duplexes.
- 9) For any other use or development for which the submission of a site plan is required by this ordinance.

### **Section 24.02 Data Required**

The following data is required to be depicted on each of fifteen (15) required copies of the site plan or accompanying application. An electronic copy of the site plan in a pdf format shall also be provided. Each site plan shall be provided on a professional quality drawing at a minimum scale of 1"= 20' or as deemed appropriate by the Zoning Administrator.

- 1) The applicant's name, address, email and phone number in full.

2) Proof of property ownership, and whether there are any options on the property, or any liens against it.

3) Written statement regarding the proposed project's impact on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands. If deemed necessary by the Zoning Administrator or Planning Commission, a phase 1 environmental review may be requested. As appropriate, the Zoning Administrator or Planning Commission may also request a phase 2 environmental review. Also see Section 24.02.21 of this Section.

4) Property dimensions and legal description, including angles, lot area, and an arrow pointing north. If the parcel in question is less than one (1) acre in area and is a land division from an existing parcel, then a certificate of survey is required.

5) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, carports or garages, employees by shift, amount of recreational and open space, type of recreation facilities to be provided, and pertinent information or information otherwise required by this Ordinance.

6) Natural features such as woodlots, streams, drains, lakes or ponds, topography (at two-foot intervals) and man-made features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.

7) Existing or proposed public right-of-way and private easements.

8) Proposed streets, driveways, parking spaces and sidewalks, with indication of direction of travel, the inside radii of all curves including driveway curb returns, the width of streets, driveways and sidewalks, the total number of parking spaces, and dimensions of a typical individual parking space and associated aisles. This will also include a free and open general public pedestrian access in a form approved by the City Attorney to adjacent property or development unless waived by the Planning Commission as being unpractical or unreasonable due to topographical, natural barrier or similar type of reason.

9) A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public street.

10) Location of utilities including natural gas, cable, electric, telephone, fire hydrants; and the location and design of water supply, storm water management facilities, and waste water systems.

11) Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, carports,

transformers, air conditioners, trash receptacles, and signs, and the method of screening where applicable.

12) A landscaping plan indicating the locations of planting and screening, fencing, and lighting in compliance with the requirements of Article 21. Also, proposed locations of common open spaces, if applicable.

13) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous substances as well as any containment structures or clear zones required by government authorities.

14) Location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall also be specified on the site plan.

15) The location, type, style and intensity of all proposed site lighting, including building, sign, or any other proposed site lighting.

16) A statement from the applicant identifying all other federal, state and local permits required, if any.

17) Project completion schedule.

18) Compliance with the recommendations of the Tri-Community Plan.

19) Such other information as is necessary to enable the Planning Commission to determine whether the proposed site plan will conform to the provisions of this Ordinance.

20) Seal of the State of Michigan registered engineer, architect, landscape architect, surveyor or planner who prepared the plan.

21) Special Studies or Research. For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the Zoning Administrator or Planning Commission may require any or all of the following reports or studies as a part of a complete site plan.

A. Environmental Assessment, shall be a summary review of the environmental impacts of a project in accordance with the following standards:

1. The purpose of the Environmental Assessment shall be:

a) to provide relevant information to the Planning Commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the City;

- b) to inject into the developer's planning process consideration of the characteristics of the land and the interests of the community at large, and
  - c) to facilitate participation of the citizens of the community in the review of substantial developments.
2. Guidelines. When required by the Planning Commission or the Zoning Administrator pursuant to this Section, an applicant shall prepare an Environmental Assessment in accordance with these guidelines. An Environmental Assessment is not an Environmental Impact Statement, but rather a summary review of the site in question considering the past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the Master Plan. The complexity of the Environmental Assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the Environmental Assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the Planning Commission may request further elaboration. The Planning Commission or Zoning Administrator may waive elements of these guidelines as either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously, rather whenever possible, the Environmental Assessment report shall incorporate a summary of the findings of such study or report in addition to such cross-references. In addition, any cross-referenced study or report shall be submitted with the Environmental Assessment.
3. Content. The following material shall be included and/or addressed in the Environmental Assessment, unless specifically waived by the Planning Commission as not applicable:
- a) A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:
    - i) Flora and fauna (be sure to list any endangered species on-site)
    - ii) General topography and drainage patterns including any regulated features such as wetlands, high risk erosion areas or other features
    - iii) Adjacent waterways
    - iv) Existing wells, approximate depth and use
  - b) A description of any asbestos abatement proposed for the site. If applicable, this shall include a description of the method to be sure this material does not get into the surrounding area.

- c) A description of any existing contamination on-site. This should include a description of the nature of the contamination on-site and what will be done on this project to mitigate or contain it, including the proposed methodology and any state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.
- d) If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
- e) A description of the existing soils on-site and as to the suitability of these soils for the proposed use.
- f) A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
- g) A description of any emissions from the proposed development as it relates to air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
- h) A description of any hazardous materials or waste to be stored on-site. This shall include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.
- i) A description of any storm water or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.
- j) If a Federal, State, or local regulatory authority has conducted an Environmental Assessment, Environmental Impact Statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
- k) A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
- l) A description of the anticipated traffic to be generated by the proposed use.
- m) A description of plans for site restoration after construction.

- n) A description of methods to handle sanitary waste for the project both during construction and after completion.
  - o) A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval.
  - p) A description of any additional items as needed to relay the potential environmental impacts of the proposed project.
4. The individual preparing the Environmental Assessment must sign and seal (if prepared by a registered engineer, land surveyor, community planner or landscape architect) the submitted document.
- B. Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study completed by qualified professional be prepared as an attachment to a site plan submitted for any development in the City meeting the requirements of this section. The purpose of this section is to set forth the standards to be used by the Zoning Administrator or Planning Commission in requiring the submission of such a traffic impact study, the required minimum content of such a study and the standards and procedures for the review of its findings.
- 1. Description. A traffic impact study shall include an analysis of the existing traffic conditions on the roadway network in the vicinity of a proposed project, including any accident history, average speeds, average daily and peak hour traffic volumes and levels of service of all key roadway segments and intersections. The study shall further indicate the effect of a proposed development on adjacent roadways and intersections and indicate the anticipated points of origin, direction and volume of traffic flow to and from the proposed development. The study shall be prepared by either a registered professional engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author and specifically describing experience in preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design recommendations, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.
  - 2. Criteria for Requiring a Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study be prepared as an attachment to a site plan for any proposed commercial, industrial, residential or mixed use development which has the potential to significantly increase traffic volumes on the surrounding roadway network. In determining the level of potential impact, the Zoning Administrator or

Planning Commission shall consult appropriate planning and engineering texts including, but not limited to, *Trip Generation*, published by the Institute of Transportation Engineers and may seek the counsel of other professionals with experience with developments similar to that proposed. A traffic impact study may be required under this section when, in the judgment of the Zoning Administrator or Planning Commission, the proposed development will result in an increase of either the average daily traffic or the peak hour traffic equal to or greater than ten percent (10%) of the current traffic volume on the adjoining roadway.

3. Required Study Content. In general, a required traffic impact study shall document existing conditions on the existing roadway network including all intersections within one (1) mile of the proposed development including average daily traffic and peak hour volumes in all directions, existing turning movements, levels of service, average traffic speeds and accident history. Existing pedestrian and non-motorized traffic volumes shall also be estimated. The traffic impact study shall project the impact of the proposed development on the roadway network including all intersections within one (1) mile of the proposed development including projected average daily traffic and peak hour volumes in all directions, anticipated turning movements and anticipated levels of service. Anticipated impacts on pedestrian and non-motorized traffic volumes shall also be projected. The following specific elements shall be addressed in a required traffic impact study, unless specifically waived by the Zoning Administrator or Planning Commission:
  - a) A narrative summary at the beginning of the report, including, but not limited to:
    - i) The applicant and project name.
    - ii) A location map.
    - iii) The size and type of development.
    - iv) Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers – publication, *Trip Generation* (current edition).
  - b) Project phasing identifying the year of development activities per phase and proposed access plan for each phase.
  - c) A transportation system inventory, which describes the physical, functional and operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:
    - i) peak-hour volumes (existing and projected)
    - ii) number of lanes
    - iii) cross-section
    - iv) intersection traffic signals and configuration
    - v) traffic signal progression
    - vi) percentage of heavy trucks
    - vii) adjacent access point locations



- viii) jurisdiction
  - ix) grades
  - d) Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Allegan County Road Commission or City of Douglas standards and guidelines.
  - e) Capacity analysis shall be performed at each access point. The City's preference is the use of Highway Capacity Software, (HCS 2000), or a later version thereof. Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within one (1) mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing. A time-space diagram should also be included.
  - f) A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build out. The completed analysis shall be summarized in a table showing all the Measures of Effectiveness (MOE) for all of the above conditions.
  - g) Required operational changes shall be part of the site plan review and any access permit approval process.
4. Evaluation and Criteria. As a general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.
  5. The Zoning Administrator may be provided to the City Engineer, Planner and/or an independent traffic engineer or transportation planner to review and comment on any traffic impact study prepared pursuant to this Section. The cost of any such review shall be borne by the applicant.

### **Section 24.03 Site Plan Approval Standards**

Each site plan shall conform with the applicable provisions of this Ordinance and the standards listed below:

- 1) Drainage: Site plans shall fully conform with the surface water drainage standards of the County Drain Commission and/or the US Corp of Engineers if applicable.
- 2) Traffic: Site plans shall fully conform with the driveway and traffic safety standards of the City, or as may be applicable, the Michigan Department of

Transportation and/or the County Road Commission. Proposed traffic control measures (including signs) and proposed street or road names shall also be indicated.

3) Public Safety: Site plans shall fully conform with the applicable fire safety and emergency vehicle access requirements of the State Construction Code and the International Fire Code. Pedestrian circulation shall be reasonably isolated from the vehicular circulation system.

4) Erosion: Site plans shall fully conform with the County Soil Erosion and Sedimentation Control Ordinance.

5) Public Health: Site plans shall fully conform with the requirements of the Michigan Department of Public Health and the Allegan County Health Department.

6) Compliance: Site plans shall fully conform with all applicable state and federal statutes and City ordinances.

7) Hazardous Substances Management: The applicant shall demonstrate that reasonable precautions will be taken to prevent hazardous substances from entering the environment including:

- a) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
- b) Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
- c) General purpose floor drains shall only be allowed if they are approved by the Kalamazoo Lake Sewer and Water Authority for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
- d) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
- e) Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the state Police Fire Marshall Division and the Michigan Department of Natural Resources.
- f) Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

8) Natural Amenities: The development shall preserve, insofar as practical, the landscape in a natural state by minimizing tree and vegetation removal, topographic modifications and degradation of sensitive environments.

9) Screening: Loading, unloading areas and trash receptacles shall be adequately screened. (See Article 21 and Section 19.6.6). Exterior lighting shall be arranged so that it is deflected away from adjacent properties and to that it does not impede the vision of traffic along adjacent streets. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein or adjacent to the proposed site.

10) Signs: Site plans shall fully comply with the City Sign Ordinance.

#### **Section 24.04 Action on Application and Plans**

1) Distribution of Site Plans: Upon receipt of the completed application and plans, the Zoning Administrator shall record the date of their receipt and transmit copies thereof as follows: one (1) copy to each of the Planning Commissioners; and five (5) copies shall be retained by the Zoning Administrator for distribution as needed to the Fire District, City Attorney, City Engineer, or others as determined by the Zoning Administrator.

2) Review by Planning Commission: The Planning Commission shall review the application, site plan, and the recommendation of the Zoning Administrator and any other public agency or consultant whose comments have been solicited to determine compliance with all the relevant requirements of this Ordinance. Site plan review shall be conducted at the same time as all other required procedures for special land uses and planned unit development requests. A public hearing shall be held if requested by the applicant or an abutting property owner prior to the decision.

3) Action: The Planning Commission shall by majority vote, table for additional information, reject, approve, or conditionally approve the site plan, as it pertains to the requirements and standards contained in this Ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons and delivered to the applicant. Decisions by the Planning Commission shall be made within a reasonable time of the receipt of an application conforming with the submittal requirements of this Ordinance as determined by the Zoning Administrator.

4) Approved Site Plans: Two (2) copies of the approved site plan, with any conditions contained within shall be maintained as part of the City records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed and dated by the Zoning Administrator with the date of approval for identification of the approved plans. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the

variances, duly signed, shall also be filed with the City records as a part of the site plan and delivered to the applicant for information and direction.

### **Section 24.05 Approval of Site Plans**

A site plan shall be approved if it contains the information required by, and is in compliance with the Zoning Ordinance, the conditions imposed pursuant to the Ordinance, other applicable ordinances, and state and federal statutes.

### **Section 24.06 Conformity to Approved Site Plans**

Property that is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments that have been approved by the Planning Commission. If construction and development does not conform with such approved plans, the owner shall be cited with a violation of the Ordinance and notified that following a hearing, the permit may be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

1) Amendment to the Site Plan: No changes shall be made to an approved site plan prior to, during or after construction except upon mutual agreement between the applicant and the City and by application to the Zoning Administrator according to the following procedures;

- a) Any change which constitutes a minor change shall be reviewed and either approved, denied, or at the discretion of the Zoning Administrator referred to the Planning Commission for action. Any such minor change referred to the Planning Commission may be reviewed and either approved or denied by the Planning Commission. A minor change includes any change that will result in:
  - (i) Changes in the location of buildings and structures;
  - (ii) Adjustments of utilities, walkways, traffic-ways, parking areas; and,
  - (iv) Similar types of slight changes.
- b) Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets and alleys, a reduction or increase in the number of parking spaces, a major relocation of a building, an increase in the gross floor area or heights of buildings, a reduction in the open space, and similar major changes, shall require the approval of the Planning Commission, in the same manner as the original application was submitted, reviewed, and approved.

2) No Right of Appeal: Any other provisions of this Ordinance notwithstanding, any requirement, decision or determination by the Planning Commission made pursuant to this Article shall not be appealed to the Zoning Board of Appeals.

3) Time limit: Approval of the final site plan is valid for a period of one (1) year. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the final site plan shall be null and void.

### **Section 24.07 Administrative Approval**

Proposals for additions or interior construction which are related to uses permitted by right and are limited to an area less than 5% of the total building footprint and do not affect on-site parking may be reviewed and approved administratively.

## **ARTICLE 25: SPECIAL USE PROCEDURES**

### **Section 25.01 Intent and Purpose**

1) In order that this Ordinance be flexible and reasonable in the accommodation of a wide range of land uses, and in recognition of the need to protect the public health, safety, and welfare of existing property owners, special uses of land are provided for according to the procedures and permit requirements of this Article. All uses of land labeled as "special uses" possess characteristics of such unique and distinct form that each specific use shall be considered on an individual basis. Conformance to special use standards is required, in addition to all other requirements of this Ordinance or of any other permit issued by a governmental authority.

2) The Planning Commission shall hear and permit such special uses as the Planning Commission is specifically authorized to pass on by the terms of this Ordinance. It shall grant special uses with such conditions and safeguards as are appropriate under this Ordinance, or shall deny special uses when not in harmony with the purpose and intent of this Ordinance. Approval shall run with the land and shall not be issued for specified periods, unless the use is clearly temporary or time-related in nature.

### **Section 25.02 Application, Notice, and Hearing Procedures for Special Use Permits**

1) Prior to construction or physical development of a proposed special use, as specified by this Ordinance, an application for a required Special Use Permit must be made to the Zoning Administrator on forms supplied by the City. The application shall show compliance with the requirements of this Article.

- a) Contents of Application. The application form shall be accompanied with a site plan meeting the requirements of Section 24.02
- b) A fee may be set by the City Council and shall accompany any plans or application in order to defray the cost of administration and inspection.
- c) The Zoning Administrator shall receive the application package and review for required content. He/she shall review the site plan and make advisory comments based on site plan review and specific special use standards. Review by engineering, planning or other consultants hired by the City may be initiated as needed. Upon preliminary review and comment, the Zoning Administrator shall forward the entire application with comments to the Planning Commission if the application is complete. If additional information is required, the Zoning Administrator shall request such information from the applicant prior to forwarding the application to the Planning Commission.

2) Public Notice and Hearing Procedures: Before a Special Use Permit is approved, a public hearing must be held by the Planning Commission. Notice of the hearing shall be given in accordance with Section 28.04 of this Ordinance.

### **Section 25.03 Standards**

Before any Special Use Permit is granted, the Planning Commission shall make findings of fact based upon competent evidence certifying:

1) Compliance with dimensional and density requirements set forth in the Schedule of Regulations.

2) Compliance with standards for the review of site plans as set forth in Section 24.03.

3) Compliance with the specific regulations governing individual special uses in Article 26.

4) Compliance with any other standards in this Ordinance related to the land use in question; and ensuring that each of the following discretionary standards have been met. Each proposed special use shall:

- a) Be compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property in terms of location, size, height, and intensity of the principal and/or accessory operations,;
- b) Be consistent with and promote the intent and purpose of this Ordinance.
- c) Be compatible with the natural environment and conserve natural resources and energy.
- d) Be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
- e) Protect the public health, safety, and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the City as a whole.
- f) Not create any hazards arising from storage and use of flammable fluids or other hazardous substances.
- g) Not be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections, and general character and intensity of development. In particular,
  1. the property shall be easily accessible to fire and police;
  2. not create or add to any hazardous traffic condition.
- h) Be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or

discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

- i) That in the nature, location, size and site layout of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of said district.
- j) That in the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special use is proposed to be located.
- k) The Planning Commission shall consult the Tri-Communities Comprehensive Plan to determine if such proposed special use is compatible with the future planned use of surrounding property. The duration of the permit may be limited only if such use is clearly temporary in nature.

#### **Section 25.04 Decision Following Public Hearing**

1) Following the public hearing, the Planning Commission shall make a decision on the application for a Special Use Permit. The Planning Commission shall deny, approve, or approve with conditions, requests for special use approval. Such decision shall include the following:

- a) The Planning Commission shall make findings based on the particular facts of the application and the analysis thereof including reference to conformance or nonconformance with standards in Section 25.03 of this Ordinance. These findings shall be embodied in a statement of conclusions along with the basis for the decision. Among the findings shall be a conclusion supported by stated facts that the granting of Special Use Permit approval will not adversely affect the public interest, health, safety or welfare of the community.
- b) Approval, approval with conditions or denial.
- c) A statement of any conditions imposed.
- d) If approved or approved with conditions, a Special Use Permit shall be issued by the Zoning Administrator with all the conditions specified by the Planning Commission. One copy shall be given to the applicant. If denied, the applicant shall be given a copy of the Planning Commission denial and reasons therefore.

