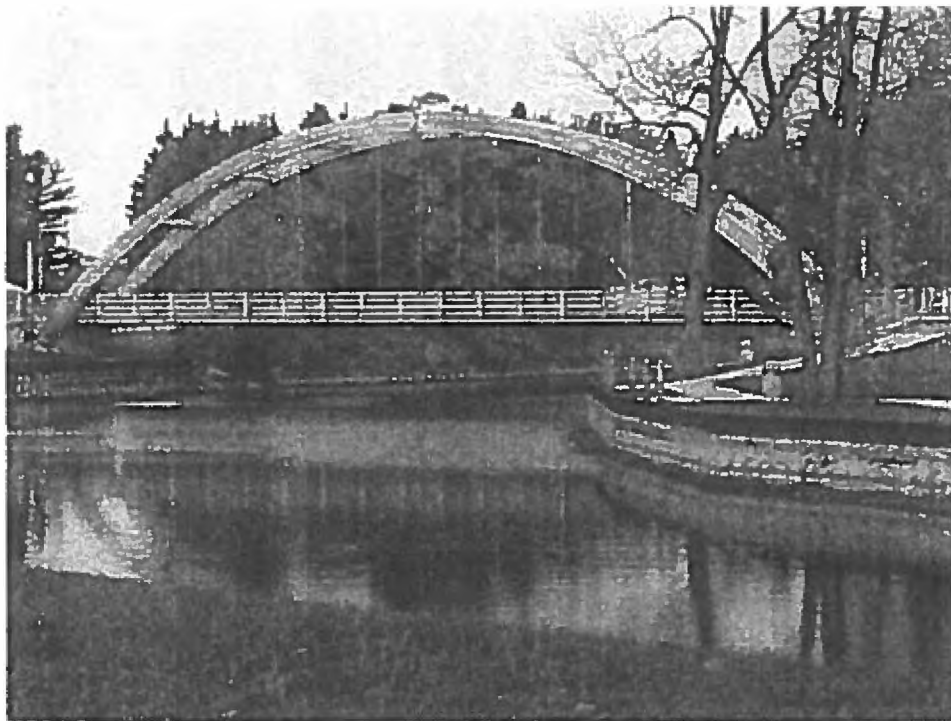

CITY OF AU GRES ZONING ORDINANCE



Adopted December 5, 2006

ARTICLE 1

TITLE, PURPOSE AND ENABLE AUTHORITY

SECTION 100. PURPOSE

The purpose of this ordinance is to establish zoning districts within the incorporated portions of the City of Au Gres, Arenac County, Michigan, to:

- a. Promote compatibility of existing and future land uses;
- b. Protect and enhance property and civic values;
- c. Protect natural features;
- d. Promote the gradual elimination of nonconforming uses and buildings; and
- e. Implement objectives of the Au Gres Master Plan.

SECTION 101. ENABLING AUTHORITY

This Ordinance is adopted pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended. Said Act, covering City or Village Zoning, is hereby made a part of this ordinance just as if said Act were repeated verbatim herein.

SECTION 102. ENACTMENT

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, made and provided and for the purpose of promoting, and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City of Au Gres, by protecting and conserving the character and social and economic stability of the residential, commercial industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of the land and undue congestions of population; providing adequate light, air, and reasonable access; facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means.

SECTION 103. SHORT TITLE

The City of Au Gres ordains as follows: This ordinance shall be known and cited as the "City of Au Gres Zoning Ordinance."

SECTION 104. VESTED RIGHTS

a. Site Plans Submitted Prior to Effective Date

1. **Construction Begun.** Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was begun prior to the enactment of this Ordinance,

provided construction has lawfully begun, is being diligently carried on, and shall be completed within one (1) year of the effective date of this Ordinance. The Zoning Board of Appeals may permit an extension of up to one (1) year for completion.

2. **Application Submitted.** An application shall meet the requirements of this Ordinance effective on the date of submission. An application submitted before the effective date of this Ordinance must be approved by the Planning Commission by the date that the Ordinance takes effect or the requirements of this Ordinance shall be followed.
 3. **Application Approved.** If an application has been approved within twelve (12) months of the effective date of this Ordinance, it shall remain valid if construction is begun within one (1) year and completed within two (2) years of the effective date of this Ordinance.
- b. For projects not subject to site plan approval, a building permit must be issued prior to the effective date of this Ordinance; otherwise the requirements of this Ordinance take effect.
 - c. If the conditions of this section are not met, the standards and provisions of this Ordinance shall govern.
 - d. 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 105. VALIDITY AND SEVERABILITY CLAUSE

This Ordinance and the various components, articles, sections, subsections, sentences, and phrases thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be unconstitutional or invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare unconstitutional or 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 106. SCOPE AND INTERPRETATION

This Ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, Ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the City is a party.

SECTION 107. REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance adopted by the City Council of the City of Au Gres on the 12th day of June 1, 2000, and all amendments thereto, are hereby repealed insofar as they conflict with this Ordinance. The repeal of the above Ordinance and their amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

SECTION 108. EFFECTIVE DATE

Public hearing having been held hereon, the provisions of this Ordinance are hereby effective, pursuant to the provisions of the Michigan Zoning Enabling Act (Public Act 110 of 2006). Made and passed by the City Council of the City of Au Gres, Arenac County, Michigan, on this 5th day of December, A.D., 2006.

- a. Date of Planning Commission Public Hearing: November 20, 2006
- b. Date of Adoption by City Council: December 5, 2006

City Clerk

Date

Mayor

Date



ARTICLE 2

DEFINITIONS

SECTION 200. CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the text of this ordinance and amendments thereto:

- a. The particular shall control the general.
- b. In case of any difference of meaning or implication between the text or this Ordinance and any caption of illustration, the text shall control.
- c. The word "shall" is always mandatory and not discretionary. The word "may" is permissive, as determined by the City Council, Planning Commission, Zoning Board of Appeals or other authority as indicated.
- d. Words used in the present tense shall include the future; and words used in the singular number shall include plural, and the plural the singular, unless the context indicates the contrary.
- e. A "building" or "structure" includes and part thereof.
- f. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- g. The word "person" includes an individual, or corporation, a partnership, an incorporated association, or any other similar entity.
- h. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events, connected by the conjunction "and" or "either...or", the conjunction shall be interpreted as follows.
 1. "And" indicates that all the connected items, conditions, provisions or events shall apply.
 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 3. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- i. Terms not herein defined shall have the meaning customarily assigned to them.
- j. The terms "abutting" or "adjacent to" include property "across from", such as across a street, alley, or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.

SECTION 201. DEFINITIONS A-B

ACCESSORY USE OR ACCESSORY. An “accessory use” is a use which is clearly incidental to, customarily founded in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related. When “accessory” is used in the text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following.

- a. Residential accommodations for servants and/or caretakers.
- b. Swimming pools for the use of the occupants of a residence, or their guests.
- c. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
- d. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.
- e. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- f. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- g. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district which the zoning lot is located.
- h. Uses clearly incidental to a main use such as but not limited to offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- i. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
- j. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

ADDITION. A structure added to the original structure for the district in which the zoning lot is located.

ADULT CARE FACILITY: A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated by the state under Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Consumer and Industry Services. Such organizations shall be defined as follows:

- a. **Adult Foster Care Facility:** A governmental or nongovernmental establishment subject to state licensing procedures as may be required having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an on-going basis but who do not require continuous nursing care. An adult foster care facility does not include a nursing home, a home for the aged, an alcohol or substance abuse rehabilitation center, a hospital for the mentally ill, or similar facilities.
- b. **Adult Foster Care Large Group Home:** Facility with the approved capacity to receive at least thirteen (13), but not more than twenty (20) adults who shall be 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 for compensation.
- c. **Adult Foster Care Small Group Home:** Facility with the approved capacity of not more than twelve (12) adults who shall be 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 for compensation.
- d. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
- e. **Adult Foster Care Congregate Facility:** A foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.
- f. **Adult Day Care Facility:** An unlicensed facility which provides care for elderly and/or functionally impaired adults in a protective setting for a portion of a 24 hour day.

ADULT REGULATED USES OR SEXUALLY-ORIENTED BUSINESSES. Any business which primarily features sexually stimulating material and/or performances, including the following uses.

- a. **Adult Personal Service Establishment.** Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, body painting, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult personal service establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult personal service establishment.

1. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed practical nurse practitioner, or any other similarly licensed medical professional.
 2. Fitness center, as defined herein.
 3. Electrolysis treatment by a licensed operator of electrolysis equipment.
 4. Continuing instruction in martial or performing arts, or in organized athletic activities.
 5. Hospitals, nursing homes, medical clinics, or medical offices.
 6. Barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck or shoulders only.
 7. Adult photography studios whose principal business does not include the taking of photographs of "specified anatomical areas" as defined herein.
- b. **Adult Book Store.** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage of books, magazines, and other periodicals, photographs, drawings, and other print material which is distinguished or characterized by its emphasis on matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein).
- c. **Adult Cabaret.** An establishment where live entertainment is provided, presented, permitted or performed, where a substantial portion of performances are distinguished or characterized by an emphasis on or relationship to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by or participation of patrons therein. Also, an establishment which features any of the following, topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.
- d. **Adult Motion Picture Theater or Adult Live Stage Performing Theater.** An enclosed building wherein still or motion pictures, video tapes or similar material is presented or viewed where a substantial portion is distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- e. **Adult Model Studio.** Any place where models who display "Specified Anatomical Areas" (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
- f. **Adult Motion Picture Arcade or Mini Motion Picture Theater.** Any place where motion picture 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 displayed depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein).

- g. **Adult Video Store.** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, storage, or on-premises viewing of films, movies, motion pictures, video cassettes, slides, or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
- h. **Adult Outdoor Motion Picture Theater.** A drive-in theater where a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- i. **Sexual Paraphernalia Store.** An establishment having a substantial portion of its stock-in-trade devoted to the distribution, display, or storage, of instruments, devices, or paraphernalia designed for use related to "Specified Anatomical Areas" or as part of, in connection with, or related to "Specified Sexual Activities" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.
- j. **Substantial Portion.** A use of activity accounting for more than twenty percent (20%) of any one or more of the following. stock-in-trade, sales revenue, display space, floor space, viewing time, movie display time, or entertainment time measured per month.
- k. **Specified Anatomical Areas.** Portions of the human body defined as follows.
 - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below the point immediately above the top of the areola.
 - 2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- l. **Specified Sexual Activities.** The explicit display of one or more of the following.
 - 1. Human genitals in a state of sexual stimulation or arousal.
 - 2. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast.
 - 3. Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy.
 - 4. Human excretory functions as part of, or as related to, any of the activities described above.

5. Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or related to, any of the activities described above.

AIRPORT. A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers.

AIR RIGHT. The rights to the space above a property, for development

AISLE. The traveled way by which cars enter and depart parking places.

ALTERATIONS. Any changes, additions, or modification in construction or type of occupancy on in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

ANIMAL, DOMESTICATED. An animal that is tame or domesticated and not normally found in the wild state. Hybrids of animals normally found in the wild state are not included within the meaning of domestic animal.

ANIMAL, EXOTIC. An exotic animal shall mean an animal that is not typically domesticated nor found on farms, but typically exists in the wild and is typically found in zoos, circuses, wildlife sanctuaries, or nature preserves.

ANIMAL, WILD. Animals which are wild by nature and not customarily domesticated. This definition does not include birds, small rodents, or small, nonpoisonous reptiles commonly used for educational or experimental purposes, or as pets.

ANIMAL HOSPITAL (see KENNEL)

APARTMENTS. A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single or a group of individuals living together as a single housekeeping unit.

APPEALS. The process, as prescribed in the ordinance, for contesting a zoning interpretation made by the Zoning Administrator or decision made by the Planning Commission.

APPLICANT. A person or entity submitting an application for review and action by the City or any of its departments or commissions.

AREA OF SIGN BILLBOARD. The total exterior surface computed in square feet for a sign having one exposed exterior surface; one-half the total of the exposed exterior surface computed in square feet for a sign having more than one such surface.

ATTACHED. Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to same.

ATTACHED GARAGE. An outbuilding customarily used for the storage of vehicles, and is attached to a residential dwelling as either an integral part thereof, or, at a minimum, connected to the dwelling by a completely enclosed breezeway.

ATTIC. That part of a building which is immediately below the ceiling beams of the top story and wholly or partly within the roof framing.

AUTOMATIC CAR WASH. A structure containing facilities for washing automobiles using a conveyer or other methods of moving the cars along, or machinery that moves around a stationary vehicle, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

AUTO AND VEHICLE REPAIR STATION. A place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuild, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, overall painting and undercoating of automobiles.

AUTOMOBILE OR VEHICLE SALES AREA. An area used for the display, sales and rental of new and used motor vehicles, boats, trailers, farm equipment, construction equipment or mobile homes all in operable condition.

AUTOMOBILE SALVAGE. The dismantling or disassembling of used motor vehicles or trailers; the storage, sale, or dumping of dismantled or partially dismantled, or wrecked vehicles or their parts.

AUTOMOBILE SERVICE STATION OF FILLING STATION. A place where gasoline, kerosene, or any other motor fuel or lubricating oil or grease for operation motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including sale of accessories, greasing, oiling and light motor service on the premises, but in no case to include automobile or truck major mechanical repair. Convenience foods sales and/or fast food restaurants may also be provided on the premises.

BASEMENT. That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

BED AND BREAKFAST OPERATIONS. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, in which transient guests are provided a sleeping room and board in return for payment, and which does not provide separate cooking facilities for such guests.

BERM, OBSCURING. An earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this ordinance.

BILLBOARD OR SIGNBOARD. Any structure or portion thereof on which lettered, figured or pictorial matter is displayed for advertising purposes, not related to the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon. This definition shall not be held to include any sign used for official notices issued by a court or public body.

BLOCK. The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way un-subdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier the continuity of development, or corporate boundary lines of the municipality.

BOARD OF APPEALS. The Zoning Board of Appeals of the City of Au Gres.

BOARDING HOUSE or ROOMING HOUSE. A dwelling having one kitchen and used for the purpose of providing meals or lodging for pay or compensation of any kind to more than two persons other than members of the family occupying the dwelling.

BREEZEWAY. Any covered passageway between two buildings, the sides of which may be enclosed by lattice, screens, or other material allowing the passage of air.

BUFFER. A strip of land used to visibly separate one land use from another, or to shield or block noise, lights, or other nuisances.

BUILDABLE AREA. The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns, or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind.

BUILDING COVERAGE. The horizontal area measured within exterior walls of the ground floor of all principal and accessory buildings on a lot.

BUILDING HEIGHT. The vertical distance measured on the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. (See illustration on following page.)

BUILDING LINE. A line formed by the face of the building and for the purposes of this ordinance, a minimum building line is the same as a front setback line. (See illustration on following page.)

BUILDING PERMIT. A permit signifying compliance with the provisions of this ordinance as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the City of Au Gres.

BUSINESS OR COMMERCE. Engaging in the purchase, sale, barter, or exchange of services or goods, wares, or merchandise, of the maintenance or operation of offices or recreational or amusement enterprises.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments for a fee or on a contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services, protective services, equipment rental and leasing, commercial research, development and testing, photo finishing, and personal supply services.

SECTION 202. DEFINITIONS C-D

CANOPY. A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

CARRY-OUT RESTAURANT. An establishment which, by design of physical facilities or by service or packaging procedures, permits, or encourages the purchase of prepared, ready-to-eat foods intended primarily to be consumed entirely off the premises, and where the consumption of food in motor vehicles on the premises is not permitted or encouraged.

CEMETARY. Land used or dedicated to the burial of the dead, including accessory columbaria and mausoleums. Crematories are not permitted.

CEMETARY. PET. A parcel of land, buildings, and/or structures used for the interring of animal remains.

CERTIFICATE OF OCCUPANCY. A document issued by the proper authority (Building Official and Zoning Administrator) allowing the occupancy or use of a building and certifying that the structure or use has been constructed and/or will be used in compliance with all applicable municipal codes and ordinances and approved plans and specifications.

CERTIFICATION OF COMPLETION. A signed written statement by the Building Official that specific construction has been inspected and found to comply with all grading and building plans and specifications.

CHANGE OF USE. Any use which substantially differs from the previous use of a building or land, or which imposes other special provisions of law governing building construction, equipment, egress or ingress.

CHILD CARE ORGANIZATION. A facility for the care of children under 18 years of age, as licensed and regulated by the State under Act No. 116 of Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows.

- a. **Child Care Center" or "Day Care Center.** A facility, other than a private residence, receiving more than six preschool or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
- b. **Foster Family Home.** A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- c. **Foster Family Group Home.** A private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- d. **Family Day Care Home.** A private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
- e. **Group Day Care Home.** A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

CHURCH. A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for organized religious services and accessory uses associated therewith.

CELLULAR TOWERS. A radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

CLEAR VISION. An area 50 feet along each street at its intersection with another street, drive or alley where no visual obstruction of sight may exist.

CLINIC. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.

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

CLUSTER. A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

COIN-OPERATED AMUSEMENT CENTER. Establishments engaged in providing amusement or entertainment through the provision of coin operated amusement devices, incorporating either electro-mechanical devices such as pinball machines or electronic video display operations.