#### **Section 25.05 Conditions**

The Planning Commission may attach conditions to the approval of the special use, which may include conditions necessary to:



- 1) Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use and activity.
- 2) Protect the natural environment and conserve natural resources and energy.
- 3) Ensure compatibility with adjacent uses of land.
- 4) Promote the use of land in a socially and economically desirable manner.
- 5) Any conditions imposed shall be recorded in the record of the Special Use Permit. These conditions shall not be changed except upon the mutual consent of the Planning Commission and the landowner.

#### **Section 25.06 Performance Guarantees**

Performance guarantees may be required by the Planning Commission to ensure compliance with special use conditions pursuant to the requirements of Section 23.06.

#### **Section 25.07 Amendments to Special Use Permits**

When an application is received to expand or change the use, traffic pattern, or similar elements, the application shall be subject to the same procedures followed for an original special use request (See Section 25.02).

#### **Section 25.08 Limitations on Validity of Permit**

Construction must be initiated under a Special Use Permit within one (1) year from date of issuance of the permit. Upon receipt of a written request for an extension, a one year extension may be granted by the Planning Commission if the Planning Commission feels the nature of the problems preventing project initiation are legitimate, and that the approved site plan adequately represents current conditions on and surrounding the site. If the project is not initiated within twenty-three (23) months of the original approval, the Planning Commission shall initiate a public hearing, with the applicant responsible for the expense thereof, to afford the permit holder an opportunity to explain why the permit approval should be extended further. Unless satisfied that the project remains appropriate in the proposed location and that initiation is imminent, the Planning Commission shall issue an order to the Zoning Administrator to revoke the special use approval. Thereafter, the project may proceed only if approved after going through the entire Special Use Permit process again, starting with a new application.

### **Section 25.09 No Right of Appeal**

Any other provisions of this Ordinance notwithstanding, any requirement, decision or determination by the Planning Commission made pursuant to this Article shall not be appealable to the Zoning Board of Appeals.

### **Section 25.10 Inspection**

At least two site inspections by the Zoning Administrator must be conducted; one when the footings and foundation walls are poured, or if it is not a new development, prior to initiation of the adaptive reuse, and one before uses or structures are occupied. If the development is phased or in stages, then at least one inspection per phase or stage shall be made of the project. The permit holder shall be required to contact the Zoning Administrator and arrange for the final inspection prior to occupancy. The property owner or permit applicant for any structure shall provide to the Zoning Administrator a wall survey prepared by a licensed surveyor. No construction beyond foundation walls shall be allowed until the Zoning Administrator verifies setback requirements have been satisfied.

### **Section 25.11 Revocation for Violations**

The Planning Commission shall have the authority to revoke any Special Use Permit after a public hearing has been held and it has been proved that the holder of the permit has failed to comply with the applicable requirements in this Article or with the terms of a permit issued pursuant to this Ordinance. After revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days, unless, in the interest of the public health or safety, immediate cessation is necessary.

### **Section 25.12 Reapplication**

No application for a Special Use Permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will have to begin all over again.

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**ARTICLE 26:  
SPECIAL USE STANDARDS**

The following standards apply to the uses of land permitted by Special Use Permit in Articles 5 through 14 of this Ordinance. The regulations contained in this Article shall be applied in addition to any other applicable standard or regulation contained elsewhere in this Ordinance (such as for site plans in Section 24.03) unless specifically noted.

**Section 26.01 Adult Foster Care and Child Foster Family Facility**

**1) Locational Requirements:**

- a) Adult foster care and child foster family facilities are permitted in the R-4 and R-5 Residential districts as a Special Use.

**2) Site Requirements:**

- a) Appropriate screening shall be provided to limit noise reaching adjacent land uses.

**3) Buffering Requirements:**

- a) Buffer zones shall comply with the requirements of Section 21.01(3).
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01(10) of this Ordinance.

**4) Performance Standards**

- a) Adult Foster Care Facilities serving more than six (6) residents.
- b) Adult Foster Care Facilities shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
- c) An adult foster care facility shall not be located within fifteen hundred (1,500) feet of any other adult foster care facility.
- d) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
- e) An adult foster care facility shall front on and be accessed from a major thoroughfare.
- f) All signs shall be in compliance with the provisions of Section 16.26 of this Ordinance.
- g) All off-street parking shall be in compliance with Article 19 of this Ordinance.
- h) Landscaping and Buffering shall be provided in accordance with Article 21 of this Zoning Ordinance.

## **Section 26.02 Amusement Centers (Arcade)**

### **1) Locational Requirements:**

- a) Amusement centers shall be located only in the C-2 General Commercial zoning district.
- b) Amusement centers shall not be located closer than one hundred and fifty (150) feet from any front, rear, or side yard of adjacent residentially zoned properties. Amusement centers shall not be located closer than five hundred (500) feet from the property line of another amusement center or any school.
- c) The facility shall be located on a paved major thoroughfare.

### **2) Site Requirements:**

- a) A bicycle rack capable of holding at least ten (10) bicycles shall be provided for non-motorists.
- b) Appropriate screening shall be provided to limit noise reaching adjacent land uses.

### **3) Buffering Requirements:**

- a) Buffer zones shall comply with the requirements of Section 21.01(3).
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01(10) of this Ordinance.

### **4) Performance Standards:**

- a) No betting or gambling shall be allowed on the premises.
- b) Children under sixteen (16) may not remain on the premises after 9:00 p.m. unless accompanied by a parent or adult guardian.
- c) The operator shall document either a past history of, or submit an acceptable plan of his/her methods for, preventing potential noise, litter, loitering, and/or crowd problems.
- d) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

## **Section 26.03 Animal Grooming**

### **1) Locational Requirements:**

- a) Animal grooming shall be permitted in the C-1 Village Center district as a Special Use.

### **2) Site Requirements:**

- a) Appropriate screening shall be provided to limit noise reaching adjacent land uses.

### **3) Buffering Requirements:**

- a) Buffer zones shall comply with the requirements of Section 21.01(3).
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01(10) of this Ordinance.

4) Performance Standards:

- a) The applicant shall set forth procedures for managing wastes and no animal wastes, biohazard materials or by-products shall be buried or incinerated on site.
- b) The applicant shall disclose the species and breed of domestic pets to be groomed on the premises and the Planning Commission may condition any special use approval on said disclosure. The Planning Commission may further establish restrictions on the species and breed to be groomed to those least likely to present a hazard or nuisance in the neighborhood.
- c) The application shall provide for measures acceptable to the Planning Commission to achieve compliance with the City Noise Ordinance.
- d) Such facilities shall not incorporate any overnight boarding services.
- e) All signs shall be in compliance with the Section 16.26.
- f) All off-street parking shall be in compliance with Article 19 of this Ordinance.
- g) Landscaping and Buffering shall be provided in accordance with Article 21 of this Zoning Ordinance.
- h) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

**Section 26.04 Automobile Service and Major/Minor Repair Stations**

1) Locational Requirements:

- a) Automobile service and major/minor repair stations are permitted by Special Use Permit in the C-2 General Commercial zoning district.
- b) For facilities with new underground storage tanks, the site shall be three hundred (300) feet from any residential water well, eight hundred (800) feet from a non-community public water well and two thousand (2,000) feet from any public water well.
- c) Ingress and egress to the facility shall be only from a paved major thoroughfare, or from a shared access drive to such roadway.
- d) No driveway or curb cut shall be located less than ten (10) feet from any lot line, measured from the edge of the driveway to the lot line.
- e) No more than two (2) driveways onto a roadway shall be permitted per lot. Driveway approach width shall not exceed thirty-five (35) feet.

- f) The site shall be no less than two hundred (200) feet from any place of public assembly, including any hospital, sanitarium, school, church or other institution. Measurement shall be the closest distance between exterior lot lines.

2) Site Requirements:

- a) In addition to the minimum lot size of the district, gasoline stations shall have an additional five hundred (500) square feet of lot area for each pump over four (4), and one thousand (1,000) additional square feet of lot area for each additional bay over two (2).
- b) The minimum lot width and frontage shall be two hundred (200) feet.
- c) All gasoline pumps shall be located not less than fifteen (15) feet from any lot line or within thirty (30) feet from the street right-of-way and shall be arranged so that motor vehicles using them will not be parked on or overhanging any public sidewalk or street right-of-way.
- d) The entire area used for vehicle service shall be hard-surfaced and adequately drained.
- e) There shall be no above-ground outdoor storage/dispensing tanks on the site without leak proof secondary containment sufficient to accommodate one hundred twenty (120) percent of the volume of the tank.

3) Buffering Requirements:

- a) Buffer zones shall comply with the requirements of Section 21.01(3).
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01(10)g of this Ordinance.
- c) The view of all restroom doors shall be shielded from adjacent streets and residential districts.
- d) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

4) Performance Standards:

- a) Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
- b) Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to a junk yard. Such storage shall not occur in front of the building.
- c) Sales of new and used motorized vehicles shall not be permitted.
- d) No public address system shall be audible from any abutting residential parcel.

- e) All floor drains shall be connected to a public sanitary sewer system with the approval of the sewer authority or connected to an approved holding tank.
- f) All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
- g) All handling of flammable or hazardous substances shall be in accordance with state and federal laws and all required state and federal permits shall be obtained and the establishment shall remain in conformance therewith.
- h) A car wash may be established as part of the principal structure or as an separate structure but shall conform to all setback requirements for a principal structure.
- l) Full compliance with the Section 16.26.

### **Section 26.05 Bed and Breakfast**

1) Locational Requirements: Bed and Breakfast establishments are permitted by Special Use Permit in the R-2, R-3, R-4 and R-5 districts. It is the intent of this Ordinance to allow for the conversion of old residential homes of suitable size into Bed and Breakfast establishments when such use can be accomplished within an existing residential dwelling, and generally without expanding the existing dwelling, but not to allow the construction of new Bed and Breakfast establishments. Nonresidential buildings may also be converted to a Bed and Breakfast establishment pursuant to the relevant standards of this Section.

#### 2) Site Requirements:

- a) One (1) parking space per room to be rented shall be provided on site, in addition to the parking required for a single family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.
- b) The parcel on which the establishment is to operate must meet or exceed the minimum requirements of the zoning district, except it may be substandard in lot area.

#### 3) Performance Standards:

- a) The primary use of a bed and breakfast must be as a residence for the owner or manager, who operates and occupies said structure. The bed and breakfast facility may have up to six (6) bedrooms used for transient guests for compensation and by prearrangement. Up to twelve (12) bedrooms may be provided by adaptive reuse of an



existing nonresidential structure (such as a church) in a residential zone.

- b) The applicant shall provide a scaled floor plan of the premise as part of the special use application.
- c) The exterior appearance of the structure shall not be altered from its residential district character.
- d) Each sleeping room shall have a separate smoke alarm as required in the building code.
- e) A fire escape plan shall be developed and graphically displayed in each guest room.
- f) A minimum of one (1) fire extinguisher, in proper working order, shall be located on each floor.
- g) The establishment shall contain at least two exits to the outdoors.
- h) No guest room shall be located in a basement or cellar.
- i) No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
- j) Lavatories and bathing facilities shall be available to all persons using the premises.
- k) No separate or additional kitchen facilities shall be provided for the guests.
- l) Retail sales are not permitted beyond those activities serving the registered overnight patrons.
- m) Meals shall not be served to the public at large but only to registered guests. Meal preparation and service shall conform with all applicable public health requirements.
- n) No receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve only registered guests.
- o) Outdoor rubbish or trash facilities beyond what might normally be expected for a residential structure shall be prohibited.
- p) Parking spaces and street entry shall be paved.
- q) Parking shall be provided in conformance with the parking requirements of Article 19.
- r) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance for any Bed and Breakfast with more than six (6) rooms.
- s) The rental sleeping rooms shall have a minimum size of one-hundred (100) square feet for each two (2) occupants, with an additional thirty

(30) square feet for each occupant, to a maximum of four (4) occupants per room.

- t) No rooms which have been constructed as an addition to the residence within four (4) years prior to the filing of the application, nor any attached garage or porch which has been converted into living quarters within four (4) years prior to the filing of the application shall be utilized for sleeping purposes.
- u) An approved Bed and Breakfast shall provide for a minimum of three rental bedrooms, plus one bedroom for the owner/manager.
- v) An approved Bed and Breakfast shall provide for at least one bathroom, on the same level as the rental bedrooms, plus a separate bathroom exclusively utilized by the owner/manager.
- w) An approved Bed and Breakfast shall provide for an additional bathroom if there are more than three rental bedrooms available for rental.
- x) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.06 Reserved for Future Use**

### **Section 26.07 Cemeteries and/or Mausoleums**

#### **1) Locational Requirements:**

- a) All ingress and egress to the site shall be from a major thoroughfare.
- b) The site shall not interfere with the future development of a system of major thoroughfares or larger streets in the vicinity.

#### **2) Site Requirements:**

- a) The minimum lot or parcel size for cemeteries and/or mausoleums shall be five (5) acres.
- b) No more than five (5) percent of the site area shall be occupied by buildings.
- c) All burial plots and all structures including but not limited to a mausoleum shall be set back no less than thirty (30) feet from any lot line or street right-of-way.
- d) Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.
- e) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

3) Buffering Requirements: A ten (10) foot buffer zone containing screening plant materials approved by the Planning Commission is to be provided adjacent to all interior lot lines pursuant to the requirements of Section 21.01(3)

4) Performance Standards: All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Allegan County Health Department and the State of Michigan.

### **Section 26.08 Child Care Center and Adult Day Care Facility**

#### 1) Locational Requirements:

- a) Child care center and Adult day care facility shall be permitted in the R-4, R-5 and C-2 districts as a Special Use.

#### 2) Site Requirements:

- a) Appropriate screening shall be provided to limit noise reaching adjacent land uses.

#### 3) Buffering Requirements:

- a) Buffer zones shall comply with the requirements of Section 21.01(3).
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01(10) of this Ordinance.

#### 4) Performance Standards

- a) All required state and local licensing shall be maintained at all times.
- b) All outdoor areas used for care and play area shall be located in the rear or side yards only and shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
- c) Such facilities shall be located at least fifteen hundred (1,500) feet from any one of the following:
  1. A licensed or pre-existing operating group or commercial day-care home.
  2. An adult foster care facility.
  3. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.
  4. A community correction center resident home halfway house or similar facility under jurisdiction of the County Sheriff or the Department of Corrections.

- d. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- e. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.

**Section 26.09 Commercial Recreation Facility**

Outdoor commercial recreation uses shall include, but shall not be limited to, the following:

- a) Miniature golf.
- b) Go-cart, automobile or motor-cycle tracks.
- c) Amphitheaters.
- d) Amusement and water parks.
- e) Drive-in theaters.
- f) Airgun or survival games.
- g) Amusement parks
- h) Campgrounds (including youth camps, religious retreats and hunting camps), recreational vehicle parks or travel trailer parks
- i) Resorts
- j) Fairgrounds
- k) Batting cages
- l) Ski slopes
- m) Skate board parks
- n) Flea markets
- o) Uses similar to the above uses
- p) Uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.

1) Locational Requirements: Commercial recreational uses are permitted in the C-2 General Commercial zoning district.

2) Site Requirements:

- a) The site shall be located on a major thoroughfare
- b) Minimum site area shall be:

1. Three (3) acres for; flea markets, batting cages, skateboard parks and mini-golf. Minimum lot width shall be two hundred (200) feet.
2. Ten (10) acres for; amphitheater, amusement and water parks, resorts and campgrounds. Minimum lot width shall be six hundred (600) feet.
3. Twenty (20) acres for all other listed commercial recreation uses. Minimum lot width shall be six hundred (600) feet.

3) Buffering Requirements:

- a) No building or spectator seating facility shall be located within one hundred (100) feet of a lot line of adjoining residentially zoned property.
- b) Front, side and rear yards shall be at least eighty (80) feet. The first fifty (50) feet of such yards shall be kept free of off-street parking and shall be landscaped.
- c) Whenever parking areas are adjacent to land zoned or used for residential purposes, a five (5) foot wall or greater shall be provided along the sides of the parking area adjacent to such residential land.
- d) Race tracks and drive-in theaters shall be enclosed and the entire periphery with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.
- e) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance Standards:

- a) The applicant shall provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.
- b) Facilities shall provide off-street parking and passenger loading areas.
- c) Adequate stacking area shall be provided for vehicles waiting to enter the lot.
- d) Facilities which have a participant capacity greater than 500 people shall provide letters of review from the County Sheriff and County Road Commission with respect to the proposed project.
- e) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
- f) Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
- g) Outside storage shall be screened.

- h) Landscaped areas shall be maintained in a healthy condition pursuant to Article 21.
- i) Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- j) In no case shall a recreational accessory use predate the installation and operation of the principal use. When the principal use ceases to operation, the accessory use shall immediately cease.
- k) Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility.
- l) Not more than sixty five (65%) of the land area shall be covered by recreational uses.
- m) Central loudspeakers/paging systems are prohibited within one-hundred 100 feet of residentially zoned property.
- n) The intensity level of sounds shall be consistent with the standards as set forth in Section 95 of the General City Ordinances, Health & Safety; Nuisances.
- o) All such recreational uses shall be located at least five-hundred (500) feet from any other such use.
- p) No temporary sanitary facility or trash receptacle shall be located within two hundred (200) feet of an existing dwelling.
- q) Security fencing shall be provided adjacent to residential districts or uses.
- r) All sanitary facilities shall be designed and constructed in strict conformance with County Health Department regulations.
- s) Adequate trash receptacles shall be provided, as needed throughout the site.
- t) Drive-in theater screens shall not face any public street and shall be so located as to be out of view from any major thoroughfare.
- u) Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners. The maximum range of hours is Monday through Sunday from 7:00 a.m. to 12:00 a.m. (midnight). and may be prohibited on legal holidays.
- v) In the case of camping facilities;
  - 1. Each campsite shall contain a minimum of fifteen hundred (1,500) square feet.
  - 2. Each campsite shall be set back from any right-of-way or lot line at least seventy (70) feet.

3. A common use area shall be provided in the parcel of five hundred (500) square feet per campsite.
4. There shall be no permanent storage of tents, campers, travel trailers or mobile home units in the development unless specifically permitted
5. At least one public telephone shall be provided in the facility for each twenty (20) campsites.
6. Maximum density for campgrounds shall be fifteen campsites per acre.
7. No more than one permanent dwelling shall be allowed in a campground which shall only be occupied by the owner, manager or an employee.
8. Separate toilet and bathing facilities shall be provided for each sex and shall contain hot and cold water at a ratio of one facility per 20 campsites.
9. Each campsite shall have a picnic table and designated place for fires.

### **Section 26.10 Communication Towers**

1) Locational Requirements: Communication towers are permitted by Special Use Permit in the C-2 General Commercial, and Light Industrial zoning districts.