COMMERCIAL. A term relating to the use of property in connection with the purchase, sale or trading of goods for personal services or maintenance of service offices or recreation or amusement enterprise or garage/basement/porch sales lasting more than 14 days during any 12 month period.

COMMERCIAL RECREATION. Establishments engaged in providing amusement or entertainment for a fee or admission charge, and including such activities as dance halls, studios, bowling alleys and billiard and pool establishments, commercial sports such as arenas, rings, racetracks, golf courses, amusement parks, carnival operations, exposition, game parlors and swimming pools.

CONDOMINIUM. The individual ownership of a unit or parcel of real property within a multi-unit parcel or structure located as a permitted use within a zoning classification and requirements of this ordinance.

CONVALESCENT OR NURSING HOME. A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care.

CORNER LOT. Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle of the intersection of the two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees. See also "LOT" defined.

DECK. A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building. A deck may be open or partially or completely covered by a roof and wall structure.

DEVELOPMENT. The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

DISH-TYPE SATELLITE SIGNAL-RECEIVING ANTENNAS. Also referred to as "earth stations" or "ground stations" shall mean one, or a combination of two or more of the following.

- a. A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extra-terrestrial sources.
- b. A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.
- c. A coaxial cable the purpose of which is to carry or transmit said signals to a receiver.

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

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

DWELLING UNIT. A building or portion thereof designed for occupancy by one (1) family for residential purposes and having cooking facilities.

- a. **Dwelling, One-Family.** A building designed exclusively for and occupied exclusively by one (1) family.
- b. **Dwelling, Two-Family.** A building designed exclusively for occupancy by two (2) families living independently of each other.
- c. **Dwelling, Multiple-Family.** A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.
- d. **Dwelling, Attached.** A building designed for dwelling unit attached to one or more dwelling units by common major structural elements.

SECTION 203. DEFINITIONS E-F

EASEMENT. Any private or dedicated public way other than a street or alley, providing a secondary means of access to a property having a width of not less than twenty (20) feet.

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

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distributions system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare. This definition includes sewer sub-stations and water towers but does not include wireless communication towers or antennas.

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

FABRICATION. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects, excluding the refining or other initial processing of basic raw materials such as metal, ores or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

FAMILY. One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a single dwelling unit. Every additional group of two or less persons living in such dwelling units shall be considered a separate family for the purpose of this Ordinance.

FAST FOOD RESTAURANT. Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with the consumption off the premises, and whose design or principal method of operation includes one or both of the following.

- a. Food, frozen desserts, or beverages usually served in edible containers or in paper, plastic, or other disposable containers.
- b. More than 45 percent of the available floor space devoted to food preparation, related activities and other floor space not available to the public.

FLAG LOT. A lot not fronting entirely on or abutting a public road and where access to the public road is a narrow, private right-of-way

FLEA MARKET. An occasional or periodic market held in an open area or structure, where groups of individual sellers offer goods for sale to the public.

FLOOR AREA, RESIDENTIAL. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

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

FRATERNAL ORGANIZATION. A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals and formal written membership requirements.

FULL SERVICE EATING AND DRINKING ESTABLISHMENT. An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one of the following.

- a. Customers are normally provided with an individual menu; are served their foods or beverages by a restaurant employee at the same table or counter at which the items are consumed.
- b. Cafeteria-type operation where foods, or beverages are generally consumed within the restaurant building.

FUNERAL HOME. A building used for the preparation of the deceased for burial and display, and for ceremonies connected therewith before burial or cremation.

SECTION 204. DEFINITIONS G-H

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

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

GASOLINE SERVICE STATION. A building or premises or portions thereof arranged or designed to be used for the retail sale of oil, gasoline or other fuel for the propulsion or lubrication of motor vehicles and which may include facilities for changing

of tires, tube repairing, polishing, greasing, washing or servicing such motor vehicles; but excluding so-called high speed automotive washing, steam cleaning, body repairing, bumping or painting.

GRADE. The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the dwelling.

GUEST HOUSE. A separate structure or dwelling, on a residential parcel, used for sleeping and/or eating purposes by nonpaying friends, relatives or acquaintances of the resident or owner of the main structure.

HAZARDOUS MATERIALS. Any materials that have been declared to be hazardous to any agency of the State of Michigan or of the United States, including but not limited to toxic materials and metal hydroxides.

HEALTH CARE (SERVICES) FACILITIES. A facility or institution, whether public or private, principally engaged in providing services for health maintenance; diagnosis or treatment of human disease, pain, injury, deformity, or physical condition; including, but not limited to, a general hospital, a special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or home for sheltered care; medical, surgical, and other services to individuals, including the offices of physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care facilities, blood banks, and oxygen and miscellaneous types of medical supplies and services; and bio-analytical laboratory or central services facility serving one or more such institutions; but excluding institutions that provide healing solely by prayer.

HEIGHT OF BUILDING. The vertical distance, measured from the adjoining curb level, to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip, or gambrel roof. However, where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

HOME OCCUPATION. An occupation, business or professional service customarily engaged in by residents in their dwelling, which is conducted entirely within the building by the residents thereof and not in any accessory building.

HOSPICE. A home-like facility for the care of the terminally ill, with acute care facility capabilities

HOSPITAL (see HEALTH CARE FACILITIES)

HOTEL (MOTEL). A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered.

- a. Maid service
- b. Furnishing of linen
- c. Telephone, secretarial or desk service
- d. Bellboy service

A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

HOUSING FOR THE ELDERLY. Housing with special characteristics as called for in this ordinance for individuals 55 years or older, or married couples where the head of the household is 55 years or older.

SECTION 205. DEFINITIONS I-J

IMPERVIOUS SURFACE. Any material which reduces and prevents the absorption of storm water into previously undeveloped land.

INFRASTRUCTURE. Facilities and services needed to sustain industry, residential and commercial activities.

INSTITUTIONAL AND PUBLIC USES. Churches, schools, hospitals, convalescent or nursing homes, public or quasi-public non-profit uses, community facilities, parks and playground.

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

SECTION 206. DEFINITIONS K-L

KENNEL or ANIMAL HOSPITAL. Any building or land used for the sale, boarding, treatment, or breeding of dogs, cats, or other household pets as a business.

LABORATORY (see HEALTH CARE FACILITY).

- a. **Medical or Dental.** A laboratory which provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.
- b. **Experimental.** A building or part of a building devoted to the testing and analysis of any product or animal.

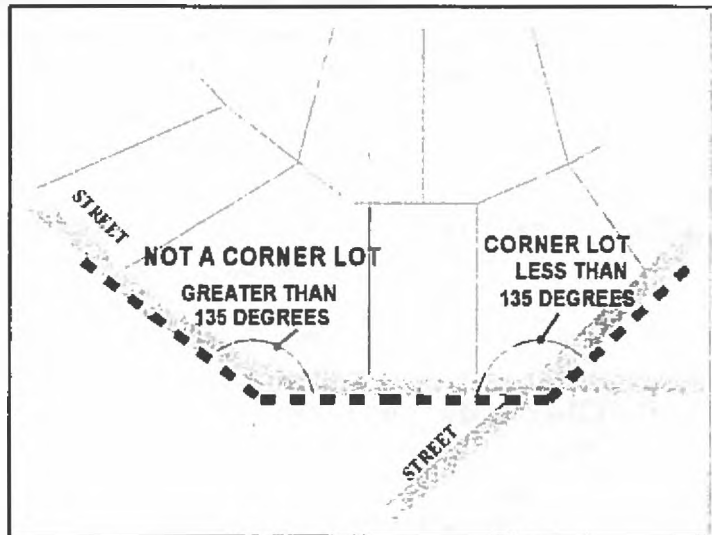
LAUNDROMAT. An establishment providing washing drying, or dry cleaning machines on the premises for rental use to the general public for family laundering or dry cleaning purposes.

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

LOT. A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this ordinance, and fronting for a distance of at least fifty (50) feet upon a street as defined herein. A lot may or may not be specifically designated as such on public records. (See illustration on following page.)

LOT AREA. The total horizontal area within the lot lines of the lot.

LOT, CORNER. A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this ordinance if the arc is of less radius than one hundred *fifty* (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.



LOT COVERAGE. The part or percent of the lot occupied by a building, including accessory buildings

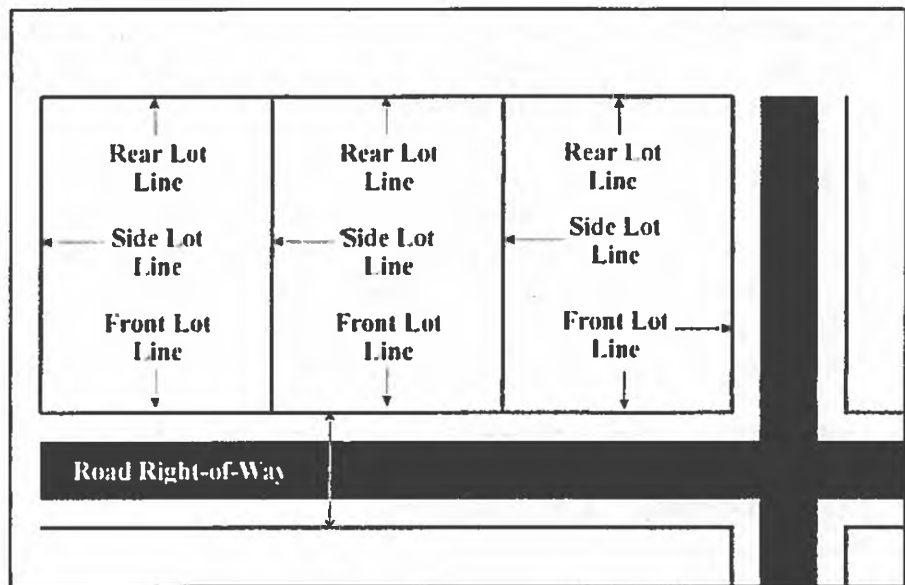
LOT DEPTH. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT, INTERIOR. Any lot other than a corner lot

LOT LINES. The lines bounding a lot as defined herein.

a. **Front Lot Line.** In the case of an interior lot, is that line separating said lot from the street. In the case of a corner lot, or double frontage lot, is that line separating said lot from either street.

b. **Rear Lot Line.** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot lines and wholly within the lot.



c. **Side Lot Line.** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT, THROUGH. Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

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

LOT, ZONING. A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot

shall satisfy this ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot therefore, may not coincide with a lot of records as filed with the County Register of Deeds, but may include one or more lots of record.

LOUNGE (see TAVERN, LOUNGE OR BAR)

SECTION 207. DEFINITIONS M-N

MAIN BUILDING. A building in which is conducted the principal use of the lot upon which it is situated

MAIN USE. The principal use to which the premises are devoted and the principal purpose for which the premises exist.

MAJOR ROADS. Major roads in Au Gres are US-23, Michigan Avenue, South, West, Court, and Main Streets

MANUFACTURED BUILDING. Includes all factory constructed buildings, or three-dimensional modules or units thereof, designed and constructed in a manner facilitating ease of transportation to the site for placement in accordance with local construction codes, connection to required utilities, and subsequent occupancy. The term "manufactured building" includes both a single, three-dimensional module or unit intended to constitute a building and all three dimensional modules or units intended to be combined on site for form a building. The term "manufactured building" applies only to those major structural, three dimensional modules or units requiring relatively minor, incidental combination on site and is not intended to include prefabricated support system components such as panels, trusses, plumbing systems, or similar types of prefabricated support system components designed to be incorporated within buildings during the course of construction.

MANUFACTURED DWELLING. A dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law.

MANUFACTURING FACILITY. Establishment engaged in the mechanical, chemical, or electrical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

MARINA. A facility for the secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel.

MARQUEE. Any hood, canopy, awning, or permanent structure which projects from a wall of a building, usually above an entrance.

MEZZANINE. An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story.

MEDICAL OFFICE (see HEALTH CARE FACILITY)

MINI-STORAGE. A structure containing separate storage of varying sizes leased or rented on an individual basis

MIXED USE ZONING. Regulations which permit a combination of different uses within a single development, under special regulations.

MINOR OR LOCAL STREET (SECONDARY ROAD). A dedicated public way or recorded private street which affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

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 a permanent foundation, and which includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. MOBILE HOME does not include a recreational vehicle.

MOBILE HOME PARK. A parcel of land under the control of a person upon which three (3) or more mobile homes are located on a continual non recreational basis and which is offered to the public for that purpose, regardless 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.

MOBILE HOME SITE. A measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.

MOBILE HOME SUBDIVISION. A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.

MODULAR AND SECTIONAL HOME. A dwelling unit consisting of two (2) or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for conventional residence.

MORTUARY. A place for the storage of dead human bodies prior to burial or cremation.

MOTEL. A series of attached, semi-detached or detached rental units containing a bedroom, bathroom, and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

MUNICIPAL BUILDING. A structure housing an operation of the City of Au Gres.

MUNICIPALITY. The City of Au Gres, Arenac County, Michigan.

NATURAL RETENTION AREA. A naturally-occurring pond or wetland which retains storm water runoff.

NONCONFORMING BUILDING. A building or portion thereof lawfully existing at the effective date of this Ordinance, or thereto and that does not conform to the provisions of the Ordinance.

NONCONFORMING LOT. A lot, the area, dimensions or location of which was legal prior to the adoption, revisions, or amendment of the zoning code; but which fails, by reason of such adoption, revisions, or amendment, to conform to current requirements of the zoning district.

NONCONFORMING SIGN. Any sign lawfully existing of the effective date of an ordinance, or amendment thereto, which renders the sign nonconforming, because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING USE. Any property use which legally existed at the time this chapter became effective and which now does not comply with its regulations.

NUISANCE FACTORS. An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating 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, such as: noise, dust, smoke, odor, glare, fumes, flashes, vibrations, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, passenger traffic, or invasion of non-abutting street frontage by traffic.

NURSERY, PLANT MATERIALS. A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping.

SECTION 208. DEFINITIONS O-P

OCCUPANCY PERMIT. A required permit allowing occupancy of a building or structure after it has been determined that the building meets all of the requirements of applicable ordinances.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity, they may include

ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OFF-STREET PARKING LOT. A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

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

OPEN SPACE. Is that part of a zoning lot, including courts or yards which:

- a. Is open and unobstructed from its lowest level to the sky.
- b. Is accessible to all residents upon the zoning lot.
- c. Is not part of the roof of that portion of a building containing dwelling units.
- d. Is comprised of lawn and landscaped area.
- e. Is not part of the roof of an attached garage if said roof is used for a swimming pool deck or recreation deck; and is not higher than twenty-three (23) feet above grade; and is directly accessible by passageway from the residential building.

PARAPET. A low wall or railing (typically 4 ft. or less in height).

PARKING AISLE. The area behind the parking space used for backing and turning into and out of the parking space.

PARKING ACCESS. The area of a parking lot that allows motor vehicles ingress and egress from the street to the parking aisle or parking space of not longer than one hundred (100) feet).

PARKING SPACE. An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

PASSIVE RECREATION. An open area designed for walking or sitting and enjoying nature or surroundings.

PATIO, PORCH. Roofed open area that, while may be glassed or screened, is usually attached to, or part of, and with direct access to or from a building.

PERFORMANCE STANDARDS. A set of criteria or limits relating to nuisance elements (noise, odor, vibration, toxic and hazardous materials, radiation, flooding, and other similar occurrences) which a particular use or process may not exceed.

PERMANENTLY AFFIXED. To affix a structure to the ground or to another structure in accordance with the design and material specification of applicable building codes.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSONAL SERVICES ESTABLISHMENT. Establishments primarily engaged in providing services involving the care of a person or his or her apparel, excluding tattoos and piercings.

PLANNED RESIDENTIAL DEVELOPMENT OR "PRD". An area of a designated minimum contiguous sue. specified within this ordinance, to be planned and developed as a single entity containing one or more residential clusters of single family and/or multiple family developments

PLANNED UNIT DEVELOPMENT OR "PUD". An area of minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial, or industrial areas in such range or ratios of nonresidential to residential uses as shall be specified.

POOL, COMMERCIAL SWIMMING. An artificially constructed basin for holding water for use by paying customers or patrons of a commercial facility.

POOL, PRTVATE SWIMMING POOL (over 500 Gallons). Any artificially-constructed basin or other structure for the holding of water for use for swimming, diving, and other aquatic sports and recreation. The term SWIMMING POOL does not include any plastic, canvas, or rubber pool temporarily erected upon the ground holding less than 500 gallons of water.

PRELIMINARY PLAN. A preliminary map indicating the proposed layout of the subdivision, PUD, or site plan, which is submitted to the proper review authority for consideration and preliminary approval.

PRINCIPAL BUILDING. A building in which is conducted the principal use allowed of the lot in the district in which it is situated.

PRINCIPAL USE. The primary and predominate use of the premises including customary accessory uses

PRIVATE RECREATION. Recreational, playgrounds and parks activities which are not open to the general public and for which a fee may or may not be charged.

PROFESSIONAL SERVICES. Services offered to the general public by the traditional professions, such as law, medicine, engineering & accounting, and architecture.

PROCESSING. Any operation changing the nature of material or materials such as the chemical composition, physical qualities, or size or shape. Does not include operations described as fabrication, or assembly.

PUBLIC FACILITIES. Facilities which are owned and operated by a municipality, government agency, or publicly owned utility.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to speak or participate.

PUBLIC UTILITY. A 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, telegraph, transportation or water. This definition does not include wireless communication towers or antennas.

SECTION 209. DEFINITIONS Q-R

QUASI-PUBLIC AGENCY. A service owned and operated by a nonprofit, religious, or missionary institution and providing educational, cultural, recreational, or similar types of public programs.

RADIO ANTENNA. A signal receiving device, the purpose of which is to receive radio signals from radio transmitters in the area.

RECREATION, 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, INDOOR A commercial recreational land use conducted entirely within a building, including arcade, arena, art gallery and studio, art center, assembly hall, athletic and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, exhibit hall, gymnasium, library, movie theater, museum, performance theater, pool or billiard hall, skating rink, swimming pool, tennis court.

RECREATION, OUTDOOR. Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, and motorized model airplane flying facilities.

RECREATION FACILITY, PUBLIC. Publicly owned or operated recreation facilities.

RECREATIONAL VEHICLE. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

RESEARCH AND DEVELOPMENT FACILITY. Any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. Development may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test-marketed which is the interim step between full research and development and ultimate full scale production.

RESOURCE RECOVERY FACILITY. A fully enclosed building where waste is sorted and classified by type and material, such as ferrous metal, nonferrous metal, aluminum, paper, newsprint, boxed board, plastic and glass colors. The purpose being to reuse the recovered materials.

RESTAURANT: Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- a. **Restaurant, Carry-Out:** A business establishment whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- b. **Delicatessen:** A restaurant typically offering sandwiches and other foods and beverages for both carry-out and consumption on the premises. A delicatessen also typically offers meats, cheese and prepared foods on a retail basis.
- c. **Restaurant, Drive-In:** A business establishment whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building. A drive-in restaurant may also have interior seating.
- d. **Restaurant, Drive-Through:** A business establishment whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- e. **Restaurant, Fast-Food:** A business establishment whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.

- f. **Restaurant, Open Front Window:** See "Open front store or restaurant."
- g. **Restaurant, Standard:** A business establishment whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- h. **Bar/Lounge/Tavern:** A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated. The hours of operation may extend beyond 11:00 p.m.; thereby differentiating it from a standard restaurant. A brewpub or microbrewery that operates beyond 11:00 p.m. is considered a bar, tavern or lounge.

RESTRICTION. A limitation on property, which may be created in a deed, lease, mortgage, or other appropriate document, through certain zoning or subdivision regulations, or as a condition of approval of an application for development.

RESTRICTIVE COVENANT. A restriction on the use of land usually set forth in a deed or other appropriate document.

RETAIL TRADE. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer, or other similar uses. Generally, the right of one to pass over the property of another.

RIGHT-OF-WAY LINE. The boundary of a dedicated street, highway, or strip of land used or reserved for the placement or location of utilities and facilities.

RINGLEMANN CHART. A device to measure the opacity of smoke emitted from stacks and other sources.

ROAD FRONTAGE. The length of the lot line which borders a public road.

ROOM. For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

SECTION 210. DEFINITIONS S-T

SCHOOL. Any building or part thereof which is designed or used for education or instruction in a branch of knowledge.

SCHOOL, CHARTER. A school that has been issued a charter by a certified institution of higher education. is established as a corporation, is financed through public tax revenues, and is not restricted to enrollment according to school district boundaries.

SCHOOL, PRIVATE. Any building or group of buildings the use of which meets the state requirements for primary, secondary, or higher education and which does not secure a major part of its funding from any governmental agency.

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

SEASONAL BUSINESS. A retail business or service business that is not normally used as a business for more than eight (8) months during any one calendar year.

SEASONAL RESIDENCE. A dwelling unit not normally the permanent residence of the occupant(s) and not normally used as a dwelling unit for more than six (6) months during any calendar year.

SETBACK. The distance required to obtain front, side, or rear yard open space provisions of this ordinance.

SIGN. The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, and are visible to the general public.

SIGN, ACCESSORY. A sign which is accessory to the principal use of the premises.

SIGN FACE. The area or display surface used for the message.

SIGN, NON-ACCESSORY. A sign which is not accessory to the principal use of the premises.

SINGLE OWNERSHIP. Ownership by one person or by two or more persons whether jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

SITE. Any plot or parcel of land or combination of contiguous lots or parcels of land.

SITE CONDOMINIUM. A form of development in which ownership is purchased in a divided interest in a lot and building and an undivided interest in all other lands and

improvements which are maintained through an association. Site condominium developments are regulated under the Condominium Act (PA 59 of 1978 as amended).

SITE PLAN. The development plan for one or more lots, on which is shown the existing and proposed conditions of the lot under the terms of Section 2201 of this ordinance

SKETCH PLAN. A rough map of the proposed subdivision or site plan, of sufficient accuracy to be used for the purpose of discussion and classification

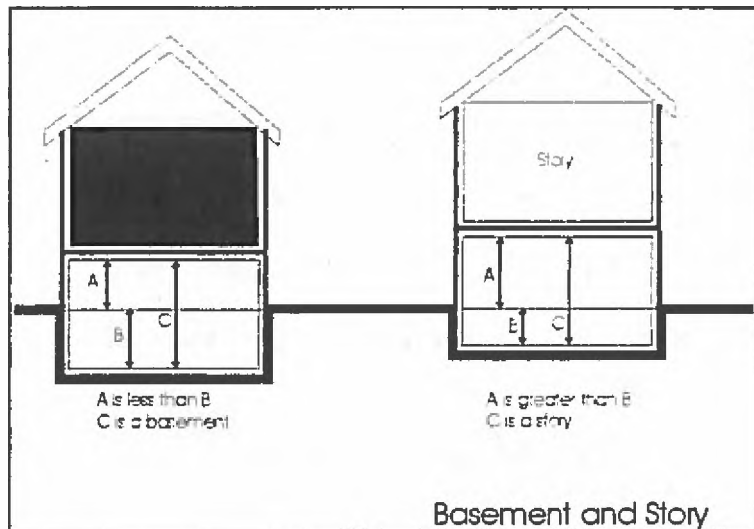
SPECIAL LAND USE. A use, permitted within certain zoning districts, of such a nature that the public has reserved the right to approve its exact location, subject to conditions stated in this ordinance and to any special conditions imposed by the Planning Commission to protect the use by right of other properties in the City.

SPECIAL USE PERMIT. Uses allowed in a zoning district and subject to the restrictions applicable to that zoning district.

SPOT ZONING. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses, and not for the purpose or effect of furthering the objectives of the Comprehensive Plan.

STORMWATER DETENTION. Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

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



STORY, HALF. An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7' - 6"). For the purposes of this Ordinance, the usable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

STREET. A public dedicated or private right-of-way, other than an alley which affords the principal means of access to abutting property.

- a. **Street, Collector.** A street which collects traffic from local streets and connects with minor and major arterials.
- b. **Street, Cul-De-Sac.** A street with a single, common ingress and egress, and with a turnaround at the end.
- c. **Street, Local.** A street designed to provide vehicular access to abutting property and to discourage through traffic.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURE, 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.

STUDIO. A building or portion of a building used as a place of work by an artist, photographer, or artisan, or used for radio or television broadcasting.

SUBDIVISION. The division of single lot or parcel of land, or part thereof, into two or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential, commercial, or industrial purposes; or the division of a single lot, tract, or parcel of land, or a part thereof, into two or more lots, tracts, or parcels by means of buildings, building groups, streets, alleys, parking areas, or leaseholds, for the purpose, whether immediate or future, of building development for residential, commercial or industrial purposes; provided however, that divisions of land for agricultural purposes only, not involving any new street or easement of access, shall not be included.

SUPPLY YARD. A fenced yard for the open or enclosed storage of supplies, equipment, or merchandise.

SWIMMING POOL. Any structure containing an artificial body of water for swimming or recreational bathing, located either in part or wholly outside a permanent enclosed building, installed either above or below the surrounding ground level, and having a depth of two (2) feet or more at any point.

TAVERN, LOUNGE, OR BAR. A building or portion thereof where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

TEMPORARY CERTIFICATE OF OCCUPANCY. A certificate of occupancy which is issued for a fixed time period to allow occupancy, because seasonal-conditions make it impossible to complete all needed external improvements

TEMPORARY USE OF BUILDING. The use of a non-residential structure or parcel for a continuous period of thirty (30) days or less, with renewal for an additional thirty (30) days within any twelve month (one year) period; the use of any structure permitted to exist during periods of construction of the main building or structure.

TENANT. An occupant of land or premises who occupies, uses, or enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent.

TOWNHOUSES. A row of three (3) or more attached one-family dwellings, not more than two and one-half (2.5) stories in height and for which there is a rear and front entrance to each dwelling. Townhouse shall not be used as a synonym for the term "condominium" which refers to how property or space is owned rather than to a particular housing style.

TRAILER RIG. A truck vehicle unit as classified by the American Association of State Highway Officials as a WB-40 or WB-50 vehicle. The minimum specifications are as set forth below.

	W-40	W-50
Wheelbase	13+27 = 40 feet	20+30 = 50 feet
Front overhang	4	3
Rear overhang	6	2
Overall length	50	55
Overall width	8.5	8.5
Height	13.5	13.5

TRANSITION ZONE. A zone permitting transitional uses, such as parking in a residential district

TRANSITIONAL USE (see USE, TRANSITIONAL)

SECTION 211. DEFINITIONS U-V

USE, BY RIGHT. Any use which is listed as a use by right in any given zoning district in this ordinance. Uses by right are not required to show need for their location.

USE, LAWFUL. The use of any structure or land that conforms with all of the regulations of this code or any amendment hereto and which conforms with all of the codes, ordinances, and other legal requirements that exist at the time of the enactment of this code or any amendment thereto.

USE, SPECIAL PERMIT. Uses allowed in a zoning district and subject to the restrictions applicable to that Zoning District

USE, TRANSITIONAL. A use of land or structure located or permitted to be located on certain lots abutting a zoning boundary line, in the more restricted of the two (2) zoning districts on either side of such a boundary line.

USED CAR LOT. A lot or portion thereof to be used only for the display and sale of automobiles that are in condition to be driven off the lot. A USED CAR LOT shall not be used for the storage of wrecked automobiles, the dismantling of automobiles, or the storage of automobile parts.

VARIANCE, DIMENSIONAL. Permission to depart from the literal requirements relating to setbacks, building height, lot width, and/or lot area as regulated by this Ordinance.

VARIANCE, USE. Permission to establish a use of land that is otherwise not provided for in the zoning district as regulated by this Ordinance.

VEHICLE REPAIR SHOP (see AUTOMOBILE OR VEHICLE REPAIR)

VEHICLE SALES AREA (see AUTOMOBILE OR VEHICLE SALES)

VETERINARY HOSPITAL. A structure designed for the care and treatment of animals.

SECTION 212. DEFINITIONS W-X

WALL, OBSCURING. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

WASTE DISPOSAL VEHICLES. Self-propelled and trailer devices used for the collection, transport and hauling of solid waste, garbage, recyclable material, or rubbish from households, public places and businesses to a disposal or recycling area.

WASTE RECEPTACLE. A container, such as a dumpster, used for the temporary storage of rubbish or recycling materials, pending collection and having a capacity of at least one cubic yard.

WATER, FRONTAGE. The land adjacent to and abutting the mean high water mark of all rivers, streams and inland lakes.

WATERFRONT LOT – FRONT. The single parcel of property which lies between the building line of a dwelling unit and the mean high water mark of the Au Gres River

WATERFRONT LOT – REAR. The portion of a single parcel of property which lies between the lot line farthest from the water's edge and the building line of a dwelling unit farthest from the mean high water mark of the Au Gres River.

WETLANDS. Swamps or marshes (natural or man-made) with seasonal water present, especially as areas preserved for wildlife.

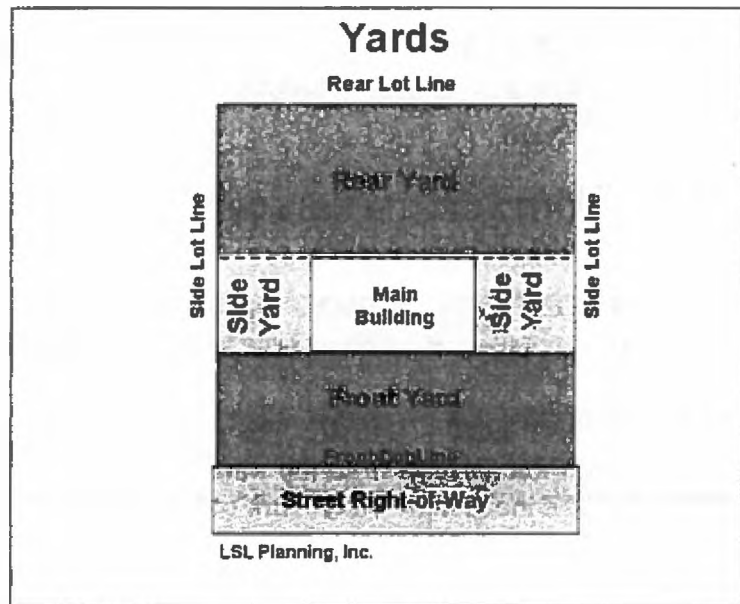
WIRELESS COMMUNICATION FACILITIES: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. This definition does not include "reception antenna" for an individual lot as otherwise defined and regulated in this Ordinance.

- A. **Attached Wireless Communication Facilities:** Wireless communication facilities affixed to existing structures, including but not limited to existing buildings, towers, water tanks, or utility poles.
- B. **Wireless Communication Support Structures:** Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
- C. **Co-location:** Location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall number of structures required to support wireless communication antennas in the City.

SECTION 213. DEFINITIONS Y-Z

YARDS. The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.

- 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 main building. A lot between a public road and a body of water shall have the front yard defined as between the



body of water and the main building. The front yard setback shall be measured from the top of the bank or the high water line.

- 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 main building. In the case of a corner lot, the rear yard may be opposite either street frontage. A lot between a public road and a body of water shall have the rear yard defined as between the public road and the main building.
- c. **Side Yard.** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building. (See illustration).

ZERO LOT LINE. The location of a building in such a manner that one or more of the building's sides reset directly on a lot line.



ARTICLE 3

ZONING DISTRICTS AND MAP

SECTION 300. DISTRICTS ESTABLISHED

For the purpose of this Ordinance, the City of Au Gres is hereby divided into the following districts:

RESIDENTIAL DISTRICTS

- R-1 One Family Residential District
- R-2 One and Two Family Residential District
- R-3 Multiple Family District
- R-4 Manufactured Home Park District

NON RESIDENTIAL DISTRICTS

- TC Town Center District
- C General Commercial District
- PT Professional Technical District
- I Industrial District
- CR Conservation/Recreation District

SECTION 301. ZONING MAP

- A. **Established.** The boundaries of zoning districts are hereby established as shown on the Official Zoning Map, City of Au Gres Zoning Ordinance, with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein.
- B. **Adoption of Map.** All zoning districts are hereby described by the boundaries established by the Official Zoning Map of the City of Au Gres as adopted December 5, 2006 by the City Council, published and effective January, 2007, this map being a compilation of the geographic designation of all zoning districts, including changes or amendments formally approved by action of the City Council since the December 5, 2006 Zoning Map which was adopted December 5, 2006.
- C. **Signature.** The Official Zoning Map shall be identified by the signature of the City Clerk, under the following words:

"This is to certify that this is the Official Zoning Map of the Zoning Ordinance of the City of Au Gres adopted December 5, 2006. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, those changes shall be made on the Official Zoning Map after the 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 with reference number to Council proceedings)."

- D. **Official Copy.** One (1) copy of the Official Zoning Map is to be maintained and kept up-to-date by the City Clerk's Office, accessible to the public, and shall be final authority as to the current zoning status of lands, buildings, and other structures in the City.

SECTION 302. DISTRICT BOUNDARIES

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

SECTION 303. DISTRICT BOUNDARIES INTERPRETED

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

- a. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to following such center lines.
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- d. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- e. Boundaries indicated as parallel to or extensions of features indicated in subsections a. through d. above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale on the map.
- f. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsections a. through e. above, the Board of Appeals shall interpret the district boundaries.

SECTION 304. ZONING OF ANNEXED AREAS

Wherever any area is annexed to the City of Au Gres one of the following conditions will apply:

- a. Land that is zoned pervious to annexation shall be classified as being in whichever district of this Ordinance most clearly conforms with the zoning that exists prior t annexations, such classification to be recommended by the Planning Commission to the City Council and the Council shall approve same by resolution.
- b. Land not zoned prior to annexation shall be automatically classified as R-1 District until a Zoning Map for said area has been adopted by the City Council. The Planning Commission shall recommend the appropriate zoning districts for such area within three (3) months after the matter is referred to it by the City Council.

SECTION 305. ZONING OF VACATED AREAS

Whenever any street alley or other public way, within the City of Au Gres shall be vacated such street, alley or other public way' or portion thereof, shall automatically be classified in the same Zoning District as the property to which it attaches, measured from the center line..