2) Site Requirements: A minimum site of three (3) acres.

3) Buffering Requirements:

- a) The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property.
- b) The base of the tower and wire/cable supports shall be fenced with a minimum five (5) foot woven fence.

4) Performance Standards:

- a) All structures shall be located at least two hundred (200) feet from any single family dwelling.
- b) All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
- c) The plans of the tower construction shall be certified by a registered structural engineer.
- d) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.

- e) All towers must meet the standards and regulations of the Federal Aviation Administration and the Federal Communications Commission and the applicant shall, upon request, provide the City with all filings with respect to federal government approvals.
- f) Accessory structures are limited to uses associated with operation of the tower.
- g) Communication towers in excess of one-hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
- h) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, in or upon any required setback area for the district in which the antenna or tower is to be located.
- i) Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
- j) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- k) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
- l) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- m) Towers shall be located so that they do not interfere with reception in nearby residential areas.
- n) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.
- o) The base of the tower shall occupy no more than five hundred (500) square feet and the top of the tower shall be no larger than the base.
- p) Minimum spacing between tower locations shall one (1) mile.
- q) Height of the tower shall not exceed two hundred (200) feet from grade in the C-2 General Commercial zone district or three hundred (300) feet from grade in the Light Industrial zone district.
- r) Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- s) Existing on-site vegetation shall be preserved to the maximum extent practicable.



- t) There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
- u) The antenna shall be painted to match the exterior treatment of the structure. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- v) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform or the Special Use Permit will be subject to revocation by the City Council. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- w) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- x) If the tower is no longer required due to technological advances, it must be removed within six (6) months of its discontinuance or abandonment.
- y) The tower shall be of a stealth type design to minimize its impact on the surrounding community.

### **Section 26.11 Convalescent or Nursing Homes**

1) Locational Requirements: Convalescent or nursing homes are permitted by Special Use Permit in the C-1, C-2, R-4, R-5 and R-6 Districts.

2) Site Requirements:

- a) There shall be a minimum of one thousand five-hundred (1,500) square feet of open site area for each bed in the facility to provide for landscaping, parking, service drives, yards, recreational areas and accessory uses.

3) Buffering requirements:

- a) Shall conform to the requirements of Article 21.
- b) No building shall be closer than forty (40) feet to any lot line.
- c) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance standards:

- a) No more than twenty-five (25) percent of the site area shall be covered by buildings.
- b) Parking areas shall not be located within fifty (50) feet of a residential district or use.

- c) All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable state and federal laws.
- d) The site shall be served by a major thoroughfare.
- e) Buildings shall conform to the height limitations of the district.
- f) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.12 Drive-in/Drive-Through Establishments**

1) Locational Requirements: Drive-in/Drive-Through establishments are permitted by Special Use Permit in the C-2, General Commercial District.

2) Site Requirements:

- a) Minimum lot area shall be twenty thousand (20,000) square feet.
- b) The minimum lot width shall be one hundred twenty-five (125) feet.
- c) The site shall have at least one (1) lot line on a paved major thoroughfare.

3) Buffering Requirements:

- a) Shall meet the requirements of Article 21.
- b) The outdoor storage of trash and rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance Standards:

- a) The outdoor space used for parking and vehicle stacking, shall be hard surfaced and adequately drained.
- b) Drive-in or drive-through management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
- c) No drive shall be closer to any other drive than seventy five (75) feet and the maximum number of driveways permitted on a major thoroughfare is two (2).
- d) Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
- e) Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.
- f) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.13 Ground Floor Residential**

1) Locational Requirements: Residential uses shall be permitted on the ground floor of a structure located in the C-1 District only where such use does not front upon Center Street.

2) Site Requirements:

- a) All residential dwelling units on the ground floor of a structure located within the C-1 District shall be set back a minimum of thirty (30) feet from the Center Street right-of-way to avoid breaking up the continuity of active commercial areas along Center Street.
- b) All ground floor structures used for residential purposes shall be located on property which abuts property zoned R-1, R-2, R-3, R-4 or R-5 on at least one side.
- c) The Planning Commission shall make a determination that the regular flow of pedestrian traffic to and from established commercial uses is not likely to be negatively reduced or impeded by the residential use within a ground floor structure.
- d) Any application for Ground Floor Residential use within the boundaries of the Downtown Development Authority shall be submitted to the DDA Board for recommendation prior to Planning Commission approval.
- e) All standards of Article 10 C-1 Village Center District shall apply to a ground floor residential use except that the minimum transparency requirements set forth within Section 10.02, D, may be reduced to no less than 30% to insure the safety and privacy of residents.

(Amended October 19, 2009: Ord. #03-2009)

### **Section 26.14 Farm Markets**

1) Locational Requirements: Farm markets are permitted by Special Use Permit on major thoroughfares in the C-2 General Commercial district.

2) Site Requirements:

- a) The minimum area of a lot used for a farm market shall be at least ten-thousand (10,000) square feet and not more than twenty-thousand (20,000) square feet. A farm market may be placed on the same lot as a dwelling unit if both are under the same ownership and if the owner of the farm market occupies the dwelling unit.
- b) No activity or structure shall be located within twenty-five (25) feet of the public road right-of-way.

- c) A minimum of six (6) spaces for off-street parking, outside of the public road right-of-way shall be required for the exclusive use of the farm market with additional spaces at the rate of one (1) space for each three-hundred (300) square feet of gross floor area (paving not required).
- d) Suitable containers for rubbish shall be placed on the premises for public use.
- e) A storage structure shall be permitted provided it does not exceed two hundred (200) square feet in area.
- f) Farm markets shall be located no closer than three-hundred (300) feet from any lot line which abuts a residential zone or dwelling unit.
- g) There shall be one access drive which shall be wide enough to accommodate two vehicles side-by-side.

3) Buffering Requirements:

- a) Shall comply with requirements of Article 21.
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance Standards:

- a) Hours of operation shall be between the hours of 7:00 a.m. and 7:00 p.m.
- b) Any structure used as a farm market shall not be more than one (1) story high unless it is an existing barn.
- c) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

**Section 26.15 Golf Courses and Country Clubs**

1) Locational Requirements: Golf courses and country clubs are permitted by Special Use Permit in the R-1, R-2 Residential District.

2) Site Requirements:

- a) Minimum site shall be eighty (80) acres for a nine hole course.
- b) Minimum site shall be one hundred sixty (160) acres for an 18 hole course.
- c) The minimum site for tennis, racket sport and swimming facilities shall be four (4) acres.

3) Buffering Requirements:

- a) A landscaped buffer zone shall be provided between the parking and principal building area and any adjacent residential development.

- b) A 50 foot minimum natural vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The natural vegetation strip shall not be chemically treated.
- c) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance Standards:

- a) Accessory uses may include; clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, standard restaurant and drinking establishments, tennis, racket sport, and swimming facilities.
- b) The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
- c) Major accessory uses such as a restaurant and bar shall be housed in a single building with the club house. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
- d) Reserved
- e) A site plan of the proposed development shall be reviewed and approved in accordance with Article 24 of this Ordinance. Such site plan shall indicate the location of service roads, entrances, driveways and parking areas and shall be so designed in relationship to the public streets that pedestrian and vehicular traffic safety is maximized.
- f) Development features shall be shown on said site plans; including the principal and accessory buildings, structures and parking areas, and shall be so located as to minimize possible adverse effects upon adjacent property.
- g) All principal or accessory buildings and parking areas shall be not less than two hundred (200) feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
- h) Access shall be so designed as to provide all ingress and egress directly onto or from a major thoroughfare.
- i) No building shall be erected to a height greater than that permitted in the district in which it is located.
- j) The total lot area covered with principal and accessory buildings shall not exceed 15 percent.
- k) Additional parking is required for accessory uses that may be allowed.
- l) All parking areas shall be surfaced or so treated as to prevent any dust nuisance.

- m) All artificial lights shall be directed away from adjoining properties.
- n) No outdoor loudspeaker or call system shall be audible on adjoining property.
- o) Outside storage shall be properly screened.
- p) A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one hundred (100) foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
- q) Toilet facilities for use by patrons shall be located conveniently. Such facilities shall be approved by the Allegan County Health Department.
- r) In the consideration of golf driving ranges additional buffering conditions necessary to minimize the impact of possible safety threats from projectiles upon adjacent land uses may be imposed by the Planning Commission.
- s) A minimum of two satellite restrooms or other acceptable facilities are required for each nine holes. The satellites are to be centrally located away from lot lines and painted or finished in an earth tone color.
- t) Golf courses shall retain and preserve native vegetation over at least thirty (30) percent of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run-off.
- u) Water quality protective measures are required as follows:
  - 1. Maintenance of erosion control barriers during construction and until all ground cover is established.
  - 2. To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
  - 3. Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area.
  - 4. A chemical storage area must be designated within an accessory building. The area must provide secondary containment to prevent the spread of spills.
  - 5. All herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure.
  - 6. An inventory manifest of stored chemicals must be posted at the entrance of the accessory building. Said listing must also be filed with the City.
  - 7. At any time widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs

must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information.

8. All chemical applications must be by a Michigan Department of Agriculture Licensed Applicator.
  9. Chemicals shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.
  10. In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the City may require posting of a performance guarantee or other acceptable security.
- v) Swimming pools shall conform with the requirements of Section 16.16.

### **Section 26.16 Greenhouses**

#### **1) Locational Requirements:**

- a) Greenhouses which may include flower shops are permitted by Special Use Permit in the C-2 General Commercial district.
- b) Ingress and egress to the business shall be only from a paved road or from a shared access to such a road.

#### **2) Site Requirements:**

- a) The minimum lot size shall be twenty thousand (20,000) square feet if a greenhouse is located on the site.
- b) Off-street parking in accordance with Article 19.

#### **3) Buffering Requirements:**

- a) Shall comply with the requirements of Article 21.
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

### **Section 26.17 Home Occupation, Major**

A home occupation shall be conducted entirely within the dwelling or approved accessory building, as defined herein, and shall not involve any alteration of the structure or change in the character thereof. Home occupations shall satisfy the following additional conditions:

- 1) The operator of a proposed home occupation shall attach an operational plan for the home occupation to the application for a Special Use Permit. The operational plan shall provide the following information:

- a). The hours the home occupation will operate.
  - b) A description of employee parking and workforce staging plans.
  - c) A site plan in accordance with Article 24.
  - d) A description of the shipping and delivery requirements of the home occupation.
  - e) A description of any material used in the home occupation which will be stored on the premises.
- 2) The on site activities associated with the home occupation shall be fully conducted within the personal residence or accessory buildings of the person engaging in the home occupation.
  - 3) The activities of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be bothered by the existence of the home occupation.
  - 4) In addition to the occupants of the residence and not more than two (2) nonresident employees, a home occupation may employ other persons, provided their work activities are undertaken at locations other than the location of the home occupation.
  - 5) The Planning Commission may establish limits on the outdoor storage, size and parking of equipment or vehicles to preserve the residential character of the neighborhood. No outdoor storage of materials or scrap is permitted.
  - 6) Not more than one (1) automobile associated with the home occupation may be parked on the street at any time. Any other parking shall be on the parcel where the home occupation is taking place and parking for not more than two (2) automobiles may be constructed in addition to the area of the driveway in existence prior to the establishment of the home occupation.
  - 7) With the exception of material purchased over the counter for household cleaning, lawn care, operation of a photocopier machine, paint, printing, arts and craft supplies or heating fuel, the home occupation shall not involve the generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 229.433 et. seq.), or use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910.2 (Dept. of Labor Regulations).
  - 8) Any change in the nature or activities of a home-based business shall be regarded as a new home occupation and shall require a new application.
  - 9) Failure to fulfill the terms of the approved home occupation, the site plan, and its attachments, shall be grounds for revocation of Planning Commission approval of a home occupation.



## **Section 26.18 Junk Yards/Auto Salvage**

### **1) Locational Requirements:**

- a) Junk yards are permitted by Special Use Permit in the Light Industrial zoning district. Junk yards shall not be located adjacent to residentially zoned properties, schools, day care facilities, churches, hospitals, and convalescent or nursing homes.
- b) Ingress and egress to the facility shall be only from a major thoroughfare. The Planning Commission may approve access other roads if the Commission finds that such access point will further minimize impacts on other properties.

### **2) Site Requirements:**

- a) The minimum lot or parcel size for junk yards shall be five (5) acres.
- b) Setbacks
  1. All enclosed areas shall be set back at least one hundred (100) feet from any lot line.
  2. Junk yards shall not be located closer than two hundred (200) feet from the border of an industrial district
- c) Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
- d) Whenever the installation abuts a residential district, a buffer strip at least two hundred (200) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, and structural screens of a type approved by the Zoning Administrator.

### **3) Buffering Requirements:**

- a) The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Article 21 of this Ordinance.
- b) A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around all sides of the area used to store junk to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction.

### **4) Performance Standards:**

- a) All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that

height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.

- b) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- c) All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
- d) The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles. Before the state will issue the licenses, the Zoning Administrator and the County Sheriff shall certify that the facility is in a properly zoned area and that the operators have not been previously convicted as felons.
- e) Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.
- f) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.19 Kennels**

1) Locational Requirements: Kennels are permitted by Special Use Permit in the C-2 General Commercial district.

2) Site Requirements:

- a) A kennel shall be on a lot with a minimum size of one (1) acre for five (5) animals and one-third (1/3) additional acre for each additional animal, with a limit of 10 animals.
- b) Kennels shall be on a lot with at least two hundred (200) feet of frontage, have a minimum lot size of one (1) acre for the first 11 animals and an additional 1/3 acre for each animal thereafter.

3) Buffering Requirements: Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent residential lot line or any adjacent building used by the general public and shall not be located in any required front yard.

4) Performance Standards:

- a) All kennels shall be operated in conformance with all applicable county, state and federal regulations.
- b) Kennels shall only house animals owned by the occupant of the dwelling unit.

- c) The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
- d) Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
- e) The intensity level of sounds shall be consistent with the standards as set forth in Section 95 of the General City Ordinances, Health & Safety; Nuisances.
- f) Exercise yards, when provided for training or exercising shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
- g) During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
- h) Runs and/or exercise areas, and buildings where the animals are maintained shall be located in the rear yard only.
- i) The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article 21.
- j) The outside perimeter of the run and/or exercise area of a kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top having to prohibit the escape of animals.
- k) All animals must be licensed and maintained in a healthful and careful manner.
- l) Outdoor runs and breeding areas in a kennel shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
- m) The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
- n) Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
- o) Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

### **Section 26.20 Marinas and Minor Marina**

#### **1) Locational Requirements:**

- a) Marinas established after the effective date of this Ordinance shall be located only in the R-4 Harbor Residential District. Expansion of any marina lawfully in existence on the effective date of this Ordinance that

is not in an R-4 District may be permitted by Special Use Permit if compliance with the standards of this Section is achieved.

- b) A minor marina shall be located only in the R-3 Residential District. Expansion of any marina lawfully in existence on the effective date of this Ordinance may be permitted by special use permit if compliance with the standards of this Section is achieved.
- b) Buildings, docks, and parking areas shall be located no closer than thirty-five (35) feet from any residential property line.
- c) Marinas established after the effective date of this Ordinance shall be located on a major thoroughfare so that access to the site can be provided without imposing significant traffic on local residential streets.

#### 2) Site Requirements:

- a) The minimum lot or parcel size for marinas shall be two (2) acres.
- b) Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
- c) Accessory uses shall occupy no more than four hundred (400) square feet of building area.

#### 3) Buffering Requirements:

- a) Fences and screening in accordance with Article 21 of this Ordinance may be required to mitigate potential negative impacts on adjacent properties.
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

#### 4) Performance Standards:

- a) Sanitary facilities (restrooms) shall be provided on the site.
- b) Adequate secondary containment shall be employed if any petroleum or other such products are sold on the premises.
- c) Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.
- d) There shall be no externally visible evidence of commercial activity from accessory uses.
- e) A permit to erect, maintain, or operate a marina shall be secured from the Michigan Department of Natural Resources, in conjunction with any other approvals.

- f) All such uses shall conform with the Marine Safety Act, the Inland Lakes and Streams Act, and all other county, state, and federal regulations.
- g) All such uses shall comply with City Ordinance no. 101, Waterfront Construction.
- h) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

**Section 26.21 Medical Marijuana Growing Operation**

- 1) Permitted Locations. A Medical Marijuana growing Operation shall be located only in the General Commercial (C-2) and Light Industrial (L-1) Districts.
- 2) Prohibited Locations. A medical marijuana growing operation shall not be located
  - i. Within 50 feet of any residential zoning districts
  - ii. Within 1,000 feet of the property line of any public or private school, college or university, any nursery school, day nursery, licensed day care center or any other building or location either rented or used in any way for the care or instruction of children under 18 years of age.
  - iii. Within 500 feet of the property line of any church, house of worship or other religious facility or institution.
  - iv. Within 500 feet of any public park, publically owned building or recreational area commonly used by minor children.
  - v. Within 500 feet of a public library.
  - vi. In an area that has been designated as an historic area by the City of the Village of Douglas, County of Allegan or State of Michigan.
  - vii. Within 500 feet of any other Medical Marijuana Growing Operation.
  - viii. The distance measurement provided for in this subsection shall be a straight line from the boundary line of the Medical Marijuana Growing Operation to the boundary line of the location it is to be separated from.
- 3) License Required. The use of property as a Medical Marijuana Growing Operation shall require the submittal and approval of a license issued by the City Clerk and in accordance with Ordinance 04-2013.
- 4) Revocation of License; Appeal Process. A license issued by the City Clerk may be revoked by written notice of the City Clerk sent by certified mail to the applicant at the address shown on the application upon a determination by the City Clerk of any of the following:
  - a) The licensed site fails to comply with the City's zoning ordinance.

- b) Any of the information required on the application shows the information provided by the applicant to have been fraudulent, a misrepresentation, a false or untrue statement.
- c) The applicant has been convicted of any felony.
- d) Any violation of this ordinance.

The applicant may appeal the revocation of his/her license to the City Council by following the process set forth within Section 10 of Ordinance 05-2012.

- 5) Surrender of License Upon Demand. The license shall be surrendered on demand to any law enforcement officer based upon probable cause by the officer that the license or licensed premises is being used in violation of this ordinance. Within five (5) business days of the surrender of any license, the City Clerk shall either revoke the license pursuant to Section 12 of this ordinance, or return the license to the applicant.
- 6) No Immunity. Nothing in this Ordinance, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Michigan Medical Marihuana Act. Also, since Federal law is not affected by that Act, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.
- 7) Required Review. This ordinance shall be reviewed by the Planning Commission within two years of the date of adoption. Evaluation of the effect of caregiver operations upon surrounding land uses, the community in general and changes in state law shall factor into consideration of any proposed changes.
- 8) Conflict. In the event that there is conflict with any other ordinance, this ordinance shall supersede.