ARTICLE 4

R-1 ONE FAMILY RESIDENTIAL DISTRICT

SECTION 400. INTENT

The R-1 One Family Residential District is designed to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.

SECTION 401. PRINCIPAL USES PERMITTED

In the R-1 One Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance.

- a. Cemeteries.
- b. Home occupations, subject to the regulations in *Section 1941*.
- c. One-Family dwellings.
- d. Public, private, charter and parochial elementary schools offering courses in general education, and not operated for profit.
- e. Publicly owned parks and parkways.
- f. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.

SECTION 402. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

- a. Planned Unit Developments in accordance with the provisions of *ARTICLE 17 PLANNED UNIT DEVELOPMENT*.
- b. Adult and child residential care facilities in accordance with *Section 1933 Adult and Foster Care Facilities*.
- c. Bed and Breakfast Operations.

- d. Churches and other facilities normally incidental thereto subject to the following conditions:
 - 1. Building of greater than the maximum height allowed in *ARTICLE 16 SCHEDULE OF REGULATIONS* may be allowed provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
 - 2. The site shall be so located as to have at least one (1) property line abutting a major road as defined in Section 201. All access to the site shall be directly onto said major road.
 - 3. Minimum lot width shall be eighty (80) feet.
 - 4. Minimum lot area shall be twelve thousand (12,000) square feet.
 - 5. Off-street parking shall be prohibited within the front yard setback and within twenty (20) feet of the rear or side property lines. Parking areas shall be screened from lot lines by either a four (4) foot fence or landscaping which will provide an opaque screen at least four (4) feet high.

- e. Essential services buildings and uses (without storage yards) when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate vicinity. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located.

- f. Golf courses, which may or may not be operated for profit subject to the following conditions:
 - 1. The site shall be so planned as to provide all access directly onto or from a major road.
 - 2. The site plan shall be laid out to achieve a relationship between the major road and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety.
 - 3. Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse affects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than two hundred (200) feet from any property line abutting residentially zoned lands and shall have a front yard setback of at least ninety (90) feet.
 - 4. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six (6) feet in height, and entry shall be by means of a controlled gate.

- g. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit subject to the following conditions.

1. The proposed site shall have direct access only to a major road.
 2. No building or stands for a sports event shall be located closer than eighty (80) feet to any property line.
- h. Publicly owned libraries, recreational facilities and outdoor recreation including play and sporting areas, field trails for nature study, hiking and horseback riding, swimming, boating, and fishing where otherwise legally permitted and regulated.

SECTION 403. AREA AND BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

ARTICLE 5

R-2 ONE AND TWO FAMILY RESIDENTIAL DISTRICT

SECTION 500. INTENT

The R-2 One and Two Family Residential District is designed to provide for development on those lots within the City that were originally platted with smaller dimensions. It provides for one-family detached and two-family dwellings along with other residentially related facilities which serve the residents in the district.

SECTION 501. PRINCIPAL USES PERMITTED

In the R-2 One and Two Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance.

- a. Home occupations, subject to the regulations in *Section 1941*.
- b. One-Family dwellings.
- c. One-Family detached manufactured dwellings, outside a manufactured home park.
- d. Publicly owned parks, parkways, and recreational facilities.
- e. Two-family dwellings (duplexes).
- f. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.

SECTION 502. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

- a. Planned Unit Developments in accordance with the provisions of *ARTICLE 17 PLANNED UNIT DEVELOPMENT*.
- b. Adult and child residential care facilities in accordance with *Section 1933 Adult and Foster Care Facilities*.
- a. Bait shops.

- b. Bed and Breakfast Operations.
- c. Churches and other facilities normally incidental thereto subject to the following conditions:
 - 1. Building of greater than the maximum height allowed in *ARTICLE 16 SCHEDULE OF REGULATIONS* may be allowed provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
 - 2. The site shall be so located as to have at least one (1) property line abutting a major road. All access to the site shall be directly onto said major road.
 - 3. Minimum lot width shall be eighty (80) feet.
 - 4. Minimum lot area shall be twelve thousand (12,000) square feet.
 - 5. Off-street parking shall be prohibited within the front yard setback and within twenty (20) feet of the rear or side property lines. Parking areas shall be screened from lot lines by either a four (4) foot fence or landscaping which will provide an opaque screen at least four (4) feet high.
- d. Essential Services buildings and uses (without storage yards) when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate vicinity. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located.
- e. Public, parochial and private elementary, intermediate, and/or secondary schools offering courses in general education, not operated for profit subject to the following conditions.
 - 1. The proposed site shall have direct access only to a major road.
 - 2. No building or stands for a sports event shall be located closer than eighty (80) feet to any property line.
- f. Publicly owned libraries, recreational facilities and outdoor recreation including play and sporting areas, field trails for nature study, hiking and horseback riding, swimming, boating, and fishing where otherwise legally permitted and regulated.

SECTION 503. AREA AND BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

ARTICLE 6

R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT

SECTION 600. INTENT

The R-3 Multiple Family Residential District is designed to provide sites for multiple-family dwelling structures, and related uses. The multiple family district is further provided to serve the limited needs for the apartment and townhouse type of units as well as congregate living facilities in an otherwise low density, single family community.

SECTION 601. PRINCIPAL USES PERMITTED

In a Multiple Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

- a. Churches, synagogues and other religious uses, subject to the requirements of *Section 402 (d)*.
- b. Multiple-family dwellings.
- c. One-Family dwellings.
- d. Publicly owned parks, parkways, and recreational facilities.
- e. Two-family dwellings.
- f. Home occupations, subject to the regulations in *Section 1941*.
- g. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.

SECTION 602. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

- a. Adult and child residential care facilities in accordance with *Section 1938 Adult and Foster Care Facilities*.
- a. Convalescent homes, nursing homes and orphanages when the following conditions

are met:

1. The site shall be so developed as to create a land to building ratio on the lot or parcel whereby for each one (1) bed in the home there shall be provided not less than fifteen hundred (1,500) square feet of open space. The fifteen hundred (1,500) square feet of land area per bed shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements, and space required for accessory uses. The fifteen hundred (1,500) square feet requirement is over and above the building coverage area.
 2. No building shall be closer than forty (40) feet from any property line.
- b. Essential Services buildings and uses (without storage yards) when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate vicinity. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located, and are not naturally larger than other buildings in such areas.
- c. General hospitals, with no maximum height restrictions, when the following conditions are met:
1. All such hospitals shall be developed only on a site consisting of at least ten (10) acres in area.
 2. The proposed site shall have at least one property line abutting a major road. All access to the off-street parking area for guests, employees, staff, as well as any other users of the facilities, shall be directly from a major road.
 3. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least one hundred (100) feet for all two (2) story structures. For every story above two (2) the minimum yard distance shall be increased by at least twenty (20) feet.
- d. Housing for the elderly, when the following conditions are met:
1. All housing for the elderly shall be provided as a planned development consisting of at least five (5) acres and may provide for the following:
 - (a) Cottage type dwellings and/or apartment type dwelling units.
 - (b) Common services containing, but not limited to: central dining rooms, recreational rooms, central lounge, and workshops.
 2. All dwellings shall consist of at least three hundred fifty (350) square feet per unit (not including kitchen and sanitary facilities).
 3. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty-five (25) percent of the total site exclusive of any dedicated public right-of-way.
- e. Marinas subject to the following conditions:
1. Maintenance or repair will be allowed in the boat owner slip or a designated repair area, or in an enclosed building on the premises. Repair will not be

- allowed to present a nuisance or be offensive to others, either by sight or sound.
2. No boat storage, storage of gear or equipment, nor boat parts, shall be allowed other than within an enclosed building upon the premises or allowable dock storage containers.
 3. There will be no discharge or depositing of garbage, oil, fuel, refuse material, sewage or waste material of any kind into the Au Gres River or adjoining waterways.
 4. Cooking on wooden decks, docks, or similar structures shall be prohibited.
 5. No deck, dock, or similar structure shall be less than three feet (3) wide, nor exceed a length of one hundred feet (100).
- f. Public, parochial and private elementary, intermediate, and/or secondary schools offering courses in general education, not operated for profit subject to the following conditions.
1. The proposed site shall have direct access only to a major road.
 2. No building or stands for a sports event shall be located closer than eighty (80) feet to any property line.

SECTION 603. AREA AND BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

ARTICLE 7

R-4 MANUFACTURED HOME PARK

SECTION 700. INTENT

The R-4 Manufactured Home Park district is intended to provide areas of such size and location as will encourage good mobile home residential developments served by necessary community services, and otherwise capable of protecting the health, safety and welfare of the residents.

SECTION 701. PRINCIPAL USES PERMITTED

In the R-4 Manufactured Home Park District, no building or part thereof shall be erected, used or structurally altered, nor land or premises used in whole or in part, except for one or more of the following permitted uses or structures:

- a. Churches, temples and other places of worship.
- b. Condominium developments.
- c. Essential Services, but not including outdoor storage areas.
- d. Mobile homes and manufactured dwellings located in a manufactured home park.
- e. Manufactured home subdivisions.
- f. Municipal buildings and uses not requiring outdoor storage of material and vehicles.
- g. Private and public schools, K-12.
- h. Publicly owned and operated parks, parkways and recreational facilities.
- i. Temporary buildings.
- j. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.
- k. Other uses similar to the above.

SECTION 702. DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS – MOBILE HOMES AND MANUFACTURED HOUSING LOCATED IN A MANUFACTURED HOME PARK

A manufactured home park shall comply with the requirements of Public Act 96 of the Michigan Public Acts of 1987 (MCLA 125.2301 to 125.2350 inclusive), as amended and all other provisions of this Section. In order to ensure an adequate local review of a manufactured home park in compliance with Section 11(2) of PA 96 of 1987 (MCLA 125.2311), the rules of the State Manufactured Housing Commission as set forth and provided for under Section 4(1)(a) of PA 96 of 1987 as amended and the requirements of this Section.

- a. **Park Area.** The minimum manufactured home park area shall be fifteen (15) acres, excluding adjacent parcels which may be proposed for expansion.
- b. **Lot Area.** Each manufactured home lot, exclusive of streets, shall have a minimum area of five thousand five hundred (5,500) square feet. This may be reduced by up to twenty (20%) percent provided that the individual site shall be equal to at least four thousand four hundred (4,400) square feet and for each square foot of land gained through the reduction of a site below five thousand five hundred (5,500) square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R125.1946, Rule 946 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code.
- c. **Number of Homes.** No more than one (1) manufactured home shall be parked on any one (1) lot.
- d. **Setbacks and Spacing.** Each manufactured home site shall have the following minimum yard requirements:
 1. **Home not Sited Parallel to an Internal Road.** Twenty (20) feet from any part of an attached structure of an adjacent home that is used for living purposes for the entire year.
 2. **Home Sited Parallel to an Internal Road.** Fifteen (15) feet from any part of an attached structure of an adjacent home that is used for living purposes for the entire year if the adjacent home is sited next to a home on and parallel to the same internal road or an intersecting internal road.
- e. **Periphery Setback.** Manufactured homes shall be set back at least fifty (50) feet from any public street right-of-way line and ten (10) feet from any other exterior property line.
- f. **Manufactured Unit.** All manufactured homes shall be in compliance with the construction standards promulgated by the United States department of housing and urban development, 24 C.F.R. part 1700 et seq. and parts 3280 and 3282, under the

National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. §601 et seq.

- g. **Height.** The maximum height of any community or similar building shall not exceed thirty-five (35) feet, or two (2) stories in height, whichever is less. Storage or service buildings shall not exceed fifteen (15) feet, or one (1) story in height.
- h. **Concrete Slab, Skirting, and Anchoring.** Each home shall be installed in compliance with the standards established in R125.1602, Rule 602 of the Manufactured Housing Commission's General Rules. All areas between the manufactured home and ground shall be enclosed by a skirt, providing said skirting is constructed or installed and is fire resistant and in conformity with the requirements under R125.1604, Rule 604 of the Manufactured Housing Commission's General Rules. A home anchoring system shall be provided that is designed and constructed in compliance with the United States Department of Housing and Urban Development standards entitled "Manufactured Home Construction and Safety Standards" and be installed in compliance with its manufacturer's specifications.
- i. **Occupancy.** No manufactured home shall be occupied without first being connected to a permanent sanitary system and water source, and in accordance with Part 2 of the MDEQ Manufactured Home Park Standards.
- j. **Access and Circulation**
 - 1. **Interior Street Widths.** Minimum street widths within the manufactured home park shall be accordance with the following table.

Schedule of Manufactured Home Park Streets	
Parking	Minimum Street Width
No on-street parking	21 feet
Parallel parking one side	31 feet
Parallel parking both sides	41 feet

2. **Street Construction**

- (a) All streets within the manufactured home park shall be of concrete or bituminous aggregate meeting AASHTO street construction specifications, and may be provided with concrete curbing.
- (b) A street in a mobile home park or seasonal mobile home park shall be sloped at a minimum grade of 0.4% to an approved storm water catch basin or other approved outlet.
- (c) Dead end internal roads shall be required to end in a fifty (50) foot turning radius. Parking is not allowed within the turning area and a "No Parking" sign shall be posted.

- (d) Maximum dead end internal road length shall be one thousand (1,000) feet.
 - (e) Stop signs shall be located at ingress and egress and all intersections of interior streets.
 - (f) The location of speed limit signs will be so located to promote safety for all occupants and visitors to the park.
- 3. **Access.** The manufactured home park shall provide for egress and ingress off of a public road. Access drives shall provide for two-way traffic and be a minimum of thirty-three (33) feet in width.
 - 4. **Signage.** All road signs (name and traffic control) shall be installed and maintained by the community in accordance with the Michigan Manual of Uniform Traffic Control Devices.
 - 5. **Sidewalks.** Concrete walkways are to be at least three (3) feet wide. If a developer provides sidewalks, the sidewalks are to be designed, constructed, and maintained for safe and convenient movement from all home sites to principal destinations within the community and connection to public sidewalks outside the community. Individual sidewalks shall be constructed between at least one (1) entrance or patio, porch, or deck if provided, and the parking spaces on the home site or parking bay, whichever is provided, or common sidewalk, if provided.
- k. **Parking**
- 1. **Unit Parking.** Each site shall provide off street and/or on-street parking that will accommodate a minimum of two (2) vehicles.
 - 2. **Visitor Parking.** Parking for visitors shall be provided at a ratio of one (1) space per three (3) unit lots.
- l. **Landscaping.** A typical landscape plan shall be incorporated in the plans submitted for preliminary site plan review to the Planning Commission. The typical plan shall indicate the type and size of landscape planting and screening improvements to be completed in the proposed manufactured housing community. Manufactured housing communities shall be landscaped and screened as follows:
- 1. All areas of circulation, common parking lots, recreation facilities, open space areas, buildings for service and areas of storage shall be completely and permanently landscaped and maintained in good condition.
 - 2. One (1) deciduous canopy tree shall be provided for every two (2) lots.
 - 3. If a manufactured home park abuts an existing development, the development shall be required to provide screening along the boundary abutting the existing development.
 - 4. The required screening shall consist of evergreen trees or shrubs at least three (3) feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured home park as effectively as the required landscaping described in subsection (c) above.
 - 5. Manufactured homes and accessory buildings and structures shall be setback a minimum of 50 feet from any public street, and the setback shall be properly

landscaped with grass area and/or trees and maintained by the owner and operator of the manufactured home park.

6. Dead, damaged, or diseased landscaping shall be replaced, within one (1) year, so as to maintain the approved screening originally approved.

- m. **Waste Receptacles.** A location for the storage and removal of daily waste shall be established and maintained by the park, unless curb side pick-up is provided, at a location approved by the Planning Commission and the MDEQ. The area for storage shall be kept in a manner suitable to preclude infestation of insects and rodents.

- n. **Utilities**
 1. **General Rules.** The sanitary sewer and water system of the manufactured home park shall comply with MDEQ requirements.
 2. All utilities, including telephone, cable, and electric, shall be placed underground throughout the park in accordance with R125.1932 to R125.1940 of the Manufactured Housing Commission's easement granted to the provider.

- o. **Fire Protection.** The manufactured home park shall provide on-site water sources for fire protection. The park management shall notify each resident, upon occupancy, of all of the following:
 1. The home site shall be kept free of fire hazards, including combustible materials under the home.
 2. That vehicular parking is prohibited within fifteen (15) feet of a fire hydrant.
 3. Each home site shall be numbered and clearly marked for positive identification. Each number shall be easily readable from the road servicing the home site.
 4. Each home is to be provided with at least one (1) fire extinguisher approved by the National Fire Protection Association and one (1) smoke detector approved by the State Construction Code Authority.

- p. **Accessory Buildings and Uses**
 1. **Accessory Buildings.** Site-built buildings within a manufactured home park shall be approved and built in compliance with the Michigan Residential Code and shall require applicable permits. Any addition to a manufactured home that does not comply with the standards of the U. S Department of Housing and Urban Development for manufactured homes shall comply with the State Building Code. Storage sheds, carports and garages shall comply with the State Building Code.
 2. **Storage.** If the owner of the manufactured home park permits storage of boats, motorcycles, recreation vehicles, and similar equipment in the manufactured home park, common areas for the storage of that equipment shall be provided by the owner within the development. Such storage shall be limited to use only by residents and management of the manufactured home park. No part of any such storage area shall be located in a required yard on the perimeter of the manufactured home park. A storage area shall be screened from view from existing residences adjacent to the manufactured home park.

SECTION 703. DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS – ALL OTHER USES

Other uses, not including manufactured home parks and manufactured home subdivisions, are subject to *ARTICLE 19 GENERAL PROVISIONS*.

SECTION 704. MANUFACTURED HOME INSTALLATION

Installation of manufactured homes upon each manufactured home site shall be accomplished in accordance with Part 6 of the Manufactured Home Commission rules. All manufactured homes shall be connected to utilities and shall be skirted and anchored in accordance with Part 6 of the Manufactured Home Commission rules.

SECTION 705. SITE PLAN APPROVAL

- a. In accordance with Part 9 of the Manufactured Home Commission rules and *ARTICLE 21 SITE PLAN REVIEW* of this Ordinance, a preliminary plan shall be submitted to the City of Au Gres Planning Commission for approval and the Planning Commission shall render its response within sixty (60) days.
- b. The Planning Commission shall defer to the City Manager for engineering approval and fire department approval with respect to those aspects of the plan which require staff approval pursuant to this Ordinance or in accordance with the Manufactured Home Commission rules.
- c. All plans submitted shall conform to the rules of the Manufactured Home Commission and to this Ordinance.
- d. Construction of manufactured home parks shall not commence until the Manufactured Home Commission has reviewed the owner's or developer's construction plans and issued its permit for construction.

SECTION 706. COMPLIANCE

A manufactured home park owner or developer shall comply with this Ordinance and with the rules of the Manufactured Home Commission. If the Manufactured Home Commission should in the future impose a higher or more restrictive standard, then the Manufactured Home Commission's standard shall take precedence.

SECTION 707. PROHIBITED USES

Within the R-4 District, no building structure or premises shall be used or erected which building structure or premises is intended or designed to be used in whole or in part for any use not permitted by *Section 701 Principal Uses Permitted*.

ARTICLE 8
RESERVED

ARTICLE 9

TC TOWN CENTER DISTRICT

SECTION 900. INTENT

The Town Center District is intended to encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian-oriented, unified setting with shared parking and public amenities. The Town Center District permits a variety of commercial, administrative, financial, civic, cultural, residential, entertainment and recreational activities in an effort to provide a harmonious mix of activities. This district does not benefit from uses which tend to detract from or interfere with pedestrian shopping activity including automobile sales facilities, auto service centers, drive-through uses, and other automobile-centered uses of a like nature. This district is characterized by multiple story buildings, and many persons entering the district will come by automobile and typically will park once to carry out several errands.

SECTION 901. PRINCIPAL USES PERMITTED

The following uses of buildings and premises, individually or in combination, shall be permitted in the TC Town Center District:

- a. Business or instructional schools, such as accounting, typing, clerical, music, voice, or dance schools.
- b. Dry cleaners and laundries where the dry-cleaning establishments occupies a total floor area not to exceed two thousand (2,000) sq. ft. and using not more than two (2) clothes-cleaning units, neither of which shall have a rated capacity of more than forty (40) pounds, using cleaning fluid which is non-explosive and nonflammable.
- c. Fraternal Clubs and Lodges.
- d. Funeral parlors and mortuaries.
- e. Mixed use establishments, i.e., commercial and residential uses combined in one structure.
- f. Multi-family dwellings.
- g. Office use or establishment, including but not limited to, general and professional offices, medical and dental offices, banks and financial institutions, automatic teller machines, real estate offices, travel agencies, and offices of civic organization or associations.
- h. Personal service establishment such as barber and beauty shops, shoe repair shops,

millinery shops, tailor and pressing shops, photographers, and service establishments of a like nature.

- i. Public and semi-public uses including government and public utility offices, libraries, churches, museums, art galleries, and post offices or postal substations.
- j. Restaurant, Carry-Out.
- k. Delicatessen.
- l. Restaurant, Fast-Food.
- m. Restaurant, Open Front Window.
- n. Restaurant, Standard.
- o. Bar/Lounge/Tavern.
- p. Retail sales, excluding drive-throughs and drive-ins, such as grocery store or supermarket; drug store; bakery; clothing or shoe store; hardware store; gift shop; florists, dry goods, book store; music; radio and TV sales, with a maximum gross floor area of fifteen thousand (15,000) square feet.
- q. Theaters, public assembly halls, concert halls, meeting rooms and clubs.
- r. The following Accessory Uses in addition to uses customarily incidental to the main use of the building or lot are permitted, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.
 - 1. Automatic teller machines which are enclosed within or attached to the principal building.
 - 2. Home occupations, subject to the approval of a home occupation permit as provided in this ordinance.
 - 3. Hotels and motels
 - 4. Public, private, and commercial parking lots.
 - 5. Recreational uses and facilities such as swimming pools, indoor or outdoor court facilities, and weight or training rooms for the use of the patrons or tenants of a hotel or apartment use, provided that, such uses do not exceed twenty percent (20%) of the gross floor area.

SECTION 902. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

- a. Adult and child residential care facilities in accordance with *Section 1933 Adult and Foster Care Facilities*.
- a. Essential Services buildings and uses (without storage yards) when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate vicinity.
- b. Outdoor cafes, outdoor eating areas, walk-up service windows and open front restaurants.
- c. Recreational uses and facilities which do not serve alcoholic beverages, including but not limited to, video game arcades, billiard or pool parlors, spas, and health clubs.
- d. Wireless communication facilities, subject to the requirements of *ARTICLE 25 TELECOMMUNICATIONS FACILITIES*.

SECTION 903. REQUIRED CONDITIONS

The following conditions are required in the Town Center District.

- a. All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets or properties. This may include high-quality materials for fencing and landscaped screening; chain link fencing is not permitted.
- b. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located.
- c. All dwellings, apartments and hotels shall meet the provisions of the R-3 Multiple Family District as provided in *Sections 601 Principal Uses Permitted and 602 Uses Allowed by Special Permit*.
- d. **Screening of Dumpsters.** For all lots in the Town Center District abutting on one or more sides of a Residential District all areas of trash storage and disposal visible from the Residential District, including dumpsters, must be screened by a six (6) foot screen fence, but in no case less than six (6) inches in height over the top of the trash or dumpster.

SECTION 904. APPEARANCE STANDARDS

The following standards are intended to apply design principles to commercial buildings in the TC Town Center District. These standards are established to emphasize the importance of the design of the building site, including structures, plantings, signs, street hardware and other objects observed by the public. These standards are to be applied to new construction as well as additions or modifications to existing buildings

which exceed fifty (50) percent of the floor area or fifty (50) percent of the exterior wall surface area of the existing building, whichever is less. Submittal and approval requirements and procedures are identified in *ARTICLE 21 SITE PLAN REVIEW*.

a. **Factors for Evaluation.** The following factors and characteristics, which affect the appearance of a development, will govern the evaluation of a design submission:

1. Conformance to ordinances and the Appearance Code.
2. Logic of design.
3. Exterior space utilization.
4. Architectural character.
5. Attractiveness
6. Material selection.
7. Harmony and compatibility.
8. Circulation - vehicular and pedestrian.
9. Maintenance aspects.

b. **Relationship of Building to Site**

1. The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, and safe pedestrian movement.
2. Without restricting the permissible limits of the TC Zoning District, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
3. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

c. **Relationship of Buildings and Site to Adjoining Area**

1. The proposed building shall be generally compatible with the architectural style of adjoining buildings. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
2. Attractive landscape design transition to adjoining properties shall be provided.
3. Harmony in texture, lines, and masses is required. Monotony shall be avoided.

d. **Building Design**

1. While architectural style is not restricted it should reflect the general nautical character of the City, with emphasis upon Traditional or Colonial styles, incorporating nautical themes. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighborhood development.
3. Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings. Pole barns and metal facades shall not be

allowed.

- (a) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - (b) Materials shall be of durable quality.
 - (c) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
4. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
 5. Colors shall be harmonious and shall use only compatible accents.
 6. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
 7. Exterior lighting may be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
 8. Refuse and waste removal areas, service yards, storage yards, and exterior work shall be screened from view from public ways, using materials as stated in criteria for equipment screening.
 9. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.
- e. **Signs:** Shall meet the requirements of *ARTICLE 24 SIGNS* in addition to the following:
1. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
 2. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
 3. The back of the sign shall be mounted flat against the surface of the building. Projecting signs are not allowed.
 4. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
 5. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
 6. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
 7. Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.
- f. **Miscellaneous Structures and Street Hardware**
1. Miscellaneous structures and street hardware shall be designed to be a part of the

architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be good, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.

2. Lighting in connection with miscellaneous structures and street hardware shall meet the criteria applicable to site, landscape, buildings and signs.

g. Maintenance - Planning and Design Factors

1. Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.
2. Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.
3. Provision for washing and cleaning of buildings and structures, and control of dirt and refuse, shall be included in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided.

SECTION 905. AREA AND BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE 10

C GENERAL BUSINESS DISTRICT

SECTION 1000. INTENT

The C General Business District is designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the Town Center District. Businesses in this district will be oriented toward serving automobile oriented traffic and be located on larger lots that provide adequate space for off-street parking. This district is along US-23 on the west and east sides of the City.

SECTION 1001. PRINCIPAL USES PERMITTED

In the C General Business District no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

- a. Archery/pistol ranges (indoors).
- b. Arcades.
- c. Automobile or recreational vehicle, parts, equipment or farm implement sales, rental and service.
- d. Automobile service stations, quick oil change shops.
- e. Barber shops.
- f. Beauty shops.
- g. Bowling alleys.
- h. Business, professional or governmental offices.
- i. Clubs and lodges (Fraternal)
- j. Drug stores/pharmacies.
- k. Dry cleaning establishments and self-service laundry.
- l. Dry cleaning establishments occupying a total floor area not to exceed two thousand (2,000) square feet using not more than two (2) clothes-cleaning units, neither of which shall have a rated capacity of more than forty (40) pounds, using cleaning fluid which is non-explosive and non-flammable, and subject to the off-street waiting requirements of

Section 2303 Off-Street Waiting Area for Drive-Through Facilities.

- m. Financial institutions, including banks, savings and loan association offices, credit unions and associated drive-thru facilities, and for which off-street parking space is provided on the premises or within two (2) blocks thereof equal to the total area of the main floor of the building upon which it conducts its business with the general public. Provided, that in case of "drive-in" banks, spaces for the parking of five (5) cars may be deducted for each "drive-in" service window.
- n. Golf driving ranges.
- o. Health salons, exercise/body building facilities.
- p. Home improvement stores/building supply stores/lumber yards.
- q. Hospitals/convalescent homes
- r. Hotels in which parking is provided on the premises or within two blocks thereof for eight (8) cars for each ten (10) bedrooms.
- s. Indoor amusement places for which off-street parking space is provided on the premises or within two (2) blocks thereof equal to space for the parking of one (1) automobile for each ten (10) seat of seating capacity or fraction thereof.
- t. Mini-storage/self storage facilities.
- u. Mortuaries/funeral homes.
- v. Motels, motor courts.
- w. Movie Theaters.
- x. Outdoor commercial water parks, including water slides, swimming pools and other similar outdoor recreation and amusement activities.
- y. Plumbing and heating equipment including wood burning stoves.
- z. Restaurant, Carry-Out.
- aa. Restaurant, Drive-In.
- bb. Restaurant, Drive-Through.
- cc. Restaurant, Fast-Food.
- dd. Restaurant, Open Front Window

- ee. Restaurant, Standard.
- ff. Bar/Lounge/Tavern.
- gg. Supermarket/grocery stores.
- hh. Veterinary offices, including retail sales of pet supplies and minor surgery/sterilization of small animals.
- ii. Uses similar to the above, as determined by the City Planning Commission.
- jj. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.
- kk. Off-street parking and loading facilities in accordance with the requirements of *ARTICLE 23 OFF-STREET PARKING REQUIREMENTS*.
- ll. Temporary buildings and trailers for use incidental to construction.

SECTION 1002. USES ALLOWED BY SPECIAL PERMIT

- a. Boat storage and sales yard (except for properties bordering U.S. 23).
- b. Cellular Communication, Radio and T.V. Towers (see *ARTICLE 25 TELECOMMUNICATION FACILITIES*).
- c. Commercial Kennels.
- d. Essential services buildings and uses (without storage yards) when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate vicinity. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located, and are not naturally larger than other buildings in such areas.
- e. Mixed Residential Office Commercial Uses (not including home-based businesses) provided the following requirements are met:
 - 1. Landscaping shall be maintained in all required front and side yards, in accordance with plans approved by the Zoning Administrator. A landscape plan showing locations and varieties of plant materials shall be submitted for site plan review. All landscaped areas shall be planted with suitable living plant materials and replaced as necessary. Landscaped areas shall be watered, weeded and generally maintained.
 - 2. Side and rear yards may not be used for storage.
 - 3. Off-street parking requirements applicable to the proposed commercial or office use shall be adhered to.

4. Applicable sign restrictions, as provided for in *ARTICLE 24 SIGNS* shall be adhered to.
 5. All refuse containers, including trash and recycling containers, shall be enclosed on at least three (3) sides by a screening device approved by the Zoning Administrator.
 6. If the residential and office or commercial uses are located in a single building, the portion occupied for residential use shall adhere to the following requirements:
 - (a) The entrance to the residence shall be separate from the entrance to the commercial or office use.
 - (b) The minimum floor area requirements for apartment units within the R-3 Multiple Family Residential District shall apply.
 - (c) No more than one family may occupy the residence.
 - (d) Separate off-street parking for the residence shall be provided for at least two vehicles.
- f. Nurseries for Plants and Flowers.
- g. Parks Recreational Facilities.
- h. Trailer Sale Yards.

SECTION 1003. AREA BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE 11

RESERVED

ARTICLE 12

PT PROFESSIONAL TECHNICAL DISTRICT

SECTION 1200. INTENT

The PT Professional Technical District is intended to generate substantial economic development within a park-like setting that preserves the rural character of the City and promotes attractive and cohesive architecture. This district is designed to provide a working environment conducive to research and development, office, and specialized light manufacturing and blends into the surrounding community with minimum impacts.

SECTION 1201. PRINCIPAL USES PERMITTED

In the PT Professional Technical District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

- a. Corporate headquarters offices, administrative offices, professional offices, medical offices.
- b. Private trade or technical schools or colleges.
- c. Processing and/or assembly of engineering, medical, laboratory, scientific, and research instruments and associated equipment.
- d. Production of prototypical products as may be necessary for research and development purposes, provided such use occupies not more than fifty percent (50%) of the total floor area of the principal building on the lot.
- e. Scientific or medical laboratories, engineering, testing or design facilities, or other theoretical or applied research facilities.
- f. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.

SECTION 1202. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

- a. Branches of banks, credit unions, savings and loans, and other similar financial

institutions including drive-up facilities, when incorporated into a building with a principal permitted use, provided it occupies no more than fifty percent (50%) of the gross floor area of the building in which it is located.

- b. Commercial telecommunication antennas, but only when permitted and constructed in accordance with *ARTICLE 25 TELECOMMUNICATION FACILITIES*.
- c. Facilities for the production, packaging, assembly or treatment of finished or semi-finished products from prefabricated parts or previously prepared materials when conducted wholly within an enclosed building, in accordance with the standards and requirements of *Section 1920 Developments in Floodplains*, if applicable.
- d. Utility and public services buildings and uses (without storage yards) when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate vicinity. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located, and are not naturally larger than other buildings in such areas.
- e. Accessory buildings and structures associated with the above uses.
- f. The Planning Commission shall review the special use request for the following factors:
 - 1. Consistency with the special use standards of *Section 2202 Standards for Special Land Use Approval*.
 - 2. Consistency with the overall development plan for the development area.
 - 3. Consistency with the Au Gres Comprehensive Plan.
 - 4. Compatibility of the proposed business with other businesses in the PT District.
 - 5. Compatibility with land uses and activities in surrounding districts.