### **Section 26.22 Mini Storage Facilities**

#### **1) Locational Requirements:**

- a) Mini storage facilities shall be permitted only in Light Industrial districts.
- b) The facility shall have direct access to a major thoroughfare

#### **2) Site Requirements:**

- a) The minimum lot or parcel size for mini storage facilities shall be 2 acres. Mini-warehouses shall occupy lots no larger than five (5) acres.
- b) The individual areas used principally for storage, warehousing, or distribution shall not exceed five thousand (5,000) square feet in gross floor area or twenty-five (25) feet in height.
- c) Off street parking shall be in accordance with Article 19.
- d) There shall be a minimum of thirty five (35) feet, forty-five (45) feet if the driveway is two-way, between warehouses for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need only be twenty five (25) feet. Traffic direction and parking shall be designated by signaling or painting.
- e) 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.

3) Buffering Requirements:

- a) When adjoining a residential district, a six (6) foot high wall, fence, or dense vegetation strip shall be erected and maintained along the connecting interior lot line.
- b) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
- c) A twenty (20) foot landscaped strip shall be required adjacent to any public streets.
- d) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance Standards:

- a) No retail, wholesale, fabrication, manufacturing, or service activities shall be conducted from the storage units by the lessees.
- b) Not more than three thousand six-hundred (3,600) square feet in total area shall be occupied or used by any single tenant.
- c) Storage of goods shall be limited to personal property with no commercial distribution allowed
- d) All storage shall be within the enclosed building area. There shall be no outside storage or stockpiling.
- e) The exterior of mini-storage buildings shall be of finished quality and maintained so as not to be offensive to adjacent property or abutting streets.
- f) No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

## **Section 26.23 Motels/Hotels**

### **1) Locational Requirements:**

- a) Motels/Hotels are permitted by Special Use Permit in the C-2 General Commercial district.
- b) Ingress and egress to the motel shall be only from a paved major thoroughfare.
- c) A hotel is permitted by Special Use Permit in the C-1 Village Center District.

### **2) Site Requirements:**

- a) The minimum lot size shall be one (1) acre with a minimum width of one hundred fifty (150) feet, provided that there shall be at least eight hundred (800) square feet of lot area for each guest. This requirement does not apply to a hotel in the C-1 District.
- b) The maximum lot coverage of all buildings, including accessory buildings, shall not exceed twenty-five (25) percent of the area within the lot lines of land developed at any one time. A hotel proposed in the C-1 District shall comply with the lot coverage requirements of Section 10.02(c).
- c) Off-street parking and loading is as required in accordance with Article 19. Hotels located in the C-1 District shall also be subject to the provisions of Section 10.04.

### **3) Buffering Requirements:**

- a) The front twenty-five (25) feet of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off-street parking, except a hotel proposed in the C-1 District shall comply with the requirements of Section 10.03.
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

### **4) Performance Standards:**

- a) No kitchen or cooking facilities shall be provided in guest rooms unless specifically approved by the Planning Commission, in which case the design shall conform to all Building Code requirements.
- b) The minimum floor area of each guest unit shall be two hundred-fifty (250) square feet.
- c) No guest shall establish residence at the motel for more than 30 days.
- d) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.



## **Section 26.24 Movie Theater**

### **1) Locational Requirements:**

- a) A movie theater is permitted by Special Use Permit in the C-1 Village Center district.
- b) Ingress and egress to the movie theater shall be only from a paved major thoroughfare.

### **2) Site Requirements:**

- a) The minimum lot size shall be as required in the C-1 district.
- b) Off-street parking and loading is as required in accordance with Article 19.

### **3) Buffering Requirements:**

- a) The exit doors facing a residential shall be screened to protect the residential neighbor from excessive noise and light.
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

### **4) Performance Standards:**

- a) The movie theater shall not have a seating capacity of not to exceed two hundred (200) patrons.
- b) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

## **Section 26.25 Multiple Family Development**

1) **Locational Requirements:** Multiple family dwellings are permitted by Special Use Permit in the Harbor Residential District R-4 and in the R-5 Multiple Family District as a use by right provided the site plan meets the requirements of this section.

2) **Site Requirements:** There shall be a lot size of no less than twenty thousand (20,000) square feet. Multiple family dwellings shall not exceed a density of six (6) dwelling unit per buildable area on the site or a maximum of twelve units per acre, whichever is the lesser. Buildable area is defined as that area of the site exclusive of right-of-way, wetlands, floodplain, steep slopes (over 20%), or other areas of the site rendered unbuildable due to environmental conditions. Where multiple buildings are proposed on a single site, the application shall be processed in accordance with the standards for a Planned Unit Development.

### **3) Buffering Requirements:**

- a) Any multiple family development adjoining any single family residential district or any developed nonresidential district shall provide a buffer zone planted pursuant to the requirements of Article 21.

- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

4) Performance Standards: All multi-family developments shall be constructed in accordance with the City of Douglas Design Guidelines for Multi-Family Development as well as the following standards:

- a) All developments for multiple family dwellings shall have direct access to paved major thoroughfare or paved City street.
- b) Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development which shall be designed to minimize congestion and interference with normal traffic flow.
- c) No multiple family building shall exceed one hundred twenty (120) feet in length along any one face of the building.
- d) No dwelling unit shall have its principal access more than one-hundred fifty (150) feet from either an access drive or a public street, and the required off-street parking area.
- e) The distance between any two (2) residential structures which occupy the same lot shall be not less than thirty (30) feet, if both of the walls facing each other contains windows or other openings, and not less than twenty (20) feet for all other situations; provided, however, a greater separation may be required where any structure exceeds thirty (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures. See the City of Douglas Design Guidelines for Multifamily Development for further details.
- f) Maximum lot coverage for a multiple family development shall cover no more than thirty-five (35%) percent of the parcel.
- g) All developments shall be served with adequate public sewer facilities.
- h) The site shall be developed and facilities shall be provided in such a manner so as to ensure adequate drainage.
- i) There shall be provided easily accessible and useable open space in the development in an amount of ten (10%) percent of the site area or two thousand (2,000) square feet per four dwelling units, whichever is greater.
- j) All group off-street parking facilities shall be with dark sky compliant fixtures during hours of darkness.
- k) All streets and roadways shall have a minimum pavement width of thirteen (13) feet for one-way streets, and twenty-four (24) feet for two-way streets. Driveways shall have a minimum paved width of ten (10) feet.

- l) All developments shall provide for underground installation of all utilities.
- m) Unless approved as a Planned Unit Development only the following accessory land and/or building uses shall be permitted:
  - i. One (1) office space not greater than one thousand (1,000) square feet for conducting the business of the development.
  - ii. Utility areas for laundry facilities and auxiliary storage for tenants.
  - iii. Recreation area such as community buildings, playgrounds, swimming pools and open space for tenants.
- n) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
- o) Where any of the preceding standards or other requirements of this ordinance are in conflict with the City of Douglas Design Guidelines for Multifamily Development, the standards of this ordinance shall be enforced. The Planning Commission may make a recommendation to the Zoning Board of Appeals that a specific variance from one or more of the standards within this ordinance would allow a development to better fit with the desired character of a neighborhood, as expressed within the District Intent Statement, the Tri-Community Comprehensive Plan and the City of Douglas Guidelines for Multi-Family Development. The Zoning Board of Appeals may consider granting such a variance. (Amended July 15, 2013, Ord No 07-2013)

### **Section 26.26 Open Air Businesses**

Open air businesses shall include, but need not be limited to, the following:

- a) Automobile, truck, recreational vehicle and boat sales.
- b) Agricultural equipment sales.
- c) Nursery, landscaping supplies.
- d) Lumber yards.
- e) Home and garden centers.
- f) Mobile home sales

#### **1) Locational Requirements:**

Open air businesses are permitted by Special Use Permit in the C-2 General Commercial District.

#### **2) Site Requirements:**

- a) Minimum lot area shall be one (1) acre.
- b) The minimum frontage shall be two-hundred (200) feet.

- c) No loading activities shall be permitted within seventy-five (75) feet of any lot line abutting a residential land use.
- d) All buildings shall be set back a minimum of fifty (50) feet from any lot line.
- e) Ingress and egress to the facility shall be only from a major thoroughfare, or from an approved shared access drive to such thoroughfare.
- f) No more than two (2) driveways onto a thoroughfare shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.

3) Buffering requirements:

- a) Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Article 21.
- b) If the site is immediately adjacent to a residential district screening shall comply with the requirements of Article 21.
- c) Storage yards associated with home and garden centers, lumber yards and nurseries shall be completely obscured from view from public streets.
- d) The outdoor storage of trash or rubbish shall be screened in compliance with Section 21.01 (10) of this Ordinance.

4) Performance standards:

- a) The site shall be kept in a neat and orderly fashion.
- b) Not more than fifty (50%) of the parcel shall be covered by buildings and outdoor storage of materials and goods.
- c) Storage or display of goods and materials shall not occur in the required setbacks.
- d) Christmas tree sales associated with nurseries need not comply with the requirements of Section 16.14 (5).
- e) Displays are to be limited to front yards only.
- f) No public address system shall be audible from any abutting residential parcel.
- g) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
- h) All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating the soil, ground or surface water shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.

- i) The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies, wetlands and drainage ways.
- j) Off-street loading and parking facilities shall be provided pursuant to the requirements of Article 19.
- k) In the case of auto, truck or recreational vehicle sales:
  - i. No vehicles which are inoperative shall be stored on the premises for more than two (2) weeks.
  - ii. All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building except minor maintenance, including tire replacement, adding oil and wiper replacement.
  - iii. For facilities with new underground storage tanks, the site shall be three-hundred (300) feet from any residential well, eight hundred (800) feet from a non-community public water well and two-thousand (2,000) feet from any public water well.
  - iv. All areas subject to vehicular use shall be paved with a durable dust-free surface, with appropriate bumper-guards where needed.

**Section 26.27 Place of Public Assembly**

Performance Standards.

- 1. Large Places of Public Assembly.
  - a. A Large Place of Public Assembly shall front on and be accessed primarily from a major street segment, as defined herein.
  - b. All signs shall be in compliance with the provisions of Section 16.26 of this Ordinance.
  - c. All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
  - d. All off-street parking shall be in compliance with Article 19 of this Ordinance.
  - e. Landscaping and Buffering shall be provided in accordance with Article 21 of this Zoning Ordinance.
- 2. Small Places of Public Assembly
  - a. All signs shall be in compliance with the provisions of Section 16.26 of this Ordinance.
  - b. All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

- c. All off-street parking shall be in compliance with Article 19 of this Ordinance.
- d. Landscaping and Buffering shall be provided in accordance with Article 21 of this Zoning Ordinance.

### **Section 26.28 Private Recreational Facilities**

Such uses shall include, but need not be limited to, the following:

- a) Private recreation centers
- b) Private clubs or lodges

1) Locational Requirements: Private recreational uses are permitted by Special Use Permit in C-1 and C-2 Districts.

2) Site Requirements:

- a) The site shall be located on a major thoroughfare.
- b) Minimum lot size shall be one acre.

3) Buffering Requirements:

- a) Shall comply with the requirements of Section 21.01(3).
- b) The outdoor storage of trash or rubbish shall be screened in compliance with Section 21.01 (10) of this Ordinance.

4) Performance Standards:

- a) Facilities shall provide off-street parking and passenger loading areas.
- b) Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- c) Not more than thirty-five (35)% of the land area shall be covered by recreational structures.
- d) Central loudspeakers/paging systems are prohibited adjacent to residential property.
- e) The intensity level of sounds shall be consistent with the standards as set forth in Section 95 of the General City Ordinances, Health & Safety; Nuisances.
- f) Security fencing shall be provided adjacent to residential districts or uses.
- g) Whenever a swimming pool is to be provided, said pool shall conform with the requirements of Section 16.16.
- h) The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.

- i) All parking areas shall be surfaced or so treated as to prevent any dust nuisance.
- j) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.29 Professional Service Establishment**

Performance Standards. Professional service establishments may be permitted as special land uses in the R-4 district, subject to the following requirements.

- 1) The minimum parcel area shall be not less than the required minimum parcel area in the district.
- 2) A building containing a professional service establishment shall meet the setback requirements of the district.
- 3) All parking areas that abut property zoned or used for residential purposes shall be effectively screened with landscaping or an approved fencing and all landscaping and buffering shall be provided in accordance with Article 21 of this Ordinance.
- 4) Special land use approval shall not be granted for a professional service establishment proposed to be located within an existing structure if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
- 5) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.
- 6) Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. A dumpster cannot be stored inside a building unless approved by the Fire Chief.
- 7) All signs shall be in compliance with the Section 16.26.
- 8) All parking shall be in accordance with Article 19 of this Ordinance.

### **Section 26.30 Public Facilities, Buildings Associated**

1) Locational Requirements: Public facilities are permitted by Special Use Permit in the R-1, R-2, R-3, R-4, R-5, R-6, and C-1 Districts. Public facilities include, but are not limited to administrative offices, fire and police facilities, libraries, museums, recreational centers, storage areas for public equipment and buildings for essential public services (including but not limited to electric substations, telephone substations, gas regulator stations).

2) Site Requirements:

- a) Setbacks shall conform with the regulations of the district in which the proposed public facility or utility would be located.

- b) No more than thirty five percent (35%) of the lot area shall be covered by buildings.
- c) Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
- d) No building shall be erected to a height greater than that permitted in the district in which the proposed use is located.

3) Buffering Requirements:

- a) Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence six (6) feet in height.
- b) All buildings housing mechanical equipment shall be landscaped and maintained in accordance with the requirements of Article 21.

4) Performance Standards:

- a) All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same lot.
- b) No adverse environmental conditions such as noise, air pollution, lighting or other disruptions result.
- c) Outdoor storage areas shall be located a minimum of fifty (50) feet from any residentially zoned property.
- d) The outdoor storage of trash or rubbish shall be screened in compliance with Section 21.01 (10) of this Ordinance.
- e) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

**Section 26.31 Residential Use of an Accessory Building**

1) Locational Requirements: Residential use of an accessory building is permitted only in the R-3 Neighborhood Conservation District, the R-4 Harbor Residential District and the R-5 Multiple Family District, and only if the principal building is a one family dwelling.

2) Site Requirements: The parcel must be large enough to meet all the requirements of a lot in this district and the requirements below.

3) Performance Standards:

- a) Residential use of an accessory building shall either be on the second story of a preexisting accessory building or on the second story of a new accessory building no larger than the maximum size permitted for an accessory building in the R-3 District, except in no case shall the accessory building be larger than one-half (1/2) the size of the principal building.



- b) Any lot within the R-4 or R-5 District upon which an accessory dwelling unit is proposed shall meet the minimum lot area and frontage requirements for a two-family dwelling.
- c) All setback, lot coverage and other lot requirements shall be observed for principal and accessory structures.
- d) Provision for wastewater disposal, either by public sanitary sewer or expanded private on-site facilities, shall be required.
- e) The accessory dwelling unit shall have a minimum of four hundred (400) square feet.
- f) The accessory dwelling shall provide adequate access for emergency vehicles.
- g) No commercial use of the accessory building is permitted.
- h) The accessory dwelling shall comply with all Building Code requirements and any other applicable codes for a dwelling under this Ordinance.
- i) Any additional parking as needed or required by this Ordinance shall be provided in an off-street space.
- j) Separate sale or ownership of the accessory unit from the primary dwelling on a lot or parcel is prohibited as is division of the parcel unless each new lot with a dwelling complies with all requirements for a lot in the District.
- k) The owner of the property shall reside in either the accessory dwelling unit or the principal dwelling unit.
- l) The Planning Commission may impose any other reasonable conditions deemed necessary to protect adjoining properties and the public welfare.
- m) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.32 Schools**

#### **1) Locational Requirements:**

- a) Schools are permitted by Special Use Permit in all Residential and Commercial districts.
- b) Ingress and egress to the site shall be only from a paved major thoroughfare.
- c) A preferential location is one which would offer natural or man-made barriers or a buffer zone that would lessen the effect of the schools use on adjoining uses.

#### **2) Site Requirements:**

- a) The minimum lot or parcel size for schools shall be two (2) acres.
- b) No more than twenty-five (25) percent of the site area shall be covered by buildings.
- c) No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
- d) Service areas and facilities, and outdoor recreation facilities, shall not be located within one hundred (100) feet of a residential district or use.
- e) Parking areas shall not be located within fifty (50) feet of a residential district or use.
- f) Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
- g) No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
- h) The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.

3) Buffering Requirements:

- a) Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Article 21 of this Ordinance
- b) All lighting shall be shielded away from public right-of-way and neighboring residential lots.

4) Performance Standards: All activities conducted on the site shall conform to county, state, and federal laws.

**Section 26.33 Sexually Oriented Business**

1) Purpose of Regulation. The purpose and intent of the sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the City and to minimize their negative secondary effects. It is recognized that sexually oriented businesses because of their very nature, have serious objectionable operational characteristics, which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of City residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by the Ordinances of the City, or state or federal law. If any portion of

Section 26.32, including the definitions appearing in Article 2 and referenced in Section 26.32, is found to be invalid or unconstitutional by a court of competent jurisdiction, the City intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law.