SECTION 1203. REQUIRED CONDITIONS

- a. The standards of *Section 904 Appearance Standards* shall be applied.
- b. **Landscaping.** To provide a park-like setting, all improved lots shall be landscaped including the provision of canopy-type shade trees or evergreens. All land not covered by buildings, structures, storage areas, parking lots, loading areas, and driveways shall be landscaped and maintained, or left in a natural state. The use of native plant species during landscaping is encouraged. Landscaping shall mean decorative plazas, mounds, pools, or the planting of grass, shrubs, trees, native vegetation and other plant materials or other comparable surface cover. To comply with the above provisions, a landscape plan shall be submitted at the time of site plan review.
- c. **Storm Water Retention.** Storm water retention facilities shall meet the following

requirements:

1. All storm water retention facilities shall be designed and constructed in a manner consistent with Federal, State and local regulations and best management practices.
 2. Onsite storm water retention facilities shall be provided whenever feasible, based upon site engineering studies.
 3. On-site storm water retention facilities shall be improved to create an attractive appearance; use of natural vegetation and natural filtration methods will be encouraged.
 4. A storm water retention plan shall be submitted at the time of site plan review.
- d. **Wetlands.** Wetlands, as defined and regulated by Michigan Act P.A. 451 of 1994, Part 303, shall be protected in accordance with all applicable, Federal, State and local regulations. Wetland protection plans shall be submitted at the time of site plan review.
- e. **Lighting.** All lighting shall be arranged and designed to meet the following requirements:
1. All lighting shall be arranged so that the source is not visible from, nor a glare produced upon, any adjoining residential property or public or private street right-of-way.
 2. All lighting shall be arranged so that the illumination is directed downward or onto buildings, signs, landscaping, sidewalks, walkways or parking areas.
- f. **Sidewalk, Bicycle/Pedestrian Path Requirements.** Sidewalks and bicycle/pedestrian paths shall be installed in accordance with the following requirements:
1. All public street frontage shall have sidewalks a minimum of five (5) feet in width on both sides of the street
 2. Private streets may have bicycle or pedestrian paths a minimum of six (6) feet in width in lieu of sidewalks. The bicycle/pedestrian paths need not be located adjacent to such private streets. Lots not served by sidewalks shall be served by bicycle/pedestrian paths.
 3. Sidewalks or bicycle/pedestrian paths shall be constructed simultaneously with streets and shall provide continuous circulation from one lot to another and to sidewalks or bicycle/pedestrian paths on adjacent properties, if existing.
- g. **Parking and Loading Facilities.** Parking and loading facilities shall be provided for as specified in *ARTICLE 23 OFF-STREET PARKING REQUIREMENTS*. In addition to the requirements of the Article, the following shall be met:
1. Loading facilities and truck storage areas must be screened from abutting residential uses and public street rights-of-way.
 2. Accessory off-street parking lots and loading facilities, as well as access

- driveways shall be located, designed, and improved so as to provide for safe and convenient access from adjoining streets, as well as safe and convenient circulation within the site.
3. Access driveways and parking lots shall be separated from principal pedestrian walkways and recreational areas by pavement markings, curbs, planting areas, fences, or other appropriate materials to ensure pedestrian safety.
 4. Off-street parking lots or loading facilities shall not be located in required front yards, but may be located in required rear yards or in an interior side yard.
 5. Off-street parking lots or loading facilities shall not be allowed within a required yard that abuts a residential zoning district.
 6. Access driveways shall be designed and located so that such driveways do not provide a direct unlandscaped view from the street to the loading facilities.
 7. A plan for tree islands and parking lot landscaping shall be included with the required landscape plan.
 8. A truck circulation plan should be required to verify that all turning movements can be met.
- h. **Cross-Access Interior Drives.** Drives that enable vehicles to move from one site to another without entering the frontage street may be allowed as long as the centerline of the access drive is a minimum of fifty (50) feet from the closest paved edge of the frontage street and the interior drive is no wider than twenty (20) feet.
- i. **Storage Areas.** All storage, except for licensed motor vehicles in operable condition, shall be within completely enclosed buildings.
- j. **Signs.** Sign requirements for the PT Professional Technical District shall comply with the applicable requirements of *ARTICLE 24 SIGNS*.

SECTION 1204. BUILDING COVERAGE AND TOTAL GROUND COVERAGE

- a. The building coverage on any zoning lot shall not exceed thirty five percent (35%) and shall be determined by dividing the area of a lot which is occupied by the total horizontal projected surface of all buildings, including covered porches and accessory buildings (but not including roof overhangs or projections) by the gross area of the lot.
- b. The total ground coverage on any zoning lot shall not exceed fifty percent (50%). The total ground coverage shall be determined by dividing that area of a lot which is occupied by the buildings and any impervious surface, by the gross area of the lot. Impervious surface shall include any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land as well as graveled driveways and parking areas.

SECTION 1205. AREA AND BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing a buffer between uses in the PT District and adjacent residential parcels.

ARTICLE 13

I INDUSTRIAL DISTRICT

SECTION 1300. INTENT

The Industrial District is designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The "I" District is so structured as to permit the manufacturing, processing, packaging, assembly, treatment and compounding of semi-finished or finished products from raw materials as well as from previously prepared material. The processing of raw materials, for shipment in bulk form for use in an industrial operation at another location, shall not be permitted.

SECTION 1301. PRINCIPAL USES PERMITTED

In the I Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

- a. Any use charged with the principal function of basic research, design, and pilot or experimental products development when conducted within a completely enclosed building.
- b. Any uses when the manufacturing, compounding, or processing of products are conducted wholly within a completely enclosed building.
- c. Auto repair garages.
- d. Commercial kennel.
- e. Essential services facilities including buildings, necessary structure and other related uses, but excluding storage yards.
- f. Greenhouses.
- g. Trade or industrial schools.
- h. Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of *Sections 1906 Accessory Uses and 1907 Accessory Buildings*.
- i. Other uses of a similar and no more objectionable character to the above uses.

SECTION 1302. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

a. Adult Regulated Uses and Sexually-Oriented Businesses

1. Purpose and Intent

- (a) Adult regulated uses and sexually-oriented businesses are established as a Special Land Use in order to establish areas of the City where the constitutionally protected right of free expression is permitted subject to reasonable conditions to protect the community from adverse effects of such uses.
- (b) Because adult regulated uses and sexually-oriented businesses have been documented to produce adverse effects to surrounding properties and the community as a whole, including residential and commercial disinvestment in the vicinity, decreases in property values, and increases in crime, these uses are permitted only at locations where these adverse effects are minimal and will not contribute to deterioration of the surrounding neighborhood.
- (c) Because concentrations of two (2) or more adult regulated uses and sexually-oriented businesses in close proximity have been documented to create inordinate increases in crime and decreases in property values in the vicinity, a requirement of separation between adult regulated uses and sexually-oriented businesses has been established.
- (d) Because certain uses are particularly susceptible to the adverse effects created by adult regulated uses and sexually-oriented businesses, provisions are established that require sufficient spacing of adult regulated uses and sexually-oriented businesses from those uses considered most susceptible to adverse effects.

2. Uses Regulated. The following uses are regulated by this subsection.

- (a) Adult book store.
- (b) Sexual paraphernalia store.
- (c) Adult model studio.
- (d) Adult motion picture arcade.
- (e) Adult motion picture theater or adult live stage performing theater.
- (f) Adult outdoor motion picture theater.
- (g) Adult personal service establishment.
- (h) Adult cabaret.
- (i) Adult video store.

3. **Required Spacing.** The establishment of the types of adult regulated uses and sexually-oriented businesses listed in "b" above shall meet all of the following space requirements; with the distance between uses measured horizontally between the nearest point of each property line:
 - (a) At least five hundred (500) feet from any other adult regulated use or sexually-oriented business.
 - (b) At least five hundred (500) feet from all churches, convents, temples and similar religious institutions.
 - (c) At least five hundred (500) feet from all child care centers, public or nonpublic nursery school, elementary, intermediate, or secondary schools, public parks and hospitals.
 - (d) At least five hundred (500) feet from any use defined as a "care organization".
 - (e) At least five hundred (500) feet from any one-family or multiple-family residential district or use.
 - (f) At least five hundred (500) feet from any pool or billiard hall, coin-operated amusement center, indoor and outdoor recreation such as miniature golf; dance club catering primarily to teenagers, movie theaters, ice or roller skating rinks and similar uses frequented by children and teenagers.

4. **Special Site Design Standards**
 - (a) Maximum size of the building shall be five thousand (5,000) square feet.
 - (b) Adult regulated uses shall be located within a freestanding building. A shared or common wall structure or shopping center is not considered to be a freestanding building.
 - (c) A six (6) foot high brick or masonry wall shall be constructed to screen the parking lot. The Planning Commission may permit use of landscaping in place of the wall.
 - (d) All activities shall be conducted within an enclosed building and not visible through windows or doors to adjacent properties or the public right-of-way, including public sidewalks.
 - (e) No sound shall be produced by the activities conducted within the building that are discernable at or beyond the boundaries of the adult regulated use or sexually-oriented business.
 - (f) Signage shall conform to the City's sign ordinance and in addition shall include no graphic displays and shall not include wording that depicts, describes, or relates to "specified sexual activities" or "specified anatomical areas" (as defined in this ordinance) and cannot be observed by pedestrians or motorists on a public right-of-way or from an adjacent land use.
 - (g) No direct vehicular access shall be taken from a street other than an arterial roadway, unless it is determined that the access will not create problems of through traffic and on-street parking for a residential neighborhood.

5. **Conditions of Approval.** Prior to the granting of approval for the establishment of any regulated use, the Planning Commission may impose any conditions or

limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as in its judgment may be necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

6. **Minors Not Permitted.** No person operating an adult entertainment business shall permit any person under the age of eighteen (18) to be on the premises of said business.

7. **Waivers**

- (a) **Standards.** Upon denial of any application for a regulated use under the above, the applicant may appeal for a waiver of the location provisions above to the Zoning Board of Appeals consistent with the standards set forth below. The Zoning Board of Appeals may waive the location provisions set forth above, after all of the following findings are made:

- (1) **Compliance with Regulations.** The proposed use will not be contrary to any other provision of these zoning regulations, or injurious to nearby properties.
- (2) **Not Enlarge District.** The proposed use will not enlarge or encourage the development of a "skid row" or "strip."
- (3) **Consistent with Law.** All applicable City, State or Federal laws and regulations will be observed.

- (b) **Procedure.** Prior to granting a waiver of the location restrictions set forth above, and not less than five (5), nor more than fifteen (15) days before the request for waivers is considered or a public hearing held pursuant to this section, the City Council shall publish, in a newspaper of general circulation in the City, one notice indicating that a request for waivers to establish a regulated use has been received, and shall send by mail or personal delivery a copy of that notice to the owners of the property for which waivers are being considered, and to all waivers are being considered, and to all persons to whom any real property is assessed within 300 feet of the boundary of the premises in question, and to the occupants of all structures within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice of application shall further indicate that a public hearing on the proposed regulated use may be requested by a property owner or occupant, no less than eighteen (18) years of age, of a structure located within 300 feet of the boundary of the property being considered for the regulated use. The applicant, City Council, or Zoning Board of Appeals may request a public hearing.

- b. Essential services buildings and uses when operating requirements necessitate the locating of said buildings within the district in order to serve the immediate

vicinity. All buildings shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located.

- c. Heating and electric power generating plants, and all necessary uses provided an environmental assessment shall be prepared for review by the City Planning Commission which indicates no risk to the public health, safety or welfare of residents. There must be provided an eight hundred (800) foot minimum clear zone between the use and the nearest residential district.
- d. Junk yards, provided such are entirely enclosed within a building, or within an eight (8) foot obscuring wall and provided further that one (1) property line abuts a major road. There shall be no burning on the site and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building. A minimum lot size often (10) acres shall be provided. All storage areas shall be screened within eight (8) foot opaque wall or landscaping from road rights-of-way and residential or commercial zoned properties.
- e. Lumber, building material storage yards, and planning mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I District. The open storage of material shall be set back at least one hundred (100) feet from any public road right-of-way.
- f. Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances. Uses shall be located in the interior of the district so that no property line shall form the exterior boundary of the I District.
- g. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to: lumber yards, building materials outlets, garage sales, upholsterer, cabinet maker; outdoor boat or house trailer; automobile, or agricultural implement sales). All outdoor storage shall be located at least one hundred (100) feet from the right-of-way.
- h. Mini or self-storage warehouses.
- i. Municipal uses such as water treatment plants, sewage treatment plants, and all other municipal buildings and uses that include outdoor storage.
- j. Parks and Recreational Facilities
- k. Race tracks (including midget auto karts, horse and snowmobile) shall be permitted with the following conditions:
 - 1. A minimum lot size of forty (40) acres shall be provided with a minimum of six hundred sixty (660) feet of frontage on a major road.

2. All sides of the development not abutting a major road shall be provided with a twenty (20) foot greenbelt so as to obscure view of all activities
 3. The track shall not be located closer than two hundred (200) feet to a residential district.
-
- l. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all Residents or Business Districts, and on any yard abutting a public road.
 - m. Telecommunication Towers and Facilities subject to the requirements of *ARTICLE 25 TELECOMMUNICATION FACILITIES*.
 - n. Truck Stops.
 - o. Warehouse storage and transfer, and freight terminals.
 - p. Other uses of a similar character to the above uses.
 - q. Any other use which shall be determined by the Board of Zoning Appeals, after recommendation from the Planning Commission, to be of the same general character as the above permitted uses in Section 1301. The board may impose any required setback and/or performance standards so as to insure public health, safety, and general welfare.

SECTION 1303. REQUIRED CONDITIONS

Any use established in the I District after effective date of this Ordinance shall be operated so as to comply with the performance standards set forth hereinafter in *Section 1919 Performance Standards*.

SECTION 1304. AREA AND BULK REQUIREMENTS

See *ARTICLE 16 SCHEDULE OF REGULATIONS* limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE 14

CR CONSERVATION/RECREATION DISTRICT

SECTION 1400. INTENT

The Au Gres River is a major physical resource running through the City of Au Gres and the City contains wet soils that are susceptible to high water tables at any time during the year. The river and its floodplain as well as the wet areas are subject to federal and state development restrictions and consequently are limited in their ability to become part of the City's built environment. These areas are valuable resources that should be retained and utilized to help define the open space (and recreation) fabric of the City as well as act as a means of functional drainage of the land.

The Conservation/Recreation District is intended to preserve the natural resources and unbuildable wet areas of the City of Au Gres. In so doing, it is also intended to utilize these resources for the visual and recreational enjoyment of the City's residents by providing "pockets" of open space and preventing ecological and aesthetic damage that may result from unwise and disorderly development. The District is intended to provide for minimal development in these areas in order to prevent physical harm, impairment and/or destruction to the natural environment and to prevent potential damage to buildings. The regulations that apply within the CR District are designed to reserve such areas for the purposes outline in this section and to discourage any encroachment by residential, commercial, industrial or other uses capable of adversely affecting the undeveloped character of this District.

SECTION 1401. PRINCIPLE USES PERMITTED

In the CR Conservation/Recreation district, no building or land shall be used and no building shall be erected, unless otherwise provided in this ordinance, except for one or more of the following specified uses:

- a. General farming including, but not limited to, the cultivation and harvesting of crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds.
- b. Nonresident buildings used solely in conjunction with raising water fowl, minnows, and other similar lowland animals, fowl or fish, subject, however, to the minimum lot size, maximum building height, and minimum yard setback requirements for the R-1 Single Family Residential Zoning District.
- c. Pasture, grazing, forestry, outdoor plant nursery.
- d. Publicly owned and/or operated park, open space, recreational facility or use, and the equipment necessary for serving the users of such facilities, including accessory buildings.

- e. Walkways/trails following as much as possible the natural topography in which they are located, with the base and surface limited to the use of natural materials and subject to Planning Commission review. Structural improvements shall be limited to retaining walls and similar structures when required to maintain the integrity and safety of the walkway.
- f. Wildlife sanctuary, woodland preserves, arboretums.

SECTION 1402. USES ALLOWED BY SPECIAL PERMIT

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission, in accordance with the standards for Special Use Permits listed in *ARTICLE 22 SPECIAL LAND USES*:

- a. Campgrounds, travel trailer parks when the following conditions are met:
 - 1. Minimum lot size shall be ten (10) acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire campground or travel trailer park.
 - 2. No camp sites shall be located within fifty (50) feet of the property line.
 - 3. Natural features of the site such as water bodies, trees, topography or other natural features shall be protected from possible soil erosion, unnecessary removal of trees, change in topography or other actions which will adversely impact the natural features of the site.
 - 4. Individual camp sites shall be at least two thousand three hundred (2,300) square feet in size, including half of a roadway.
- b. Golf course.
- c. Marinas subject to the following conditions:
 - 1. Maintenance or repair will be allowed in the boat owner slip or a designated repair area, or in an enclosed building on the premises. Repair will not be allowed to present a nuisance or be offensive to others, either by sight or sound.
 - 2. No boat storage, storage of gear or equipment, nor boat parts, shall be allowed other than within an enclosed building upon the premises or allowable dock storage containers.
 - 3. There will be no discharge or depositing of garbage, oil, fuel, refuse material, sewage or waste material of any kind into the Au Gres River or adjoining waterways.
 - 4. Cooking on wooden decks, docks, or similar structures shall be prohibited.
 - 5. No deck, dock, or similar structure shall be less than three feet (3) wide, nor exceed a length of one hundred feet (100).

- d. Ponds when the following conditions are met:
1. No pond may be constructed on a parcel of less than five (5) acres, or within one hundred (100) feet of any public road or within one hundred (100) feet of any adjoining property line.
 2. Pond side slopes shall not exceed a ratio of four (4) feet horizontal to one (1) foot vertical, with slopes flattened to seven (7) feet horizontal one (1) foot vertical in all areas below the water surface.
 3. The City Planning Commission may require erection of a fence and gates suitable to afford adequate protection to persons and property.

SECTION 1403. PROHIBITED USES

Within the CR District, no structure shall be erected or used which is not permitted in *Sections 1401 Principle Uses Permitted* and *1402 Uses Allowed by Special Permit*.