- 2) Definitions. Definitions associated with sexually oriented businesses are found in Article 2 of this Zoning Ordinance.
- 3) Performance Standards. Sexually Oriented Businesses shall be subject to the following standards:
  - a) The proposed Sexually Oriented Business shall not be located within five hundred (500) feet of the R-1, R2 or R-3 districts, or within five hundred (500) feet from a park, school, child care organization, place of worship or other Sexually Oriented Business. The distance between a proposed Sexually Oriented Business and any residence, residentially zoned property, park, school, child care organization, place of worship or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed Sexually Oriented Business is intended to be located to the nearest property line of the residence, residentially zoned property, school, child care organization, place of worship, or other Sexually Oriented Business.
  - b) Entrances to the proposed Sexually Oriented Business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that:
    - i. "Persons under the age of eighteen (18) are not permitted to enter the premises," and
    - ii. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
  - c) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining road right-of-way or a neighboring property.
  - d) Hours of operation shall be limited to 8:00 A.M. to 2:00 A.M., Mondays through Saturdays.
  - e) Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. A dumpster cannot be stored inside a building unless approved by the Fire Chief.
  - f) All signs shall be in accordance with Section 16.26 of this Ordinance. Provided, however, that no sign visible from the parking area, any adjoining road right-of-way or a neighboring property shall display or depict any Specified Anatomical Areas or Specified Sexual Activities

- g) All parking shall be in accordance with Article 19 of this Ordinance. Provided, however that all off-street parking areas shall be illuminated during all hours of operation of the Sexually Oriented Business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
- h) As a condition of approval and continued operation of a Sexually Oriented Business, such business shall acquire and comply with all pertinent federal, state and local requirements governing its operation and licensing.
- i) Any booth, room or cubicle available in any Sexually Oriented Business used by patrons for the viewing of any entertainment characterized as showing Specified Anatomical Areas or Specified Sexual Activities shall:
  - i. Be constructed in accord with the Michigan Building Code, as amended.
  - ii. Be unobstructed by any door, lock or other entrance and exit control device.
  - iii. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
  - iv. Be illuminated by a light bulb of wattage not less than sixty (60) watts, and
  - v. Have no holes or openings, other than doorways, in any side or rear walls.
- j) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

**Section 16.34 Short-term Rental Units**

A short-term rental unit, as defined in Section 2.20 of this chapter, is permitted in all zoning districts where residential use of property is permitted by right or has been approved for special land use, and shall be subject to the following provisions:

- 1) The owner of the dwelling shall register the short-term rental unit with the City of Douglas and shall be responsible for obtaining a rental occupancy permit. No short-term rental shall occur without a valid rental occupancy permit.
- 2) The short-term rental unit shall meet all applicable building, health, fire and related safety codes at all times and shall be inspected annually by the Fire Department before any rental occupancy certificate can be issued. Inspection procedures and administrative fees shall be determined by the City Council and the Saugatuck Township District Fire Department.
- 3) Signs shall be subject to the applicable provisions of the City of the Village of Douglas Sign Ordinance.
- 4) The use of outdoor yard areas, open decks, pools and the like shall not result in the production of excessive off-site noise, odor or other external disturbances.

Any such violation shall be enforced as a nuisance under the City of the Village of Douglas General Code of Ordinances.

- 5) The parking of motorized vehicles, trailers and recreational equipment shall be in keeping with the provisions of this chapter and the City of the Village of Douglas General Code of Ordinances at all times.
- 6) A group of people not defined as a family are permitted to rent a short-term rental unit.
- 7) In no event shall the owner of the short-term rental unit or their agent rent an individual room in the short-term rental unit to a person, family, or other group of persons, nor shall the renter so sublet any room.
- 8) Any finding of responsibility or conviction for more than one violation of the City Code of Ordinances in a given calendar year involving a short-term rental unit may result in the rental occupancy certificate being revoked by the City Zoning Administrator (or such other city official as designated by the City Council). Any such revocation of a rental occupancy certificate may be appealed to the City Council for good cause so long as a written Notice of Appeal is filed with the city within ten (10) days of the date of revocation.
- 9) Any sale or transfer of the property automatically causes any existing rental occupancy certificate to be null and void and the new property owner must apply for a new rental occupancy certificate

### **Section 26.35 Studio for the Performing/Visual arts**

#### **Performance Standards**

- 1) The use shall not bring unreasonable amounts of traffic to residential areas.
- 2) Within the R-4 district, the facility shall be designed to resemble neighboring residential buildings.
- 3) The applicant shall demonstrate that noise will not be perceptible at any lot line.
- 4) The Planning Commission may establish hours of operation for a Studio for Performing and Visual Arts consistent with the character of the neighborhood.
- 5) A Studio for Performing and Visual Arts that includes an auditorium or performance space with seating for more than one hundred (100) persons shall meet the requirements of Section 26.25.
- 6) All signs shall be in compliance with the provisions of Section 16.26 of this Ordinance.
- 7) All parking shall be in compliance with the provisions of Article 19 of this Ordinance.

8) Landscaping and Buffering shall be provided in accordance with Article 21 of this Zoning Ordinance.

9) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

### **Section 26.36 Tattoo or Piercing Parlor**

#### **Performance Standards**

The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity. Hours of operation shall be consistent with those of adjacent land uses.

Food or beverages shall not be served at the establishment.

1) The applicant shall demonstrate that outdoor loitering space would not be provided for and that outdoor loitering would be prohibited.

2) The use shall be compatible with other allowed uses in the vicinity. The impact of the establishment shall be no greater than of other uses allowed in the L-1 District.

3) A proposed Tattoo and Piercing Parlor shall be located a minimum of one thousand (1,000) feet from an existing Tattoo and Piercing Parlor or Educational Facility. The Planning Commission may waive this requirement if it finds that physical features significantly separate the uses so as to avoid concentration of Tattoo and Piercing Parlors, and to avoid the establishment of a Tattoo and Piercing Parlor in proximity to an Educational Facility.

### **Section 26.37 Vehicle Wash Facilities**

#### **1) Locational Requirements:**

- a) Vehicle washing facilities shall be permitted only in the C-2 General Commercial District with direct vehicular access to the Blue Star Highway.

#### **2) Site Requirements:**

- a) The minimum lot or parcel size for vehicle washing facilities shall be ten thousand (10,000) square feet.
- b) The minimum front yard setback for the structure shall be fifty (50) feet; minimum side yard setback shall be twenty-five (25) feet; minimum rear yard setback shall be seventy-five (75) feet.
- c) The entrances and exits of the facility shall not be from an adjoining residential street or alley. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.

- d) The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
- e) There shall be no above-ground outdoor storage/dispensing tanks on the site.

3) Buffering Requirements:

- a) When adjoining a residential district, a six (6) foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six (6) foot high barrier may be approved by the Planning Commission.
- b) All lighting shall be shielded from adjacent residential districts or residential uses.
- c) The outdoor storage of trash or rubbish shall be screened in compliance with Section 21.01 (10) of this Ordinance.

4. Performance Standards:

- a) All washing activities shall be conducted within an enclosed structure, except for one tall vehicle washing area.
- b) Vacuuming activities shall be at least twenty-five (25) feet from any lot line except where the property abuts a residential zone in which case a fifty foot (50) separation shall be maintained.
- c) All drains shall be connected to a public sanitary sewer system.
- d) Adequate provision shall be made to keep all drainage water from washing operations on the site.
- e) Vehicle wash facilities shall not be operated between the hours of 11:00 p.m. and 8:00 a.m.
- f) All exterior lighting shall be in accordance with Section 19.05(6) and 24.03(9) hereof.

**Section 26.38 Veterinary Clinics**

1) Locational Requirements: Veterinary clinics are permitted in the C-2 General Commercial District.

2) Buffering Requirements:

- a) Buildings where domestic animals are kept, dog runs, paddocks, and/or exercise areas shall not be located nearer than one hundred feet (100) to any adjacent residential district lot line or any adjacent building used by the general public and shall not be located in any required yard.
- b) The outdoor storage of trash or rubbish shall be screened in accordance with Section 21.01 (10) of this Ordinance.

3) Performance Standards:

- a) Uses permitted include medical treatment, retail sales of animal supplies and boarding. Boarding of wild animals is prohibited unless in an AAZPA accredited facility.
- b) All activities must be confined within a fully enclosed building that is soundproofed except for large animal paddock.
- c) All principal use activities shall be conducted within a totally enclosed principal building.
- d) There shall be no storage or boarding of animals outside of the fully enclosed and soundproofed building.
- e) No dogs shall be permitted in open run areas between the hours of 10:00 p.m. and 7:00 a.m.
- f) An adequate, enclosed method of refuse storage and disposal shall be maintained to that no public nuisance shall be created at any time.

**Section 26.39 Reserved for Future Use**



## **ARTICLE 27: PLANNED UNIT DEVELOPMENT DISTRICT**

### **Section 27.01 Intent and Purpose**

The provisions of this Article provide requirements and standards for the submission, review and approval of applications for planned unit developments (PUD). The PUD regulations are designed to accomplish the objectives of this Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. The permanent preservation of open space, natural areas and the existing small town rural character of Douglas are major objectives of these PUD regulations. To those ends, these PUD regulations are intended to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; and to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the City. Further, it is the purpose of the Planned Unit Development Regulations to promote the intent and purpose of this Ordinance, and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The provisions of this Article are not intended as a device for ignoring or circumventing this Ordinance or the planning upon which it has been based.

### **Section 27.02 PUD is a Separate District**

The purposes, procedures, and standards of this Article are intended to guide the applicant in the preparation of preliminary and final site plans for a PUD, consistent with the purposes stated in Section 27.01. These standards shall be used as the basis for the evaluation of the site plans by the Planning Commission and City Council and shall be considered in reviewing any application for a PUD. Approval of a PUD on property already zoned PUD may proceed only when an application and site plan therefor are determined to be in compliance with the regulations of this Article and those of Article 24; Site Plan Review. Approval of a PUD on property not already zoned PUD results in rezoning to a PUD District only when an application and site plan therefore are determined to be in compliance with the regulations of this Article and those of Article 24; Site Plan Review. A district zoned PUD is an overlay zone. The underlying zone shall establish permitted uses, density and the minimum lot size for consideration as a PUD. A parcel zoned PUD shall have the underlying zone as a prefix on the Zoning Map, such as R-1 PUD. If not otherwise specified on the Zoning Map, or as a result of previously being approved as a PUD, the underlying zone for a PUD shall be R-1 Residential District.

### **Section 27.03 Eligibility Criteria**

To be eligible for Planned Unit Development approval, the applicant must demonstrate that the following criteria will be met:

1) Recognizable and Substantial Benefit. The Planned Unit Development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely to be achieved, taking into consideration the reasonable and foreseeable detriments of the proposed development and use(s); including, without limitation:

- a) The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
- b) Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

2) Minimum Area and Density. The minimum land area necessary to be considered for a PUD shall not be less two (2) acres. The overall density of dwelling units shall not exceed that permitted within the underlying district. See Section 27.04(4). Density may be shifted throughout the site and dwellings may be clustered on lots smaller than those permitted in the underlying zone if doing so better achieves the open space preservation objectives of this Article. Any time less than four (4) newly created lots or dwelling units are proposed to be developed on property already zoned PUD, the standards and procedures in Section 27.10 shall apply.

3) Availability and Capacity of Public Services. The proposed Planned Unit Development shall comply with the provisions of Section 16.20 and shall not exceed the capacity of existing and available public services, including but not necessarily limited to, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the Planned Unit Development is completed. Large PUDs shall conform with the additional impact requirements of Section 27.07(2)(a-c).

4) Compatibility with the Tri-Community Comprehensive Plan. The proposed development shall be consistent with the Tri-Community Comprehensive Plan.

5) Compatibility with the Planned Unit Development Intent. The proposed development shall be consistent with the intent and spirit of these regulations, as stated in Section 27.01.

6) Economic Impact. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the district in which they are located.

7) Unified Control of Property. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Planned Unit Development regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is given immediately to the Zoning Administrator.

8) Dedication of Utilities and Roads. Roads within the PUD development shall meet the standards of Article 18 and Section 16.21. Likewise, utility easements shall be conveyed to the City. Utility easements and roads in PUD developments approved prior to the enactment of this Ordinance may remain in private ownership.

### **Section 27.04 Project Design Standards**

In considering any application for approval of a Planned Unit Development proposal filed according to the procedures of Section 27.05 and application and data requirements of Section 27.06, the Planning Commission and City Council shall make their determinations on the basis of standards set forth for site plan review in Section 24.03, the eligibility criteria of Section 27.03, as well as the following standards and requirements:

1) Location. A Planned Unit Development may be approved in any district, subject to review and approval as provided herein.

2) Compatibility with Adjacent Uses. The proposed Planned Unit Development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

- a) The bulk, placement, and materials of construction of proposed structures.
- b) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
- c) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
- d) The hours of operation of the proposed uses.
- e) The provision of landscaping and other site amenities.

3) Permitted Uses. Any land use authorized in the underlying district may be included in a Planned Unit Development as a principal or accessory use, provided that public health, safety, and welfare are not impaired.

4) Applicable Base Regulations. Unless waived or modified in accordance with subsection (5) below, the yard and lot coverage, parking, loading, landscaping, lighting, and other standards for the underlying district(s) shall be applicable for uses proposed as a part of a Planned Unit Development. Mixed uses shall comply with

the regulations applicable for each individual use, as outlined above, except that if regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply. The site standards for all individual land uses and facilities as provided in this Ordinance (such as special uses) must be observed unless waived by the Planning Commission or City Council for any, or all, of the specific uses and facilities. However, a special use that is part of a PUD shall not be separately processed as a special use, instead it shall be processed as part of the PUD application.

5) Regulatory Flexibility. To encourage flexibility and creativity consistent with the Planned Unit Development concept, departures from the regulations in subsection (4), above, may be permitted, subject to recommendation by the Planning Commission and approval of City Council. For example, such departures may include but are not limited to modifications to: lot dimensional standards; floor area standards; setback requirements; parking, loading, and landscaping requirements; and similar requirements. Such modifications may be permitted only if they will result in a higher quality of development or a better design or layout than would be possible without the modifications. Density standards and the provisions of Section 16.21 Shorelines, right-of-way width requirement of Section 18.02 or the City right-of-way requirement for a public street may not be modified. A modification of up to 50% of the front yard setback requirement of the zoning district may be modified under this regulation.

6) Residential Density. The maximum density permitted in the underlying district may be permitted only upon determination that the desired density will not unreasonably affect water and sewer services, storm water drainage, road capacity, traffic, parks and recreation, fire and police services, schools, character of the area, and any planned public and private improvements in the area.

The maximum number of dwelling units permitted as part of a PUD proposal shall be determined by submittal of a test plan. Such test plan shall illustrate the maximum number of units which can be accommodated by the given site within the parameters of the underlying zoning district and all other applicable portions of this ordinance or any other state and local laws. The lots or uses depicted on the test plan shall be permitted by right, but not guaranteed if site conditions in the proposed plan require significant deviation consideration, and any use or lot division subject to special approval shall not be included as part of a test plan. Such a plan shall be complete with roads and other required easements. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable within the PUD. The actual lot size of most lots approved in a PUD proposal will likely be substantially less than the minimum requirements of the underlying district in order to meet the open space requirements of 27.04(8). The test plan shall be considered a necessary step to submitting a complete application for a PUD and no further site plans for the subject parcel shall be reviewed by the City.

7) Permitted Mix of Uses. Where the existing underlying zoning district is residential, nonresidential uses shall be permitted as part of a Planned Unit Development which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant and the nonresidential use will not create a

nuisance for abutting property. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed uses: extent to which it serves residents in the PUD compared to others who travel to the site, amount of traffic generated; hours of operation or use; noise, odors, and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use.

8) Open Space Requirements. Open space shall at least equal that which would be provided under the maximum lot coverage requirements of the underlying district. For example, if maximum lot coverage is 35%, then minimum open space shall be 65%. A subdivision with most of the open space in individual yards will not meet the standards of this Ordinance. At least half of the minimum open space shall be held in common, not as a part of individual lots. Open space shall be in large contiguous units that are easily accessible, usable, and the residents of the development shall have unrestricted access and use of the open space area unless the City Council as recommended by the Planning Commission finds that unrestricted access and use of the open space is unpractical and unreasonable due to unusual circumstances of the property. Small discontinuous areas of open space are contrary to the intent of this section, although it may be necessary to permit up to twenty (20%) of the total open space area in small discontinuous areas on a given parcel in order to achieve quality design and/or function of the balance of the PUD.

Any land without a structure within the boundaries of the site may be included as required open space, except for submerged lands and land contained in public or private street rights-of-way. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the site plan and never changed to another use. Such conveyance shall:

- a) Ensure the open space is under single ownership or control, such that there is a single person or entity having proprietary responsibility for the open space. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, master deeds, and/or deed restrictions that indicate that open space will be held as proposed.
- b) Guarantee to the satisfaction of the City Council that all open space portions of the development will be maintained in the manner approved. Documents shall be presented to the satisfaction of the City Attorney that bind all successors and future owners in fee title to maintenance commitments made as a part of the approval of the open space.
- c) Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners within the PUD.

9) Frontage and Access. Planned Unit Developments shall front onto a street with adequate capacity to safely accommodate the traffic of the development without unreasonably congesting the street. Road improvements contiguous to the site of the PUD that would improve traffic safety and reduce congestion may be required as a condition of development approval. Access and egress opening from the development onto a public or private street shall be limited to one (1) per two hundred (200) feet. The nearest edge of any entrance or exit drive shall be located no closer than one hundred (100) feet from any street or road intersection (measured from the nearest intersection right-of-way line). All requirements of Article 18 shall also apply to Planned Unit Developments.

10) Utilities. All utilities serving a Planned Unit Development, including electric, telephone, and cable television lines, shall be placed underground, wherever feasible.

11) Privacy for Dwelling Units. The design of a Planned Unit Development shall provide visual and sound privacy for all dwelling units within and surrounding the development. The relationship of adjacent exterior doors and windows shall be off-set wherever possible. Fences, walks, and landscaping shall be used in the site design to protect the privacy of dwelling units.

12) Emergency Access. The configuration of buildings, driveways, and other improvements shall permit convenient and direct emergency vehicle access and shall be subject to the International Fire Code and Fire Department review.

13) Pedestrian and Vehicular Circulation. A pedestrian circulation system shall be provided that is isolated as completely as possible from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing or planned streets, sidewalks, and bicycle pathways in the vicinity of the site and complement and implement the recommendations of the Tri-Community Plan.

14) Maximum Height. Except as otherwise provided herein, maximum building height shall be consistent with underlying district.

15) Minimum Spacing. Minimum spacing between detached buildings shall not be less than 15 feet, unless the Planning Commission or City Council authorizes a lesser amount. In no case shall spacing be less than required under the Building Code.

16) Building Length. The front and rear of a multiple family building shall be considered to be the elevations along the longest dimension of said building. The front of the multiple family building shall be considered to be the direction indicated on the drawings by the designer provided is not inconsistent with floor plan of the individual unit; and the side of a multiple family building shall be considered to be the elevation along the narrowest side of said building. No multiple family building shall exceed one hundred twenty (120) feet in length along any one elevation of the building measured in an unbroken plane between its two furthest points.

17) Sensitive Natural Features. All sensitive natural features such as drainage ways and streams, critical dune areas, wetlands, lands within the 100 year floodplains,

and stream or river banks (which by virtue of soil and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by any principal or accessory buildings and structures.

18) Buffer Zone Along Streams. Drainage ways and streams shall be protected by a twenty-five (25) foot natural vegetation strip or public easement measured from the centerline of such drainage ways or streams and measured from the ordinary high water mark for the Kalamazoo River. The standards of Section 16.21 are also applicable and shall not be altered by the regulatory flexibility provision of Section 27.04(5).

19) Buffer Zone Along Property Lines. Natural vegetation, planted or landscaped buffer areas of twenty-five (25) feet width are required along all exterior boundaries of the property to be developed as a PUD.

20) Parking Areas. The parking area shall be designed so as to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanse of surfaced area. However, landscaped areas in parking lots shall be large enough to support thriving vegetation and are greatly preferred over many small landscape islands.