SECTION 1404. REQUIRED CONDITIONS

The following restrictions and conditions are applicable to the CR District:

- a. No land filling and no principal structures shall be permitted in the CR District except in accordance with the Michigan Department of Environmental Quality requirements under Public Act 295 of 1992.
- b. The Planning Commission shall receive a copy of the permit application and approval of such application for those improvements that require a permit under Public Act 295 of 1992.
- c. The minimum setback required for any use adjacent to the CR District shall be twenty-five (25) feet from the edge of the CR District.
- d. For those portions of the CR District adjacent to a river or watercourse, to minimize erosion, stabilize the riverbank, protect water quality, keep nutrients out of the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, screen man-made structures and preserve aesthetic values of the CR District, a natural vegetation strip shall be maintained. Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed to achieve a filtered view of the river from the principal structure and for reasonable private access to the river or watercourse.
- e. All applications for physical alterations to properties located in this district, that are not allowed by right under P. A. 295 shall be subject to the site plan review requirements of *ARTICLE 21 SITE PLAN REVIEW*.

ARTICLE 15

LANDSCAPE STANDARDS

SECTION 1500. PURPOSE

The intent of this Article is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscape improvements. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values and the overall character of the City. The standards of this Article are intended to help achieve a number of functional and environmental objectives such as:

- a. promoting the implementation of the City Master Plan and sub area studies;
- b. defining and articulating outdoor spaces and architectural elements;
- c. obscuring, integrating and complementing various site elements;
- d. assisting in directing safe and efficient movement of vehicular and pedestrian circulation;
- e. screening headlights to reduce glare and incidental pollution;
- f. reducing the physical impact between adjacent land uses;
- g. provide landscape treatments that are consistent with adjacent sites and parcels within the surrounding area;
- h. providing incentives to preserve quality existing plant material; and
- i. providing reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein.

SECTION 1501. DEFINITIONS

For purposes of this Ordinance, the following definitions shall apply:

- a. **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.

- b. **Buffer zone:** A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing singularly or in combination to serve as a visual and noise barrier.
- c. **Caliper:** The diameter of a trunk measured as follows:
 - 1. Existing trees are measured at four and one-half (4.5) feet above the average surrounding grade; and,
 - 2. Trees which are to be planted shall be measured twelve (12) inches above the average surrounding grade if the tree caliper is more than four (4) inches, or if the tree caliper is less than four (4) inches. it shall be measured at six (6) inches above the average surrounding grade.
- d. **Canopy tree:** A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to provide shade to adjacent ground areas and to enhance aesthetics.
- e. **Diameter breast height (DBH):** The diameter of a tree measured at four (4) feet above the natural grade.
- f. **Drip line:** An imaginary vertical line extending from the outermost branches of a tree to the ground.
- g. **Greenbelt:** A landscaped area along a street between the curb or road shoulder and the front yard building or parking setback line, this area is also referred to as the front yard parking lot setback area.
- h. **Hedgerow:** A row of eight (8) or more trees having a four-inch diameter or greater at a height of four (4) feet; the drip line of the trees defines the land area of the hedgerow.
- i. **Landscaping:** The treatment of the ground surface with live plant materials normally grown in Lapeer County such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping if provided in combination with live plant material. Various landscaping related terms are defined below.
- j. **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns.

- k. **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.
- l. **Parking lot landscaping:** Landscaped areas located in and around a parking lot in specified quantities to improve the safety of pedestrian and vehicular traffic, guide traffic movement, improve the environment and improve the appearance of the parking area and site.
- m. **Planting:** A young tree, vine or shrub that would be placed on or in the ground.
- n. **Screen or screening:** A wall, wood fencing or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of non-living material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.
- o. **Shrub:** A self-supporting, deciduous or evergreen woody plant normally branched near the base, bushy, and less than fifteen (15) feet in height.
- p. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of at least fifteen (15) feet.
- q. **Ornamental tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty five (25) feet or less.

SECTION 1502. LANDSCAPE PLAN SPECIFICATIONS

- a. The requirements set forth in this Article shall apply to all uses, lots, sites, and parcels which are developed, expanded or otherwise modified. A separate detailed landscape plan shall be submitted as part of the preliminary site plan review or tentative preliminary plat review process.
- b. The landscape plan shall demonstrate that all requirements of this Article are met and shall be prepared in accordance with the following:
 - 1. illustrate location, spacing species, and size of proposed plant material;
 - 2. separately identify compliance with the minimum numeric requirements for greenbelts, buffer zones, parking lot trees, detention ponds, and interior landscaping; required trees or materials cannot be double counted;
 - 3. if applicable, identify compliance with the numeric requirements for tree replacement and

preservation;

4. provide, where required by the City, typical cross sections to illustrate views from adjacent land uses and the slope, height and width of proposed berms or landscape elements;
5. identify trees and other landscape elements to be preserved;
6. delineate the location of tree protection fence and limits of grading at the perimeter of areas that to be preserved;
7. provide significant construction details to resolve specific conditions such as limits of grading adjacent to areas with trees and vegetative cover to be preserved, tree wells to preserve existing trees or culverts to maintain natural drainage patterns;
8. provide details to ensure proper installation and establishment of proposed plant material;
9. identify grass areas and other methods of ground cover; and
10. identify a landscape maintenance program including statement that all diseased, damaged or dead materials shall be replaced in accordance with standards of this Ordinance.

SECTION 1503. DESIGN STANDARDS

- a. **Greenbelts.** A greenbelt shall be planted or preserved along public right-of-ways and designated frontage roads. The greenbelt is intended to provide a transition between the roadway and an existing or proposed land use. Greenbelts shall be provided in accordance with the following requirements:
 1. The width of the greenbelt shall be thirty-five (35) feet in residential districts and equivalent to the minimum required parking lot setback in non-residential districts.
 2. Greenbelts shall include only living materials and planting beds, except for approved sidewalks, bike paths, signs, driveways, and essential services.
 3. Where sidewalks are located within the greenbelt, plant material shall be provided on each side of the pathway to provide visual and physical separation between the vehicular and pedestrian circulation.
 4. The greenbelt shall contain a minimum of one (1) canopy tree and six (6) shrubs per thirty (30) linear feet, or fraction thereof, of road frontage including any openings for driveways, pathways or easements. The Planning Commission may approve the substitution of evergreen trees for up to fifty percent (50%) of the required canopy trees when appropriate in consideration of the land use and existing character of adjacent uses.
 5. Ornamental trees may be used to diversify greenbelt planting requirements, provided two (2) ornamental trees shall be provided for each one (1) required canopy tree.
 6. Greenbelt plantings shall be arranged to simulate a natural setting such as massing or staggered rows, except where the Planning Commission finds a more formal arrangement would be consistent with the established character of the area.
 7. Greenbelts shall be designed to ensure adequate sight visibility for motorists, adequate

clearance for pedestrians and vehicles, clearance from overhead over head utility lines, adequate separation from underground utilities and accessibility to fire hydrants. Where such conditions prohibit full compliance, the Planning Commission may adjust the location of the required materials so as long as the design intent is met.

b. Buffer Zones.

1. A buffer shall be provided between the subject site and all adjacent properties in accordance with the table below. The Planning Commission shall determine whether landscaping, a wall, a berm, or combination of these elements is needed to attain the intended screening. The use of canopy trees and associated understory are encouraged while walls and berms are discouraged.
2. At a minimum, the width of the buffer shall be equal to the required setback. However when a wall or berm are used, a larger buffer width may be required to accommodate both the required plant material and the wall or berm. All walls and berms shall be designed in accordance with the standards contained herein. (Note: exceptions may be granted as outlined below.)

Type A buffer. Two (2) canopy trees and four (4) shrubs, or one (1) canopy tree, one (1) evergreen and four (4) shrubs per twenty (20) linear feet along the property line, rounded upward.

Type B Buffer. One (1) canopy tree and four (4) shrubs, or one (1) evergreen tree and four (4) shrubs per twenty (20) linear feet along the property line, rounded upward.

City of Au Gres Zoning Ordinance

Zoning or Proposed Use of Subject Site	Zoning or Use of Adjacent Site										
	Single Family	Multiple Family	Manufactured Housing	Office	Medical or Municipal Use	TC	Commercial	Industrial	Outdoor Storage Areas in any District	Public Utility Buildings & Structures in any District	Parking Lots
Single Family	none	Type B	Type A	Type B	Type A	Type A	Type A	Type A	Type A	Type A	Type A
Multiple Family	Type B	none	Type A	Type B	Type A	Type A	Type A	Type A	Type A	Type A	Type A
Manufactured Housing	Type A	Type A	none	Type A	Type A	Type A	Type A	Type A	Type A	Type A	Type A
Office	Type B	Type B	Type A	none	Type B	Type B	Type B	Type B	Type B	Type A	Type B
Medical, Municipal, or Institutional Use	Type A	Type A	Type A	Type B	none	Type B	Type B	Type A	Type B	Type A	Type B
TC	Type A	Type A	Type A	Type B	Type B	none	Type B	Type A	Type A	Type A	Type B
Commercial	Type A	Type A	Type A	Type B	Type B	Type B	none	Type A	Type A	Type A	Type B
Industrial	Type A	Type A	Type A	Type B	Type A	Type A	Type A	none	Type B	Type B	Type B
Outdoor Storage Areas in Any District	Type A	Type A	Type A	Type B	Type B	Type A	Type A	Type B	none	Type B	Type B
Public Utility Buildings & Structures in Any District	Type A	Type A	Type A	Type A	Type A	Type A	Type A	Type B	Type B	none	Type B
Parking Lots	Type A	Type A	Type A	Type B	Type B	Type B	Type B	Type B	Type B	Type B	none

c. **Parking Lot Landscaping.** Parking lot landscaping shall be provided in accordance with the following standards:

1. Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of pavement and assist with vehicular and pedestrian flow.
2. At least one (1) canopy tree shall be provided per eight (8) parking spaces provided.
3. All of the required parking lots trees shall be placed within the parking lot envelope as described by the area including the parking lot surface and extending ten (10) feet from the edge of the parking lot.
4. A minimum of one-third ($\frac{1}{3}$) of the trees shall be placed within the interior of the parking area.
5. Parking lot islands shall be curbed and be at least one hundred (100) square feet in area. Islands within parking lots having less than 100 spaces may be a minimum of ten (10) feet in width, parking areas with more than 100 spaces shall have islands at least twenty (20) feet in width. The depth of the island shall be two (2) feet shorter than an adjacent parking space.
6. Only shrubs, grass or other living ground cover shall be used to supplement trees within parking lot islands.
7. The design and layout of the parking lots shall provide appropriate pedestrian circulation and connections to perimeter pedestrian connections.

d. **Detention/Retention Pond Landscaping.** Ponds shall be located outside required setbacks and designed to provide a natural appearance. Detention and retention ponds shall be provided in accordance with the following standards:

1. Side slopes shall not exceed requirements that require the perimeter of the pond to be fenced.
2. One (1) canopy or evergreen tree and ten (10) shrubs are required per fifty (50) feet of pond perimeter, as measured along the top of the bank elevation. The required landscaping shall be planted in a random pattern, not limited to the top of the pond bank.
3. Where a natural landscape is found not to be particular or desirable the Planning Commission may require some type of decorative fencing.

e. **Residential and Site Condominium Developments.** Landscaping for single family and multiple family residential developments shall be provided in accordance with the following requirements:

1. Street trees shall be provided at a rate of one (1) tree per forty (40) linear feet of frontage, or thereof, along all interior roads. The Planning Commission may determine that existing trees preserved within ten (10) feet of the road edge may fulfill the street tree requirement for that portion of the road. Trees should generally be planted between the sidewalk and road curb, in consideration of intersection sight distance.
2. The landscape plan shall also include details of the cul-du-sac islands, project entrances, accessory buildings and common open space areas.

- f. **Berm Standards.** While berms are not necessarily encouraged, certain situations may be appropriate for provision of a structural screen. In instances where large setbacks are available between uses, the Planning Commission may allow the substitution of a berm with additional landscaping in place of the wall requirement. Berms shall be constructed with horizontal and vertical undulations so as to represent a natural appearance with a crest area at least four (4) feet in width. Berms shall be planted with trees, shrubs or lawn to ensure that it remains stable. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other similar method. The maximum slope of the berm shall not exceed one (1) foot of vertical rise to three (3) feet of horizontal distance.
- g. **Plant Material.** All plant material shall be hardy to the City of Au Gres, be free of disease and insects and conform to the American Standard for Nursery Stock of the American Nurserymen.
- h. **Minimum Sizes and Spacing.** The minimum plant sizes and spacing shall be provided in accordance with the following:
 - 1. Wherever screening is required, screening shall consist of closely spaced evergreen plantings which can be reasonably expected to form a complete visual barrier. Deciduous plant material may be used for variety to supplement evergreen plantings.

PLANT MATERIAL	MINIMUM PLANT SIZES	SPACING REQUIREMENTS
Deciduous canopy trees	2½" caliper	25' on-center
Ornamental trees	2" caliper 6' height (clump form)	15' on-center
Evergreen trees	6' height	15' on-center
Narrow evergreen trees	4' height	12' on-center
Deciduous shrubs	2' height	4'-6' on-center
Upright evergreen shrubs	2' height	3'-4' on-center
Spreading evergreen shrubs	18"-24" spread	6' on-center

- i) **Mixing of Species.** The overall landscape plan shall not contain more than 33% of any one plant species. The use of native species and mixture of trees from the same species association is strongly encouraged.
- j) **Trees Not Permitted.** The following trees are not permitted as they split easily, their wood is brittle, their roots clog drains and sewers, and they are unusually susceptible to disease or insects. The Planning Commission may however allow trees from this list when associated with an appropriate ecosystem. Trees not permitted are as follows: Box Elder, Elms, Tree of Heaven, Willows, Soft Maples (silver), Poplars, Horse Chestnut (nut bearing), Ginkgo (female), Cottonwood, Mulberry, Black Locust, Honey Locust (with thorns).
- k) **Planting Beds.** Bark used as mulch shall be maintained at minimum of two (2) inches deep. Planting beds shall be edged with either plastic or metal edging in residential districts and metal edging in all other zoning districts.
- l) **Waiver or Modification of Landscaping and Screening Requirements.** During site plan or subdivision plat review, the Planning Commission may determine that existing plant material would provide adequate landscaping or screening or that dimensional conditions unique to the subject parcel would prevent development of required landscape components. If such a determination is made, the Planning Commission may waive or modify the landscape provisions of this Article in consideration of, but not limited to, the following:
 - 1. existing vegetation;
 - 2. topography and grade changes;
 - 3. existing wetlands;
 - 4. type of and distance to adjacent land uses;
 - 5. tree sizes proposed being larger than the minimum requirements;
 - 6. existing development pattern in the central business district; or
 - 7. the future land use designation proposed in the City Master Plan.
- m) **Maintenance.** Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance in accordance with the approved site plan. If any plant material dies or becomes diseased, it shall be replaced within thirty (30) days written notice from the City or within an extended time period as specified in said notice.
- n) **Standards for Compliance for Existing Sites.** In any case where the building and/or parking area is being increased by at least twenty-five (25%) percent over the originally approved site plan or is being changed to a more intense use as determined by the Planning Commission, the site shall be brought into full compliance with the landscape standards herein. In instances where the increase in building and/or parking area is less than twenty-five (25%) percent over the original site plan, the extent of new landscaping shall be equal to four (4%) percent of compliance for every (1%) percent of increase in building or parking footprint. For example, a building or parking area increase of ten (10%) percent requires forty (40%) percent compliance with the landscape standards.

SECTION 1504. WALL REQUIREMENTS

- a. For those Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall as required below (except otherwise required in subsections d. and e. of this Section).

Use	Requirements
Off-street Parking Area within twenty(20) feet of a property line	4'-6" -high wall.
TC, C and PT Districts	4'-6" high wall.
I District	4'-6" to 8' high wall or fence. (Height shall provide the most complete obscuring possible).
Hospital ambulances and delivery areas	6'-0" high wall.
Utility Buildings, stations and/or substations	6'-0", high wall.
Non-residential use in residential district	6'-0" high wall

- b. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting Residential Districts.
- c. Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance. All walls herein required shall be constructed of visually appealing materials approved by the Building Official, not to include a stamped concrete product, to be durable, weather resistant, rust proof and easily maintained; and wood or wood products shall be permitted only if weather-treated.
- d. The wall requirement may be substituted by the Planning Commission if a twenty (20) foot deep landscaped area is provided that shall consist of closely-spaced evergreen plantings (no farther than fifteen (15) feet apart) that can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.
- e. The Planning Commission may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet six inches (4'-6") in height.