21) Common Property. Common property in the PUD is an area, parcel or parcels of land, a privately owned road, or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites or condominiums within the PUD. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service parking and recreational facilities (such as a club house or tennis courts). The applicant shall guarantee to the satisfaction of the City Attorney that all common property portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the approval of the common property. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the City and the land use continues as approved.

22) Easements Across Common Property. When common property exists in private ownership, the owners shall grant easements, over, under and through such property to the City as are required for public purposes.

### **Section 27.05 Procedures and Requirements**

A. Pre-Application Conference. An applicant for a PUD rezoning shall participate in a pre-application conference prior to submitting an application for PUD approval and rezoning. The purpose of the pre-application conference is to inform the City of the preliminary concept and basic details of the proposed development and to provide the applicant with information regarding the requirements and procedures of the PUD District. The pre-application conference shall include the applicant, the City Manager, Planning

Commission chairman, Mayor and other persons as deemed appropriate. At the pre-application conference the applicant shall submit, at a minimum the following:

1. A written statement describing the types of land use proposed for the PUD.
  2. A sketch plan of the proposed PUD, in at least four copies, which includes at least the following information:
    - a. The address and legal description of the land.
    - b. The gross land area, in acres, of the proposed development and also the gross land area, in acres, comprising each of the required categories of land use.
    - c. If the PUD is proposed to include residential use, a statement of the number and nature of the residential units.
    - d. A statement as to the type and nature of the commercial and/or office uses, as the case may be, and including such other information with respect to such uses as will enable the Zoning Administrator to determine preliminarily whether such uses are permitted under the terms of this Article.
    - e. The percentage of required open space, and the projected locations of open space, within the proposed development.
    - f. A statement or other description or depiction of the natural features on the site, including those proposed to be preserved and those to be removed or modified for development purposes.
    - g. Such other information as may reasonably be requested by the Zoning Administrator for purposes of evaluating preliminarily whether the proposed PUD would comply with the minimum requirements as stated in this Article.
    - h. A written statement of any requested departures from the provisions of this Ordinance, in cases where departures are authorized under the terms of this Article, together with the rationale for such requested departures.
- B. Application and Preliminary PUD Plan. An applicant for a PUD rezoning shall submit the following to the City:
1. A completed application for PUD rezoning, on a form provided by the City.
  2. A preliminary PUD plan with the number of copies stated on the City PUD application form. The preliminary PUD plan shall also be submitted in an electronic version, in pdf format, and also in a reduced-size, 11"x17" paper version.



3. Written proof, satisfactory to the City, that the applicant, and/or other persons acting with the applicant, shall have unified ownership or control of the land proposed for the PUD, such that there is one person, group of persons or legal entity that would have complete responsibility for the design, construction and completion of the PUD in accordance with the approved PUD plan and ordinance.
  4. The required application fee and zoning escrow deposit.
- C. Optional Advisory Public Hearing. The Planning Commission may, in its discretion, convene an advisory public hearing in order to receive public comments concerning a proposed PUD development.
1. If the Planning Commission determines to convene an advisory public hearing, it shall so notify the applicant, and the applicant shall then prepare a preliminary PUD plan complying with subsection (D) of this section. At the advisory public hearing, the Planning Commission shall review the preliminary PUD plan.
  2. Notice of an advisory public hearing shall be given by publication in a newspaper of general circulation in the City. Such notice shall be published at least 15 days prior to the advisory public hearing. Notice of the advisory public hearing shall also be mailed or delivered personally to all persons to whom any real property is assessed within 300 feet of the lands included in the proposed PUD. The notice shall be mailed or delivered personally to the respective addresses given in the last property tax assessment roll not less than 15 days prior to the date of the advisory public hearing.
  3. At the advisory public hearing, the Planning Commission shall invite comments from the applicant and other interested persons. Following the public hearing, the Planning Commission may provide the applicant with such comments or proposals with respect to the proposed development as the commission members deem appropriate.
  4. If the Planning Commission finds it in the public interest to conduct another advisory public hearing due to the number of changes to the initial plan, they may do so following the process outlined above.
- D. Preliminary PUD Plan. The preliminary PUD plan shall include the following:
1. A drawing at a scale of one inch equaling 100 feet or less, showing the lands to be included in the PUD. The preliminary PUD plan shall state, describe or depict the following:
    - a. The legal description of the land.
    - b. The area (in acres) of the land shall be stated (1) as the total acreage of the entire PUD; (2) the areas (in acres) within the PUD that are proposed to be developed for commercial, office and residential uses, respectively; and (3) the area (in acres) of

the land that is proposed to remain undeveloped.

- c. The location and dimensions of existing and proposed property lines and building setback lines.
- d. The location and dimensions of existing and proposed buildings and other structures.
- e. Proposed uses of buildings and other structures.
- f. Existing and proposed topographic contours at five-foot intervals.
- g. Significant existing vegetation and other significant existing natural features, including floodplains, woodlands and wetlands.
- h. Existing and proposed watercourses and water bodies.
- i. Existing public and private streets, and street rights-of-way; existing access easements.
- j. Proposed streets and drives; curb cuts and access easements; acceleration, deceleration and passing lanes and sidewalks.
- k. Existing uses, buildings, structures, driveways and off-street parking areas within 300 feet of the subject property.
- l. Proposed off-street parking areas and off-street loading and unloading areas.
- m. Existing and proposed public water supply and public sanitary sewage disposal facilities as to the description and location thereof.
- n. Proposed storm water management systems, including storm sewers, retention and/or detention ponds, storm water discharge areas and other storm water management measures as to the description and location thereof.
- o. Public utilities in and for the PUD, including natural gas, electric, telephone and other community services, if any, such as cable television and Internet access as to the types of utility services proposed to be provided.
- p. Buildings and other facilities for public or community use.
- q. Proposed areas of landscaping and general types of plantings.
- r. Proposed signs as to anticipated locations and the size, height and type thereof.
- s. Outdoor lighting, as to expected locations and the proposed type and height of outdoor lighting fixtures.
- t. Fences, walls and other screening features.
- u. Refuse and service areas, including screening measures for

- trash receptacles.
- v. Open space areas and proposed uses thereof, if any.
  - w. Location of state-regulated wetlands and other wetlands, if any.
  - x. Tentative elevation views of the front, side and rear of each building.
  - y. Additional information which the Planning Commission may request in order to fully evaluate the preliminary PUD plan. This may include an Environmental Assessment and/or Traffic Study as outlined in Section 24.02.21.
2. It is not necessary that the preliminary plan include construction details or such other data as may require engineering expertise or such other professional analysis more appropriate to a final plan, rather than a preliminary plan. As provided elsewhere in this section, the Planning Commission may in its discretion, require additional background or information if necessary for a sufficient evaluation of the preliminary plan.
  3. In the approval of the PUD, the Planning Commission and City Council may waive any element, component or depiction otherwise required to be included in the preliminary PUD plan if such matters are not deemed necessary for City review and consideration of the PUD.
  4. A written description or summary of the PUD, including the following matters:
    - a. The overall objectives of the proposed PUD.
    - b. The number, size and basic description of proposed buildings and structures.
    - c. A statement describing how the proposed PUD will promote the intents and purposes of the PUD District.
    - d. A statement from a licensed professional engineer, or alternatively, the City Engineer, indicating the relative capacities of the public water supply and the public sanitary sewer systems proposed to serve the development.
  5. The application for the PUD approval shall also include the following information:
    - a. The applicant's name, business address, telephone number and email address.
    - b. The name and address of the owner(s) of record if the applicant is not the owner of record and the signature(s) of the owner(s).
    - c. The property tax identification number(s) of the land.
    - d. The name, address, telephone number and email address of the applicant's engineer, land-use planner, architect, land

surveyor and other professional consultants.

- e. A time-schedule of proposed construction, including the anticipated completion date and proposed phases of development of the PUD.
  - f. A written statement describing the impacts of the PUD on existing infrastructure (including traffic impact and effects on the capacity of streets, schools and utilities) and on the natural environment and adjoining and other lands.
  - g. The property owner's signed consent for City representatives to enter and inspect the land for the purpose of reviewing the PUD plan and the current condition of the land.
- E. Final PUD Plan. Following the advisory public hearing, if such a hearing is convened, or otherwise following the pre-application conference, the applicant shall prepare a final PUD plan and submit the plan to the City.
- 1. The final PUD plan shall contain all of the data, information and submittals required for a preliminary PUD plan as stated in subsection (D) of this section. In addition, the final PUD plan shall include such other matters and information as may have been required by the Planning Commission following the advisory public hearing, if such a hearing was convened.
  - 2. In addition, the final PUD plan shall include the following:
    - a. Existing and proposed topography of the lands comprising the PUD shall be shown at two-foot contour intervals.
    - b. A boundary survey of the lands comprising the PUD, prepared by a registered land surveyor, shall be submitted.
    - c. All of the development requirements stated in Section 27.04 shall be addressed or otherwise included in the final PUD plan.
- F. Planning Commission Consideration of Final PUD Plan. A final PUD plan shall be considered by the City as follows:
- 1. The final PUD plan shall be reviewed by the Zoning Administrator to determine whether the plan sufficiently complies with subsections (D) and (E) of this section, and thus whether the plan is eligible for consideration by the Planning Commission. If the plan is complete, the Zoning Administrator shall forward the plan to the Planning Commission.
  - 2. The Planning Commission shall convene a public hearing to consider the final PUD plan and the proposed PUD ordinance. The public hearing shall be held in accordance with City and state requirements for the rezoning of lands. The Commission may continue its consideration of the final plan during subsequent meetings.
  - 3. In considering the final PUD plan and/or the proposed rezoning, the

Planning Commission shall consider whether the proposed PUD satisfies the minimum requirements of this Article and the standards for approval set forth in Section 27.06.

4. After the public hearing, the Planning Commission shall recommend that the City Council (1) approve the proposed PUD rezoning in accordance with the final PUD plan, (2) approve the rezoning subject to conditions, or (3) deny the rezoning.
  - a. The recommendation by the Planning Commission shall be included in a motion or in a resolution. The terms and conditions of approval or the grounds for denial, as the case may be, shall be included.
  - b. The Planning Commission's recommendation shall include a recommendation on departures or modifications, if any, from the requirements of this Article proposed by the applicant, including the grounds upon which the Planning Commission recommends, or does not recommend, such departures or modifications.
  - c. In considering its recommendation on the final PUD plan, the Planning Commission shall consider the standards stated in Section 27.06.
5. To aid the City in its consideration of the effects and results of the development of the land as proposed in the final PUD plan, the Planning Commission may require an Environmental Assessment or Traffic Study as outlined in Section 24.02.21
- G. City Council Consideration of Final PUD Plan. The City Council shall review the final PUD Plan and proposed rezoning and the recommendation and other materials submitted by the Planning Commission. The City Council shall determine whether the final PUD plan complies with the requirements of this Article and the standards in Section 27.06. Following completion of its review, the City Council shall adopt an ordinance approving, approving with conditions, or denying the PUD rezoning application.

#### **Section 27.06 Standards of Approval.**

In approving a rezoning of land to the PUD District, the Planning Commission and City Council shall find that the proposed PUD complies with the following standards:

- A. The PUD will result in a recognizable and substantial benefit to the residents of the PUD and the City, and such benefit would otherwise be unlikely to be achieved.
- B. The PUD will not result in an undue burden on available public services, facilities or utilities.
- C. The PUD will comply with the land use designations for such lands in the future land use map of the Master Plan; the PUD will otherwise be consistent with the intent and purposes of this Chapter, and the Master Plan.

- D. The PUD satisfies the development requirements of Section 27.04.
- E. The PUD will not result in significant adverse effects upon adjacent or nearby lands.
- F. The PUD will not alter wetlands, steep slopes or other natural features except as approved for essential services or as otherwise permitted in the PUD.
- G. Buildings and structures will be suitably located and arranged, with adequate setbacks and convenient access points.
- H. The number, location and size of access points for the PUD, and internal traffic and pedestrian circulation routes are designed to promote safe and efficient access to and from the PUD and circulation within the PUD.
- I. Storm water detention and drainage systems will be designed so that the removal of surface waters will not adversely affect lands in the PUD or adjacent or nearby lands. The final PUD plan shall demonstrate compliance with the City Storm Water Ordinance.
- J. Landscaping in the PUD will be in accordance with City landscape requirements or as they may be modified in the approval of the PUD.
- K. Outdoor lighting will be designed to minimize glare on adjacent lands and streets and will otherwise be designed, installed and operated in compliance with City requirements, or as otherwise approved in the terms of the PUD ordinance.
- L. Sanitary sewer and water supply facilities will comply with City and other applicable requirements.
- M. Signs in and for the PUD will comply with applicable sign requirements, including such modifications as may be permitted in the approval of the PUD.
- N. Off-street parking areas and facilities will comply with applicable City requirements, including such modifications as may be permitted in the approval of the PUD.

#### **Section 27.07 Conditions on Approval**

The Planning Commission may recommend and the City Council may impose reasonable conditions upon approval of a rezoning of land to the PUD District. Such conditions may include conditions necessary (1) to ensure that public services and facilities affected by the PUD will be capable of accommodating increased service use and demand caused by the PUD; (2) to protect the natural environment and conserve natural resources and energy; (3) to ensure compatibility with adjacent uses of land; and (4) to promote the use of land in a socially and economically desirable manner. Conditions imposed shall comply with all of the following requirements:

- A. They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of the users of land within the PUD, the owners of land adjacent to the PUD and the City in general.

- B. They shall be consistent with the valid exercise of City regulatory authority.
- C. They shall be necessary to ensure compliance with the intent and purposes of this Article.

The conditions imposed with respect to the approval of the PUD application shall be included in the ordinance that rezones the land to the PUD district. Such conditions shall remain unchanged except upon amendment of the PUD ordinance.

#### **Section 27.08 Phasing of Construction of PUD**

- A. The commercial, office and residential elements of the PUD shall be constructed generally concurrently, upon such schedule or within such phases as may be approved by the Planning Commission and City Council.
- B. If a PUD is authorized for construction in phases, the PUD shall be designed so that each phase, when completed, shall include all services, facilities and open space necessary for the full occupancy and use of that phase. Further, each phase shall include all necessary elements to ensure protection of natural features and the health, safety and welfare of the residents and users of the PUD.
- C. The PUD ordinance may limit or prohibit the issuance of building permits and certificates of occupancy until all public services and facilities within a phase of the PUD are fully complete, or alternatively, the PUD ordinance may require that a letter of credit or other security be provided as a condition of the issuance of such permits or certificates prior to the completion of all public services and facilities within a phase.
- D. Each phase of an PUD shall be commenced and/or completed within the time period specified in the PUD ordinance. If construction of a phase is not commenced within the required time period, the provisions on expiration of PUD approval set forth in Section 27.10 shall apply.

#### **Section 27.09 Effect of Approval**

Approval of a PUD upon the adoption and effectiveness of the PUD ordinance shall constitute an amendment in the City zoning map. All improvements and land uses within the PUD shall comply with the PUD ordinance and all terms and conditions thereof. Violation of the PUD ordinance shall be a violation of this Ordinance, and accordingly, the City shall have all remedies and means of enforcement permitted by law.

#### **Section 27.10 Expiration of PUD Approval**

- A. A PUD shall be under construction, and be proceeding reasonably toward completion, within one year after adoption of the PUD ordinance by the City Council. If a PUD is not under construction or reasonably proceeding within this period of time, the City Council may grant an extension of up to one year if the applicant submits evidence demonstrating that unforeseen difficulties or unusual circumstances have caused delay in commencement or continuance of construction.

- B. If construction of the PUD has not been commenced, or if construction has not reasonably continued, within the initial required period of time or within any approved extension granted under subsection (1) of this section, any building permits issued for construction within the PUD shall be of no further effect, and the Planning Commission and City Council may, in their discretion, initiate and complete proceedings for the rezoning of the land to some other zoning district.

### **Section 27.11 Performance Guarantee**

- A. In the approval of a PUD, the City shall require a reasonable performance guarantee to assure the construction and completion of public services and facilities or other components of the PUD. Such performance guarantee may be in the form of a cash deposit, letter of credit, or other form of guarantee acceptable to the City. The amount and nature of the performance guarantee shall be specified in the PUD ordinance, or alternatively, the amount and nature of the performance guarantee may be subsequently determined by the Planning Commission.
- B. The performance guarantee, in whatever form, shall be conditioned upon timely and faithful compliance with all applicable provisions of the PUD ordinance and construction and completion of all services, facilities and other improvements specified for completion under the terms of the PUD ordinance and the approved plan of the development.
- C. The Planning Commission may recommend to the Zoning Administrator a refund of a proportionate share of the amount of a letter of credit or other performance guarantee, based upon the percentage or other portion of the required improvements that have been completed.

### **Section 27.12 Amendment of a PUD**

- A. Procedure for Amendment. An approved PUD, including all terms and conditions of the PUD ordinance, may be amended or revised only in accordance with the procedures stated in this Chapter for approval of a new PUD, except with respect to minor changes in an PUD under subsection (2) of this section.
- B. Minor Changes. A minor change in a PUD may be approved by the Zoning Administrator. In approving a minor change, the Zoning Administrator shall determine that the proposed change does not materially alter the basic design of the PUD or the conditions of its approval. Upon approving a minor change, the Zoning Administrator shall notify the Planning Commission and City Council of the nature and extent of the minor change. Only the following changes in an PUD are minor changes that are eligible for approval by the Zoning Administrator:
  - 1. Reduction of the size of a building, building envelope or sign.
  - 2. Movement of a building or sign by no more than ten feet.
  - 3. Replacement of plantings by other similar plantings.



4. Changes requested by the City for safety reasons.
5. Changes which will preserve natural features of the land without changing the basic layout or design of the PUD.
6. Changes in the boundary lines of lots which do not change the overall density of the development, do not reduce the width of any lot by more than ten percent and which do not materially change the average lot or unit width throughout the PUD.
7. Additions to or alterations in the landscape plan or landscape materials which do not reduce the extent or quality of the landscaping in the PUD.
8. Alterations in the internal layout of an off-street parking area, if the total number of parking spaces and means of ingress and egress do not change.
9. Relocation of trash receptacles or other measures for the collection and disposal of refuse.
10. Other similar changes of a minor nature proposed to be made in the configuration, design, layout or topography of the PUD which are deemed by the Zoning Administrator to be not material or significant in relation to the entire PUD and which the Zoning Administrator determines would not have a significant adverse effect on the development of adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding a proposed minor change in an approved PUD to the Planning Commission for review and for a determination as to whether the proposed change is a minor change and if so, whether it should be approved. In such a case, the decision with respect to the proposed minor change shall be made by the Planning Commission, by majority vote of those members present and voting, rather than by the Zoning Administrator.

If the Zoning Administrator determines that a requested change in an approved PUD is not a minor change within the provisions of this section, the change shall then be considered by the Planning Commission and City Council as an amendment in the PUD, and accordingly, all of the procedures required for the consideration and approval of an original PUD application shall apply.

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## **ARTICLE 28: AMENDMENTS**

### **Section 28.01 Intent and Purpose**

The purpose of this Section is for establishing and maintaining sound, stable and desirable development within the jurisdictional limits of the City of the Village of Douglas. It is not intended that this Ordinance be amended except to correct an error in the Ordinance, because of changed or changing conditions in a particular area in the City generally, to conform with changes to the Comprehensive Plan and/or other ordinances of the City, to meet public need for new or additional land uses in areas so contemplated by the Comprehensive Plan, or to further protect the environment, neighborhoods, public infrastructure or other public investment in the City.

### **Section 28.02 Initiation of Amendments**

Only the City Council may amend this Ordinance. Proposals for amendments or changes may be initiated by the City Council on its own motion, by the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

### **Section 28.03 Filing Fee**

The City Council shall establish by resolution, a fee to be paid in full at the time of receipt of any application to amend this Ordinance. Said fee shall be collected by the City and no part shall be refundable to the applicant. No fee shall be charged when the applicant is a governmental body.

### **Section 28.04 Publication and Delivery of Notice of Public Hearing**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

- 1) A petitioner shall submit a completed and signed application for Ordinance amendment, along with the appropriate fees, to the Zoning Administrator. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- 2) The Zoning Administrator shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant.
- 3) For a Planning Commission action, the Planning Commission shall establish a date for a public hearing on the application which will be conducted by the Planning Commission once the application is determined by the Zoning Administrator to be

complete. The Zoning Administrator shall give notice of the public hearing in the following manner.

4) The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the City.

5) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

- a. The applicant;
- b. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
- c. The occupants of all structures within 300 feet of the property that is the subject of the application.

6) If the above-described 300-foot radius extends outside of the City's boundaries, then notice must be provided outside of the City boundaries, within the 300-foot radius, to all persons in the above-stated categories.

7) The notice of public hearing shall include the following information:

- a. A description of the nature of the application or request.
- b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
- c. State when and where the application or request will be considered. Identify when and where written comments will be received concerning the application or request.

8) Effect of a Protest to Proposed Amendment. If a protest is filed, approval of the amendment to the Zoning Ordinance and/or Map shall require a 2/3 vote of the City Council, unless a larger vote, not to exceed a ¾ vote, is required by ordinance or charter. The protest petition shall be presented to the City Council before final action on the amendment and shall be signed by one (1) or more of the following:

- a) The owners of at least twenty (20) percent of the area of land included in the proposed change.
- b) 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. Publicly owned land shall be excluded in calculating the 20% land area requirement.

### **Section 28.05 Application Information**

The applicant shall submit a detailed description of the petition to the Zoning Administrator. When the petition involves a change in the Zoning Map, the applicant shall submit the following information:

- 1) A legal description of the property.
- 2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- 3) The name and address of the applicant.
- 4) The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner.
- 5) Date of filing with the Zoning Administrator.
- 6) Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- 7) The desired change and reasons for such change.
- 8) A completed application form supplied by the City.

### **Section 28.06 Planning Commission Recommendations**

(1) In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full along with its recommendations for disposition of the application, to the City Council within a reasonable period of time. The matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:

- (a) What, if any, identifiable conditions related to the application have changed since the existing zoning district was established which justify the proposed amendment?
- (b) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
- (c) What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
- (d) Does the petitioned district change adversely affect environmental conditions, or the rights of a neighboring property owner?
- (e) Is the class of uses permitted in the district appropriate for the location proposed to be rezoned?

- (f) Does the petitioned district change generally comply with the Tri-Community Comprehensive Plan, or a subsequent document that guides land use and development decisions in the City of the Village of Douglas?
- (g) What is the ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located?

2) All findings of fact shall be made a part of the public records of the meetings of the Planning Commission. The Planning Commission shall transmit its findings of fact and a summary of comments received at the public hearing to the City Council.

3) In determining the above mentioned findings of fact the Planning Commission may solicit information and testimony from officials of, but not limited to, the following agencies:

- a) County Health Department
- b) County Road Commission
- c) County Drain Commission
- d) The school district affected
- e) County Planning Department

### **Section 28.07 Consideration by the City Council**

After receiving the recommendations of the Planning Commission, the City Council at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the City Council except as provided by Section 28.04 (8). The City Council may hold a public hearing. The City Council may refer any proposed amendments to the Planning Commission for consideration and comments within a specific period of time. A property owner who requests a hearing by certified mail, addressed to the clerk of the City shall be granted a hearing on the proposed amendment prior to a final action on the amendment by the City Council.

### **Section 28.08 Publication of Notice of Ordinance Amendments**

Following adoption of subsequent amendments to this Ordinance by the City, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The effective date shall be seven (7) days after publication in the newspaper. The notice shall include the following information:

- 1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
- 2) The effective date of the amended Ordinance.

3) The place and time where a copy of the amended Ordinance may be purchased or inspected.

**Section 28.09 Resubmittal**

No application for a rezoning which has been denied by the City Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Council to be valid.

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## **ARTICLE 29: ZONING BOARD OF APPEALS**

### **Section 29.01 Intent and Purpose**

The purpose of this Article is to ensure 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 29.02 Creation and Membership**

- 9) The Zoning Board of Appeals, created when the City of the Village of Douglas first adopted a zoning ordinance, is hereby continued in accordance with Act 12 of the Public Acts of 2008, as amended.
- 10) The Zoning Board of Appeals shall consist of five (5) members appointed by majority vote of the members of the City Council.

### **Section 29.03 Organization**

- 1) Rules of Procedure: The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board shall annually elect a chairperson, a vice-chairperson, and a secretary.
- 2) Meetings and Quorum: Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board in its Rules of Procedure may specify. A majority of the total membership of the Board shall comprise a quorum. All meetings shall be open to the public.
- 3) Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.
- 4) Records: The minutes of all meetings shall contain the grounds for every determination made by the Board including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case, along with the vote of each member and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the Zoning Administrator.

### **Section 29.04 Jurisdiction**

The Zoning Board of Appeals shall hear and decide upon requests to:

- 1) Interpret the provisions of this Ordinance when it is alleged that certain provisions are unclear or that they could have more than one meaning. In deciding upon such request the Zoning Board of Appeals shall ensure that its

interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance. The opinion of the City Attorney may be sought or any request for ordinance interpretation.

- 2) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator (see Section 3.04).
- 3) Classify a use that is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable use, in accordance with the purpose and intent of each district as long as the petitioner has already completed the procedure established in Section 3.05 (2). If no comparable use is found, the Zoning Board of Appeals shall so inform the appellant and indicate that the requested use would only be permitted if the Ordinance is amended to specifically include it in a particular district(s) and pursuant to particular standards. Section 3.05 (2)
- 4) Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Article 19 by an analysis of the specific needs as long as the petitioner has already completed the procedure established in Section 19.02 (2). If no comparable use is found, the Zoning Board of Appeals shall so inform the petitioner and indicate that the parking space requirements will have to be established by amendment of the Ordinance.
- 5) Consider requests for variances (see Section 29.05-29.07).
- 6) Consider an appeal from any administrative decision of the Zoning Administrator, Planning Commission, or other administrative official, except as otherwise provided in this Ordinance, where there is alleged by the appellant that there is an error in an order, request, permit, decision or refusal in administering or enforcing the provisions of this Ordinance.

### **Section 29.05 Variances**

- 1) Nonuse variances. The Zoning Board of Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations and off-street parking and loading space requirements of this Ordinance, provided that all the required findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion.
  - a) That there are practical difficulties that prevent carrying out the strict letter of this Ordinance. These practical difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

- b) That a genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.
  - c) That the practical difficulty or special conditions or circumstances do not result from actions of the applicant.
  - d) That the variance will relate only to property under control of the applicant.
  - e) That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. If a lesser variance would give substantial relief and be more consistent with justice to others it shall be so decided.
  - f) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
  - g) That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
  - h) That the variance shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district, or any use for which a Special Use Permit or a temporary permit is required except where failing to do so would result in a constitutional taking for which compensation would otherwise have to be paid because the application of existing regulations do not permit a reasonable use of land under existing common law or statutory standards. In this case, the appellant shall first have sought and been denied a rezoning, Special Use Permit approval, and/or a PUD approval and shall have their variance request processed according to the requirements of Section 29.05 (2).
- 2) Use variances. All requests for use variances shall be processed as follows and the record of proceedings of the Zoning Board of Appeals shall contain evidence supporting each conclusion and condition imposed (if any):
- a) Application Requirements: In addition to the information required for other variance requests, an application for a use variance shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

1. Applicant's property cannot be used for the purposes permitted in the zoning district.
2. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
3. Applicant's suggested use would not alter the essential character of the area.
4. Applicant's problem has not been self-created.
5. Unavailability of administrative relief which may afford reasonable use of applicant's property.

At the end of each statement (1 through 5) identify all persons who will testify at the hearing with respect to each of the facts, and, separately, identify all persons who will testify at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

### 3. Pre-hearing Conference

- a) Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference with the Zoning Administrator and City Attorney.
- b) The purposes of the pre-hearing conference shall be to:
  - i. Review the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
  - ii. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
  - iii. Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals, or other relief which may require action by persons or bodies other than the zoning board of appeals which will afford an adequate remedy for the applicant.
  - iv. Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.
- c). The Zoning Administrator shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.
- d. The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

4) Hearing Procedure

- a) The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the five factors set forth in Section 29.05(2)(A)(1-5).
- b) Manner of Presentation:
  - i. Community representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.
  - ii. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits, however, the chairperson of the zoning board of appeals may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the zoning board of appeals may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the zoning board of appeals to ask questions of such witnesses.
  - iii. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
  - iv. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the zoning board of appeals for consideration as it relates to the specific application presented.
  - v. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons

and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal case.

- vi. At the hearing, the zoning board of appeals may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the board. When questions of procedure arise during the hearing, the chairperson of the zoning board of appeals may solicit the recommendation of the representatives of both the applicant and the community.
- vii. If a hearing is not completed at a given meeting within the time period allowed by the zoning board of appeals, the Board shall adjourn the hearing to a date certain for continuation.

5) Decision of the Zoning Board of Appeals

- a. The zoning board of appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- b. At the conclusion of the hearing, the zoning board of appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- c. If the zoning board of appeals determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. Such relief may be in the form of one or more non-use variances and/or in the form of a use variance. The motion may include conditions that are authorized by law.
- d. If the zoning board of appeals adopts a motion to grant variance relief, such motion may be made as a tentative grant of relief, subject to review by the planning commission, planning consultant, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If such a tentative grant of relief is approved, the zoning board of appeals shall request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

### **Section 29.06 Conditions of Approval**

In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate any permit granted pursuant to the variance.

### **Section 29.07 Other Variance Circumstances**

Each variance granted under the provisions of this Ordinance shall become null and void unless:

- 1) The construction authorized by such variance or permit has commenced within six (6) months of granting of the variance.
- 2) The occupancy of land, premises, or buildings has taken place within one (1) year after the granting of the variance.
- 3) No rehearing on a denied variance application shall be reconsidered except upon the grounds of newly discovered evidence or a falsehood previously relied upon which is found upon inspection by the Zoning Board of Appeals to be valid. A rehearing shall be processed in the same manner as the original application. A request for rehearing shall be made within eight (8) days. No Zoning Permit shall be granted which relies upon a variance before eight (8) days from the meeting at which the decision was made have passed.
- 4) No application for a variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board of Appeals to be valid.

### **Section 29.08 Procedure**

- 1) Notice of Appeal: Appeals to the Zoning Board of Appeals may be made by any interested person aggrieved, or by an officer, or department of the City, by filing a written Notice of Appeal with the Zoning Administrator. Upon receipt of a Notice of Appeal the Zoning Administrator shall promptly transmit the records concerning the appealed action to the chairperson of the Appeals Board. Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within ten (10) days after the date of the Zoning Administrator's decision.
- 2) Upon receipt of a Notice of Appeal the chairperson of the Zoning Board of Appeals shall fix a reasonable time and date for a public hearing not to exceed thirty (30) days from the date of filing of the Notice of Appeal. Notice of the hearing shall be given in accordance with Section 28.04 of this Ordinance.
- 3) At the hearing, any party may appear in person or by agent or attorney. The Board may recess such hearing from time to time, and, if the time and place

of the continued hearing are announced at the time of adjournment, no further notice shall be required.

- 4) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted on application, by court of record.
- 5) A fee shall be paid to the City Treasurer at the time the petitioner files an application with the Board pursuant to the requirements of Section 23.03 (3)(d). No fee shall be charged if the City or any official body of the City is the appellant.
- 6) The Zoning Board of Appeals shall render its decision within sixty (60) days of filing a Notice of Appeal unless an extension of time is necessary to review new information pertinent to making the decision, and said extension is agreed upon by the appellant and a majority of the members of the Appeals Board present; or in the opinion of a majority of the members of the Zoning Board of Appeals, there are other extenuating circumstances which do not reasonably permit a decision within sixty (60) days. The vote of a majority of members shall be necessary to take action on a non-use variance appeal. A use variance appeal requires a concurring vote of 2/3rds of the members to take an action.
- 7) In authorizing any variance, or in granting any conditional, or temporary permits, the Zoning Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City of the Village of Douglas covering the estimated cost of improvements associated with a project for which approval is sought, be deposited with the City Treasurer to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Zoning Board of Appeals may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The Board of Appeals shall establish procedures under which a rebate of any cash deposits in reasonable proportions to the ratio of work completed on the required improvements will be made as work progresses.

### **Section 29.09 Review by Circuit Court**

- 1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:



- (a) Complies with the constitution and laws of the state.
  - (b) Is based upon proper procedure.
  - (c) Is supported by competent, material, and substantial evidence on the record.
  - (d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.
- 2) If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.
- 3) An appeal from a decision of a zoning board of appeals shall be filed within 30 days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires.

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**ARTICLE 30:  
INTERPRETATION, SEVERABILITY, VESTED RIGHTS  
and EFFECTIVE DATE**

**Section 30.01 Interpretation and Conflicts**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

**Section 30.02 Severance Clause**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid.

Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use building or structure not specifically included in said ruling.

**Section 30.03 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 or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

**Section 30.04 Repeal**

All ordinances and amendments thereto enacted and/or adopted by the City of the Village of Douglas by virtue of Michigan Zoning Enabling Act, as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

**Section 30.05 Effective Date**

This Ordinance shall take effect following adoption and upon publication in accordance with the provisions and procedures of the Michigan Zoning Enabling Act, as amended and the City of the Village of Douglas City Charter, as amended.

**ARTICLE 31:  
RECORD OF ADOPTION**

Public hearing having been held hereon, the provisions of this Ordinance are hereby given immediate effect from and after the date of its passage by the City Council and subsequent publication as required by law.

Made and passed by the City Council of the City of the Village of Douglas, Allegan County, Michigan on this 18th day of May, 2009.

1. Date of Public Hearing: January 14, 2009 by the Planning Commission.
2. Date of Recommendation to Adopt by Planning Commission: January 14, 2009.
3. Date of Adoption by City Council: May 18, 2009
4. Date Ordinance Shall Take Effect: June 11, 2009
5. Date of Newspaper Notice of Adoption May 22, 2009

CITY OF THE VILLAGE OF DOUGLAS  
ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 03 - 2012

**AN ORDINANCE TO AMEND THE CITY OF DOUGLAS ZONING ORDINANCE  
AND ZONING MAP TO ESTABLISH THE WEST SHORE GOLF COURSE  
REDEVELOPMENT PLANNED UNIT DEVELOPMENT PROJECT.**

The City of Douglas (the "City") Ordains:

Section I. An Amendment to the City of Douglas Zoning Ordinance.

The application received from Kevin Einfeld of Douglas Property Development, LCC (hereinafter referred to as the "Developer") for Planned Unit Development designation for the proposed Westshore Golf Redevelopment Planned Unit Development Project (hereinafter referred to as the "Project") was recommended by the City of Douglas Planning Commission for approval at the July 11, 2012 Planning Commission meeting following a public hearing. The property at issue was previously zoned R-1 PUD, but no PUD ordinance was prepared at that time. This PUD ordinance is enacted pursuant to Article 27 of the City of the Village of Douglas Zoning Ordinance.

Section II. Legal Description.

The legal description of the Project is as follows:

West Shore Golf PUD Description:

Part of the North 1/2 of Section 17, Town 3 North, Range 16 West, City of Douglas, Allegan County, Michigan described as: Commencing at the Northeast corner of said Section; thence S00°21'57"W 1203.72 feet along the East line of said North 1/2 to the Point of Beginning; thence N89°17'50"W 431.89 feet; thence N00°53'13"W 337.43 feet; thence N80°31'00"W 874.96 feet; thence S00°25'11"W 421.70 feet along the East line of McVea Plat and the extension thereof; thence N89°59'26"W 1471.32 feet along the South line of said Plat and its extension; thence S00°17'10"W 164.97 feet; thence N89°23'53"W 261.35 feet to a point on the East line of Lot 8, Trumbull's Addition to the Village of Douglas; thence N63°36'10"W 112.61 feet; thence S26°11'58"W 20.00 feet along the Southeast line of Lakeshore Drive; thence S63°36'10"E 117.13 feet to a point being 5.00 feet Northeasterly along the East line of said Lot from the Southeast corner of said Lot 8; thence S89°23'53"E 266.04 feet; thence S00°17'10"W 597.78 feet; thence S88°20'23"E 164.16 feet along the North line of Wildwood Lane to the North and South 1/4 line of said Section; thence N89°41'57"E 1004.98 feet along North line of West Shore Woods Condominiums and the extension thereof; thence S00°27'10"W 686.00 feet along the East line of said Condominiums; thence N90°00'00"E 1155.80 feet along said South line; thence N00°21'57"E 150.00 feet; thence N90°00'00"E 117.00 feet; thence N00°21'57"E 200.00 feet; thence N90°00'00"E 333.00 feet; thence N00°21'57"E 1052.88 feet along the East line of said North 1/2 to the point of beginning. Subject to highway right-of-way for 131st Avenue over the South 33.0 feet thereof, and for Ferry Street over the East 33.0 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.

Also, part of the Northeast 1/4 of Section 17, Town 3 North, Range 16 West, City of Douglas, Allegan County, Michigan described as: Commencing at the East 1/4 corner of said Section; thence

S90°00'00"W 1005.80 feet along the East and West 1/4 line of said Section to the Point of Beginning; thence S90°00'00"W 300.00 feet; thence N00°27'10"E 300.00 feet to Reference Point "B"; thence N00°27'10"E 15 feet, more or less, to the centerline of a drain; thence Southeasterly 380 feet, more or less, along said centerline to a line which bears N00°27'10"E from the Point of Beginning; thence S00°27'10"W 17 feet, more or less, to Reference Point "C", said Reference Point being S51°10'45"E 175.00 feet and S72°47'35"E 170.00 feet from said Reference Point "B"; thence S00°27'10"W 140.00 feet to the point of beginning. Subject to highway right-of-way for 131st Avenue (Center Street) over the South 33.0 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.

Also, part of the Northeast 1/4 of Section 17, Town 3 North, Range 16 West, City of Douglas, Allegan County, Michigan described as: Commencing at the East 1/4 corner of said Section; thence S90°00'00"W 1305.80 feet along the East and West 1/4 line of said Section to the Point of Beginning; thence S90°00'00"W 300.00 feet to the East line of West Shore Woods Condominiums; thence N00°27'10"E 100.00 feet along said East line to Reference Point "A"; thence N00°27'10"E 24 feet, more or less, to the centerline of a drain; thence Northeasterly 370 feet, more or less, along said centerline to a line which bears N00°27'10"E from the Point of Beginning; thence S00°27'10"W 15 feet, more or less, to Reference Point "B", said Reference Point being N56°26'58"E 361.87 feet from said Reference Point "A"; thence S00°27'10"W 300.00 feet to the point of beginning. Subject to highway right-of-way for 131st Avenue (Center Street) over the South 33.0 feet thereof. Also subject to easements, restrictions, and rights-of-way of record.

Contains 77.3 acres more or less.

Subject to any easements, restrictions or rights of way of record.

### Section III. General Provisions.

The following provisions shall hereby apply to the project, in addition to those provisions outlined in Article 27 of the City of the Village of Douglas Zoning Ordinance.

### Section IV. Purpose.

The Project occupies approximately 77.3 acres in the City. The Project will be a site condominium development containing 48 detached single family dwelling units. Not less than 65% of the property is to be preserved as open space. The Planned Unit Development technique has been chosen by the Developer to give it and the eventual owners of each unit more control over the Project's aesthetics and appearance. This development technique provides the developer with the ability to develop the Project in a manner to meet market expectations where more traditional mechanisms such as creating subdivision plats do not.

The regulations contained herein are established to define the procedures necessary to ensure high quality development in the Project. Additionally, they are designed to achieve integration of this development with adjacent land uses.

### Section V. Approval Limitations.

A. The provisions of this Ordinance are not intended as a substitute for the City of

the Village of Douglas Zoning Ordinance and the Final PUD Plan, nor do they in any way relieve the developer from obtaining all approvals and permits required by the City, except as otherwise expressly provided herein. In the event that a development issue or site plan element is not expressly addressed by this ordinance, the specifications and requirements of the City of the Village of Douglas Zoning Ordinance shall apply. Furthermore, all other City ordinances shall still govern the Project where applicable.

B. Except as expressly otherwise provided herein, the Developer and his assigns must meet all applicable provisions, ordinance requirements, and regulations of City of Douglas, as well as federal and state law, and must obtain all necessary approvals from state and county governmental agencies that are required for construction, operation, or use.

C. This PUD approval is expressly contingent upon all conditions of approval herein remaining fully effective and valid. If any condition imposed herein is determined to be illegal or contrary to law as a result of a successful legal challenge by the Developer or its assigns, or any other party, the City reserves the right to review the entire Project under the PUD provisions of the City of Douglas Zoning Ordinance, and further, to withdraw its approval of this PUD if the City finds that, absent the effect of any condition imposed herein, the PUD no longer meets the standards for PUD approval contained in the Zoning Ordinance.

D. All conditions contained herein and in the final approved site plan shall be binding upon the Developer, as well as its successors, tenants and assigns. The conditions may be modified or amended only pursuant to a formal amendment of the PUD approval, approved site plan, and ordinance amendment. The Project must be constructed and operated, and all properties therein used, in strict compliance with the PUD approval (including this Ordinance and the final approved site plan), and no deviations can occur without prior formal written approval by the City. So called minor deviations as provided for within Article 27 of the City's Zoning Ordinance shall not occur unilaterally by the Developer or its successors, tenants, or assigns. Any deviation without prior formal written approval by the City will constitute a violation of this Ordinance and the City of Douglas Zoning Ordinance.

E. This approval document shall be recorded with the Allegan County Register of Deeds by the Developer prior to construction occurring on site and shall run with and bind the lands involved. Copies of this recorded document shall be supplied by the Developer to the City of Douglas Clerk.

F. Failure to comply with the site plan or any condition of approval herein shall be deemed to be both a nuisance per se and a violation of the City of Douglas Zoning Ordinance.

G. Prior to recording a copy of this document as specified in Section II(E) hereof, the



Developer shall type the following statement onto the end of this document (or add an additional page to the document) as follows, and shall sign and date the same:

"I, Kevin Einfeld, have fully read the above PUD ordinance amendment, understand its provisions and fully agree with all requirements and conditions contained in the same, on behalf of myself and my assigns, successors and transferees in and to the property involved."

#### Section VI. Site Condominium Documents and Plans.

A. Specific controls relating to architectural elements, common elements of the site condominium project, construction materials, size and space requirements, improvements and out buildings, specific prohibitions and rules of conduct shall be governed by site condominium bylaws and master deed. These restrictions shall become part of this Ordinance by reference.

B. The Project shall be developed exactly in accordance with the site plan approved and signed by the City. The site plan shall indicate the approximate location of each building envelope and shall provide appropriate measurements demonstrating compliance with Section 16.25 of the Zoning Ordinance. Engineering plans and documents relating to utilities, topography, drainage, and the survey of each phase of the Project shall be reviewed and approved by the City Engineer. Approval of these documents shall be based upon their meeting the requirements of the Zoning Ordinance and also meeting recognized, acceptable engineering standards and practices. Once it has been determined that the plans have met City requirements, the City Engineer shall sign and mark these plan documents as "Approved," and forward them to the Developer. Only approved plan documents shall be recorded with the appropriate county and state agencies.

C. The number of building sites may be reduced or consolidated within the Project only after the review by and written approval of the Zoning Administrator. The proposed changes to the site/survey plan to reduce or consolidate building sites shall be reviewed by the Zoning Administrator to ensure compliance with the City of Douglas Zoning Ordinance, this PUD Ordinance, and any other requirements. Once approved by the Zoning Administrator, the amended site/survey shall then be recorded with the Allegan County Register of Deeds Office and the appropriate state agencies by the Developer at his cost. A copy of the recorded site/survey plan shall be forwarded to the City Clerk, so that accurate files regarding the development can be maintained.

#### Section VII. Permitted Uses.

The permitted uses for the Westshore Golf Course Redevelopment PUD are as follows:

A. Single Family Residences.

B. Accessory buildings customarily incidental to a single family residence, subject to the provisions of the Final Approved PUD Submittal, attached hereto as Exhibit (X).

C. Signs. All signs for the Project shall conform with the City of Douglas Sign Ordinance (Ordinance 111-D).

#### Section VIII. Design Guidelines, Requirements and Limitations.

The Project shall be developed in exact accordance with the site plan approved by the City and the narrative documentation provided within the Final approved Submittal for PUD. No alterations, expansions or additions may occur as to the Project without a formal amendment to this Ordinance, unless expressly otherwise authorized herein.

A. Maximum Number of Residential Units - The maximum number of single-family detached site condominium units within the Project shall be limited to forty six (46) units until such time as the developer submits a revised PUD plan to be reviewed by the City Planning Commission in accordance with the standards of Article 24 and 27 of the City of Douglas Zoning Ordinance and approved by the Douglas City Council.

#### Section IX. Private Street Development.

A. The Developer shall submit a street construction, maintenance, and pavement plan consistent with Article 18 of the Zoning Ordinance. The Developer may establish private streets to serve the Project provided the roads are constructed in accordance with the City of Douglas engineering requirements and standards for private streets and the following specifications:

1. All grades shall be sufficient to allow safe ingress/egress of emergency vehicles.
2. The private streets shall be posted with signs stating the street names. These signs shall be consistent with Allegan County Road Commission standards and requirements and shall be installed at the Developer's cost.
3. Any private street shall intersect any public road at a 90 degree angle or a 180 degree angle where appropriate.
4. Copies of any permits required by the Allegan County Road Commission to connect the private street to any public road shall be provided to the City Zoning Administrator by the Developer.

B. The Developer of the Project shall provide a disclosure statement on all property deeds to all owners of the private street, all those who utilize the private street and all persons securing a building permit to construct a building or structure served by the private street, by applying for and securing a building permit for construction of a building or structure that utilizes the private street, all such persons

shall use the private street at their own risk and the City (and its employees, officials, and agents) shall not be responsible for any aspect of the private street.

C. It shall be the responsibility of the Developer and its successors or the individual property owners to fully maintain and keep the private access street in good repair at all times and to ensure that snow and ice is removed in a timely fashion during the winter.

D. No combustible building materials may be erected on the Project until a temporary access road and operable fire hydrants are constructed to within 150 feet of the furthest point of a structure. Such road shall be a minimum 24 feet wide and be able to support 20 tons on a single axle with dual wheels and standard road tires.

#### Section X. Temporary Buildings.

No structure of a temporary nature; trailer, tent or construction shack shall be constructed, placed or maintained within the Project except accessory to and during construction of any building or infrastructure improvement.

#### Section XI. Easements

Prior to any construction occurring, the Westshore Golf Course Redevelopment PUD shall provide recorded copies of all permanent easements providing public access to trailways and/or conserving open space on the site. These easements have been illustrated on the site plan dated \_\_\_\_\_.

#### Section XII. Utilities.

A. Water and Sewer - The Project will be served by municipal sewer and water and each individual unit shall be serviced by a private lateral. Such systems shall be designed, installed, and maintained pursuant to all applicable requirements of the City of Douglas and the Kalamazoo Lake Sewer and Water Authority.

B. Stormwater Drainage - In lieu of requiring that an Act 433 agreement or a drainage district be established with the Allegan County Drain Commissioner, City of Douglas has agreed to approve the site plan for the Project so long as the Project (and any and all portions thereof) always complies with the City of Douglas Zoning Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances). Accordingly, the property owner's association (the "Association") and all landowners within the Project ("Co Owners") are required to ensure the proper installation and permanent maintenance of any and all storm drainage and water retention systems, pipes, ponds, and facilities for the Project (collectively, the "Facilities") shown on the approved site plan or as otherwise required by the City of Douglas Zoning Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances, all of which shall collectively be referred to hereinafter as the "Zoning Ordinance"). Such

requirements and obligations of the Association and Co-Owners include, but are not necessarily limited to, the following:

1. Maintenance and repair regarding the following items shall be done on a regular basis and in such fashion as to ensure that all components of the Facilities function properly at all times:

- (a) Sediment removal;
- (b) Erosion control;
- (c) Ensuring constant structural integrity of the physical systems; and
- (d) Designate access to the facilities.

2. The City (including its designated officials, officers, agents, and contractors) shall have the right to physically inspect all aspects of the Facilities at all reasonable times, or any other times if, in the opinion of the City, there is a threat to the public health, safety, or welfare.

3. Buildings, structures, landscaping, trees, or similar items shall not be installed, planted, or placed over any portion of the Facilities without prior written approval from the City.

4. The Association and Co-Owners shall supply the City with a permanent recordable easement (in a form acceptable to the City) regarding the following after installation and within 60 days of the date requested by the City for the following:

- (a) Storm sewer pipes;
- (b) Basins;
- (c) Spillways;
- (d) Waterways; and
- (e) Designated access routes

5. The City shall be supplied with an engineer's "as-built" certification to certify that the Facilities as constructed and installed matches the approved design. The City shall also be supplied with a reduced copy of the approved site plan graphically showing the Facilities, together with any and all easements therefore.

6. The City shall be supplied with a permanent easement or irrevocable license allowing the City (as well as its designated officials, officers, agents, and contractors) to have access between the public road right-of-way to any and all portions of the Facilities.

7. Should the Facilities not be properly installed, maintained, and/or repaired, in compliance with all of the requirements of this Section XII.B, the approved site plan, and the Stormwater Ordinance (whether due to the fault or neglect of the developer, the Association, and/or the Co-Owners), and any such noncompliance or deficiency shall not have been fully remedied within 30 days of the date when the City has

given the Association written notice of any such noncompliance or deficiencies, the City, at its sole option and discretion, shall have the right and authority to perform any and all installations, repairs, and/or maintenance which is reasonably required and charge back the costs thereof to the Association and Co-Owners (together with reasonable administrative costs and legal fees, should any challenge occur regarding the City's actions) as follows:

(a) Establish a Special Assessment District. The City may establish a special assessment district for the Project to pay for or reimburse the City for any and all such costs (as well as to ensure future required repairs and maintenance) pursuant to whichever state statute the City desires to utilize. In such event, all of the Co-Owners and the Association shall be deemed to have consented to the establishment of such a special assessment district.

(b) Proceeding to Collect Pursuant to the Master Deed and Condominium Documents. Alternately, the City shall also have the authority to collect or seek reimbursement for any and all such costs from the Association and Co-Owners as if such obligations of the Association and Co-Owners were in the form of a permanent deed restriction or covenant on the Project. Should the City pursue this remedy, the City would have any and all rights attributable to the Association when collecting dues or assessments from Co-Owners. Additionally, such costs shall be a lien on each of the Units, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) months or more may be certified annually to the City Treasurer, who shall enter the lien on the next tax roll against the applicable Unit, and the costs shall be collected in the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll in the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the City shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

The above alternate remedies (being (a) and (b)) shall be deemed to be in addition to any and all other remedies provided for elsewhere in the Master Deed or condominium documents or at law or equity. The City shall have the sole authority and discretion to determine whether or not to proceed pursuant to (a) or (b), above.

C. The Developer shall provide all necessary easements within the Project for telephone, electricity, gas and cable television to the appropriate utility provider without cost. Said easements shall be recorded with the Allegan County Register of Deeds and be provided to each utility provider for their records.

D. Exterior Lighting. All street lighting shall be consistent with Section 19.05 of the Zoning Ordinance and shall either be installed prior to the issuance of any certificate of occupancy for the first building in the Project or paid for prior to the issuance of any certificate of occupancy for the project.

Section XIII. Soil Erosion Control Requirements.

The Developer shall submit a soil erosion control plan showing all temporary and permanent soil erosion control measures to be taken before, during, and after construction on the Project. This plan shall be reviewed and approved by the City Engineer prior to commencing any excavation on the site.

Section XIV. Performance Guarantee.

To ensure compliance with this Ordinance and any conditions herein, the City may require reasonable performance guarantees to ensure completion of improvements such as, but not limited to, landscaping, drainage, lighting, roads, and utilities. The City Council, Engineer, or Zoning Administrator may require such guarantees at any time they deem reasonably necessary to ensure completion of the improvements. The form (including the bank or surety involved), duration, and amount of the performance guarantee as shall be approved by the City. The performance guarantees to be required by the City may include only the provision of performance and payment bonds by an approved surety or the provision of a letter of credit from an approved financial institution.

Section XV. Permanent Common Open Space.

The permanent common open space area is to remain in its present undeveloped state in perpetuity. To ensure this occurs, the following regulations shall apply to the permanent common open space area:

A. No buildings, structures, fences, or driveways shall be erected, constructed or placed within the common open space area. The private streets and their associated infrastructure improvements may encroach into this area provided all plans are approved by the City and are consistent with the development plan for this Project.

B. There shall be no tree or vegetation cutting or removal within the common open space areas except to remove fallen, dead, diseased or dangerous trees or vegetation. The required detention and mitigation areas must also be constructed according to the approved plans.

C. There shall be no draining, filling or any other improvements of the wetlands within this common open space area other than that already permitted by the Michigan Department of Environmental Quality (MDEQ). The project must stay in full compliance with applicable MDEQ permits.

Section XVI. Consistency of the Master Deed and/or Deed Restrictions/Covenants with the PUD Approval.

If the Project will be a condominium project (in whole or in part), the master deed (and attachments) shall be reviewed and approved by the City Attorney prior to final recording to ensure consistency with this Ordinance. If some or all of the Project will be governed by deed restrictions/restrictive covenants apart from a condominium master deed, such deed restrictions/restrictive covenants shall be reviewed and approved by the City Attorney before recording to ensure consistency with this Ordinance.

#### Section XVII. Consistency with Planned Unit Development (PUD) Standards.

The rezoning to Planned Unit Development will result in a recognizable benefit to the ultimate users of the Project and to the community. Current and future residents will recognize the benefits of a residential development that offers a low-density land use and public non-motorized pathways.

In relation to the underlying zoning (R-1) the City finds the Project will not result in a material increase in the need for public services, facilities and utilities and will not place a material burden upon the subject property and the surrounding properties. The Project is not anticipated to cause undo impact to the stormwater drainage of the surrounding area. All stormwater and soil erosion control plans have been approved by the City Engineer and the appropriate County and State agencies.

The Project has been determined by the City to be compatible with the 2005 Tri-Community Comprehensive Plan and with the spirit and intent of the Planned Unit Development Chapter of the Zoning Ordinance. The Project has been determined to be a "Residential" use, which is consistent with the City of Douglas Comprehensive Plan.

The City finds the Project will not result in an unreasonable negative economic impact upon surrounding properties.

The City finds the Project to have at least the same amount of green areas and usable open space than would typically be required by the City Zoning Ordinance.

Finally, the City recognizes the Project will be under single ownership or control. The City recognizes that the Developer or its assigns will retain ownership and control of the Premises until a majority of the site condominium units are purchased for single family residential purposes.

#### Section XVIII. Effective Date.

This Ordinance shall become effective twenty (20) days after publication of the ordinance, or a summary thereof, in a newspaper of general circulation within City of Douglas.

The foregoing Ordinance was offered for adoption by Greenwood, supported by

Mayer. The roll call vote being as follows:

YEAS: Bailey, Greenwood, Harvath, Hoexter, Mayer, Smith, Wiley

NAYS: None

ABSENT: None

Ordinance Declared Adopted.

\_\_\_\_\_  
James I. Wiley, Mayor \_\_\_\_\_  
Date

\_\_\_\_\_  
Jean E. Neve, City Clerk \_\_\_\_\_  
Date

### CERTIFICATION

I hereby certify the foregoing Ordinance was adopted by the City Council of the City of the Village of Douglas at a meeting held on August 20, 2012 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the City Charter and the Open Meetings Act, Public Act 267 of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Jean E. Neve  
City of Douglas Clerk