SECTION 1505. FENCES

Fences are permitted, or required subject to the following:

- a. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six (6) feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, or whichever is greater.
- b. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.
- c. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than twenty-five (25) percent of the total area of the fence.
- d. Fences are permitted within a front yard or within a side or rear yard abutting a street or vehicular easement, subject to the following conditions:
 1. Fence shall not exceed 42 inches in height.
 2. Fence and associated structures shall meet the corner clearance standards of this article.
 3. Within any single plane, decorative fences shall not obstruct vision, as viewed from perpendicular to the plane of the fence, to an extent greater than 60%, evenly distributed over the total area of the fence.
 4. Sections of fence shall not exceed 20 feet in length.
 5. Sections of fence shall not be closer than ten (10) feet to each other.
 6. The total length of all sections of decorative fence shall not exceed a combined total of 100 feet.
- e. Fences in non-residential districts shall be allowed, when located within a side or rear yard, for the purpose of providing a buffer to adjacent uses: walls and fence height requirements in accordance with the following:
 1. Walls and fences within the front yard shall be used for decorative or aesthetic purposes and shall not exceed four feet in height. If a taller fence is required as an enclosure, a five (5) foot fence may be approved by the Planning Commission.
 2. Chain link fences are not permitted, unless necessitated for safety reasons. If chain link is used, it shall be black or dark green vinyl coated.
 3. No fence shall contain barbed wire, electric current or charges of electricity except that barbed wire may be permitted in I Industrial Districts and for enclosing public utility facilities or satellite communication facilities which require such fencing for the safety of the public. If used, barbed wire shall be no closer than six (6) feet to the ground.

ARTICLE 16

SCHEDULE OF REGULATIONS

SECTION 1600. DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

The following regulations regarding lot sizes, yards, setbacks, building heights, and densities apply within the Zoning Districts as indicates, including the regulations contained in Section 1601 Footnotes.

Zoning District	Minimum Zoning Lot Size per Unit		Maximum Height of Structures in Feet (k)	Minimum Yard Setback (Per Lot in Feet)			Minimum Floor Area	Maximum % of Lot Area Covered by All Buildings and Impervious Surfaces
	Area in Square Feet	Width in Feet		Front	Each Side	Rear	Per Unit Square Feet	
R-1	12,000	80	25	30 (a)	10 (a,b)	35 (a)	1,420 (d)	25
R-2	6,000 (e)	60	25	25 (a)	10 (a,b,c)	30 (a)	900 (d)	30
R-3	6,000 (e)	100	30	50 (a)	35 (a,b,f)	35 (a,f)	600 (d)	30
R-4	(g)	330 (h)	25 (h)	50 (a,h)	35 (a,b,h)	35 (a,h)	600	30
TC	5,000	50	30	none	(i)	30	none	80
C	7,500	60	30	55	20 (b)	30	none	35
PT	12,000	100	30	55	20 (b)	35 (j,k)	none	35
I	none	none	35	55	20 (b,j)	35 (j,k)	none	35
CR	10,000	80	25	55	20 (b)	30	none	25

SECTION 1601. FOOTNOTES TO SCHEDULE OF REGULATIONS

- a. For all uses permitted other than single-family residential, the setback shall equal the height of the main building.

- b. In the case of a rear yard abutting a side yard, (or when a side yard is adjacent to a front yard across a common separating sheet), the side yard abutting a street shall not be less than the minimum front yard setback of the district in which is located.
- c. On an existing zoning lot having a width of 60 feet or less in a residential district, the required side yard setback may be reduced to six (6) feet, provided both parcels bordering the existing lot are improved with a permitted dwelling or structure.
- d. The minimum floor area per dwelling unit shall not include area of attics, basements, breezeways, porches, or attached garages.
- e. Minimum land area required for each dwelling unit in a two unit (duplex) residential building in the R-2 or R-3 Districts and for each apartment and townhouse unit in the R-3 District.

Dwelling Unit Size	Land Area in Square Feet per Dwelling Unit		
	Apartment Dwellings	Townhouse Dwellings	Duplex Dwellings
Efficiency or one bedroom unit	3,600	4,200	4,200
Two bedroom unit	4,200	5,400	4,200
Three bedroom unit	5,400	6,300	4,200
Four or more bedroom unit	7,200	7,200	4,200

- 1. Floor plans designating the dwelling unit as having one, two, or three bedrooms yet show a “den”, “family room”, “library”, “study”, or other additional room, shall have the additional room counted as a bedroom for land area computation purposes.
- 2. The area used for computing density shall be the total site areas exclusive of any dedicated public right-of-way or of any body of water, including regulated wetlands and detention basins, on the site.
- f. Side and rear yards for each building along a lot line shall be increased beyond the indicated minimum by two (2) feet for each ten (10) feet-or part thereof by which said building exceeds forty (40) feet in overall dimension along the lot line.

$$35 + \frac{2(L-40)}{10} = Y$$

L= Total length of building
 Y=Total yard setback

When two (2) or more multiple or townhouse dwelling structures are erected on the same lot or parcel, a minimum distance between any two (2) structures shall be twenty (20) feet plus two (2) feet for each ten (10) feet, or part thereof, by which the combined length of those portions of the two structures lie opposite each other.

$$20 + 2(LA-LB) = D$$

LA= Length of Building A that overlaps the length of Building B.
LB= Length of Building B that overlaps the length of Building A.
D= Distance between buildings

- g. The minimum lot size for a mobile home park shall be ten (10) acres.
- h. Pertains to the required dimensions for the lot width and perimeter setbacks of the entire park.
- i. No side yards are required along the interior side lot lines of the District, except as otherwise specified in the State of Michigan Building Code. If walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten (10) feet shall be required. Corner lots in the District which border a residential district shall be required to provide a setback of twenty (20) feet on the exterior side lot line. A side yard that shares the side lot line with a lot in a residential district shall require a setback of ten (10) feet in width.
- j. No building shall be located closer than fifty (50) feet to the outer perimeter (property line) of such district when said property line abuts any residential district.
- k. The maximum height does not apply to certain features as set forth in *Section 1914 Height Limit*.

ARTICLE 17

PLANNED UNIT DEVELOPMENT (PUD)

SECTION 1700. INTENT

The intent of this Article is to provide an optional method for residential land development, which allows for flexibility in the application of the requirements governing the type of residential structures permitted and their placement on the property. PUD's permit the coordinated development on larger sites in order to protect significant natural features present which the property owner and City wish to preserve, provide the opportunity to mix compatible uses or residential types, or allow clustering of residential units to preserve common open space.

A PUD will provide for the development of land as an integral unit which incorporates within a single plan the location and arrangement of all buildings, drives, parking areas, utilities, landscaping, and any other improvements or changes within the site. Deviation from the specific site development requirements of this Ordinance may be allowed, so long as the general purposes for the requirements are achieved and the general provision of the Zoning Ordinance observed.

These PUD regulations shall not be used for circumventing the more specific requirements in this Ordinance, or the planning upon which the requirements are based. Rather, these provisions are intended to result in a development which is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications to the general requirements that, in the judgment of the City, assure a superior quality of development. If this improved quality is not clearly apparent upon City review, a site shall not qualify for the modifications allowable under this development option.

SECTION 1701. ELIGIBILITY REQUIREMENTS

The following conditions shall apply to all PUD's:

- a. **Demonstrated Benefit.** The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district, as determined by the Planning Commission:
 1. The site has significant natural or historic features which will be preserved through development under the PUD standards, as determined by the Planning Commission.
 2. A complementary mixture of uses or a variety of housing types.

3. The PUD will create a more desirable environment than would be possible through the application of strict zoning requirements applied in other sections of this Ordinance.
 4. Common open space for passive or active recreational use or a design which preserves common open space, not possible under the standards of another zoning district
 5. Mitigation to offset community impacts.
 6. Redevelopment of a nonconforming site where creative design can address unique site constraints.
- b. **Availability and Capacity of Public Services.** The site shall be served by a sanitary sewer system and the municipal water system. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
- c. **Compatibility with the Master Plan.** The proposed development shall not have an adverse impact on future development as proposed in the Au Gres Master Plan.
- d. **Compatibility with the Planned Unit Development Intent.** The proposed development shall be consistent with the intent and spirit of this Ordinance.
- e. **Development Impact.** The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this Ordinance.

SECTION 1702. PERMITTED USES

A PUD shall be permitted in all Zoning Districts. Residential types permitted in the underlying zoning district shall be permitted with additional uses as provided for herein. The PUD rezoning shall be concurrent with the approval of a PUD Preliminary Plan. The PUD designation shall be noted in the application, and on the Official Zoning Map upon approval.

- a. **Residential Density.** The density of dwelling units within the approved PUD shall not generally exceed the density allowed for the underlying Residential District for which the zoning change is requested. The number of dwelling units allowed within a PUD shall be determined in the following manner:
1. The applicant shall prepare, and present to the Planning Commission for review, a parallel design plan showing the number of lots that could be developed on the site under the underlying zoning district.
 2. The parallel design plan shall be submitted with the preliminary plan of the PUD.
 3. The layout of the parallel plan shall comply with State and City requirements and design criteria for a tentative preliminary subdivision plat, fully consistent with Public Act 288 of 1967 (Land Division Act), as amended and the City subdivision control regulations. This design shall include all information that would be

- required for a tentative preliminary plat, including areas appropriately sized for storm water detention. Such areas cannot be counted towards the permitted density.
4. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed following the parallel design. This number, as determined by the Planning Commission review, shall become the maximum number of dwelling units allowable within the PUD site.
- b. **Attached Dwelling Units.** Where the underlying zoning is R-1, multiple family dwelling units shall be permitted meeting the density and design requirements of this Ordinance.
 - c. **Lot Dimensions.** Once the density has been established, the allowable number of dwelling units may be clustered with lot areas and widths reduced below the minimum requirement of the underlying zoning district, provided that the open space within the development equals or exceeds the total area of lot area reduction.
 - d. **Regulatory Flexibility.** The setback and density requirements of the underlying zoning district shall be used as guidelines for the residential open space PUD. To encourage flexibility and creativity consistent with the intent of the PUD regulations, the City may permit specific departures from the requirements of the Zoning Ordinance. A table shall be provided on the site plan that lists all deviations and regulatory modifications. Deviations shall only be approved through a finding by the City that the deviation will result in a higher quality of development than would be possible using conventional zoning requirements. Only those deviations consistent with the intent of this Article shall be considered. In no case shall a density bonus exceed an additional ten percent (10%) of the permitted number of dwelling units.
 - e. **Open Space.** All land within a development that is not devoted to a residential unit or road right-of-way shall be set aside as common land for neighborhood use, recreation, conservation, or agriculture. A minimum of fifty percent (50%) percent of the gross area of the site shall be dedicated open space held in common ownership. Open space shall be provided along the exterior public roads with a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition.

SECTION 1703. PUD DESIGN REQUIREMENTS

All PUD's shall meet the following requirements:

a. Open Space Requirements

1. **Open Space.** All land within a development that is not devoted to a residential unit or road right-of-way shall be set aside as common land for neighborhood use, recreation, conservation or agriculture.

2. **Areas Not Considered Open Space.** The following land areas are not included as dedicated open space for the purposes of meeting minimum open space requirements:
 - (a) Area proposed as single family residential or site condominium lots.
 - (b) Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
 - (c) Any area proposed for a commercial land use.
 - (d) The area of any road right-of-way or private road easement.
 - (e) Any parking and loading areas.
 - (f) Any submerged land area of a pond, lake or stream, provided protected wetlands and storm water ponds designed to appear, and function similar to a natural wetland may be counted for up to fifty percent (50%) of the minimum required open space.
 - (g) Golf courses.

3. **Open Space Location.** Open space shall be planned in locations visible and accessible to all in the development. The open space may either be centrally located, along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland or located to connect open spaces throughout the development. provided the following shall be included within the open space area:
 - (a) Open space shall be situated to maximize the preservation of any existing site woodlands or other significant natural areas.
 - (b) A minimum one hundred (100) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the City may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 - (c) Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.

4. **Open Space Protection.** The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement that is found acceptable to the City. The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan. and shall never be changed to another use. The conservation easement shall provide the following:
 - (a) Allowable use(s) of the dedicated open space shall be indicated. The City may require the inclusion of open space restrictions that prohibit the following:

- (1) Dumping or storing of any material or refuse.
 - (2) Activity that may cause risk of soil erosion or threaten any living plant material.
 - (3) Cutting or removal of live plant material except for removal of dying or diseased vegetation.
 - (4) Use of motorized off road vehicles.
 - (5) Cutting, filling or removal of vegetation from wetland areas.
 - (6) Use of pesticides, herbicides, or fertilizers within or adjacent to wetlands.
- (b) Requirements that the dedicated open space shall be maintained by parties who have an ownership interest in the open space. Requirements for scheduled maintenance of the open space shall be provided. The conservation easement shall provide for maintenance to be undertaken by the City in the event that the open space is not adequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the owners of the open space.
- (c) A provision that the dedicated open space shall forever remain open space, subject only to uses approved by the City on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require City Board approval, based upon a recommendation by the Planning Commission, and shall not diminish compliance with the requirements of this Article.
- (d) Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

b. Natural Features

1. **Limits of Tree Clearing.** The development shall be designed so as to preserve natural resources. The limits of tree clearing and grading shall be clearly shown on the preliminary site plan or plat.
 2. **Animal or Plant Habitats.** If animal or plant habitats that are characteristic of pre-settlement habitat exist on the site, the City, as a condition of approval, may require that the site plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
- c. **Landscaping.** The following landscaping requirements shall be met in addition to other landscaping requirements in this Ordinance:
1. **Street Trees.** Both sides of all internal roads shall be landscaped with street trees. One (1) deciduous canopy tree shall be provided on each side of the road for every forty (40) feet of road frontage. Existing trees preserved within ten (10) feet of the road right-of-way or easement may be credited towards meeting this requirement.

2. **Stormwater Detention Ponds.** All ponds and stormwater management facilities shall be designed to fit into the natural landscape and provide a natural appearance. Landscaping shall be provided around the perimeter of the pond to create the appearance of a natural pond or wetland. Landscaping shall include a combination of deciduous canopy trees, shrubs, and grasses that are adapted to saturated soil conditions. Canopy trees may be dispersed around the perimeter, but should provide greater clusters in locations that will provide shade and minimize the heating effect of the sun on the stormwater detention pond. Stormwater detention ponds shall be designed with shallow side slopes that do not require security fencing. For ponds not dedicated to the County Drain Commission, the development agreement shall provide for long term maintenance of the stormwater detention pond by the homeowners association.

d. **Design Requirements**

1. **PUD Design Requirements.** Signs, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
2. **Parking Lots.** Site design and landscaping shall diminish the prominence of parking lots as viewed from public streets.

SECTION 1704. APPLICATION PROCEDURES

- a. **Applicant.** An application for approval of a PUD shall be submitted by or on behalf of an applicant who has a demonstrable legal interest in all of the lands within the proposed development.
- b. **Pre-Application Conference.** An optional pre-application workshop with the Planning Commission may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal. An applicant desiring a workshop shall request placement on the Planning Commission agenda.
- c. **Preliminary Plan**
 1. Before submitting a final plan, an applicant shall submit a preliminary plan of the PUD, in accordance with requirements set forth in this Section. This plan shall show the name, location and main design elements so as to enable the Planning Commission to make a determination as to whether the Preliminary PUD is in keeping with the intent of the PUD Ordinance.
 2. The Planning Commission shall conduct a public hearing on the proposed PUD preliminary plan and rezoning. Notice of said public hearing shall be published in the local newspaper not less than fifteen (15) days prior to the date of the public hearing and in accordance with the requirements of the Michigan Zoning

Enabling Act (Public Act 110 of 2006). All property owners of lands within thirteen hundred and twenty (1,320) feet of the property in question shall be notified by first class mail or personal delivery to each dwelling unit or other occupied structure.

3. The Planning Commission approval of a preliminary plan shall confer on the applicant the conditional right that the general terms and conditions under which the preliminary plan approval was granted will not be changed. After Planning Commission approval, the PUD rezoning shall be submitted to the Monroe County Planning Department for review and comment. At the same time the PUD rezoning and preliminary plan shall be submitted to the City Council for its approval or disapproval.
- d. **Preliminary Plan Application Submission Requirements.** Fifteen (15) copies of each of the following items are required to be submitted as part of the preliminary plan application in addition to an application fee as established by the City Council:
1. Applicants name, address, phone number, proof of property interest, and the name, address, and phone number of the architect, engineer, or designer preparing the application.
 2. A written legal description of the total site area proposed for development.
 3. A site plan and supporting maps and drawing containing the following information at a scale of not more than 1" = 100' and sufficiently dimensioned so as to identify the size and location of the various elements of the plan:
 - (a) Location map.
 - (b) Site topography, existing and proposed at spot intervals (interval no greater than two (2) feet).
 - (c) The general location of all existing and proposed buildings and structures.
 - (d) Public and private roadways within and adjacent to the site.
 - (e) Walkways within and adjacent to the site.
 - (f) Park areas, driveways, and loading and service areas.
 - (g) Open areas, and a description as to use.
 - (h) A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space, and the number of parking spaces provided.
 - (i) A parallel plan showing the number of lots that could be developed on the site under the pre-PUD zoning district.
 - (j) A general landscape plan of landscaping within the site.
 - (k) The location and screening of any outside trash containers.
 - (l) The location and size of all known utilities and drainage facilities.
 - (m) The general location of all proposed utilities and drainage facilities.
 - (n) The dimensions of all parcels to be created as a part of the development.
 - (o) General building elevation drawings showing the architectural style to be used in the development.

e. **Final Plan**

1. Upon approval of a preliminary plan application, a developer shall prepare and submit a final plan application in accordance with the requirements set forth in this Section. A final plan submitted in accord with an approved preliminary plan shall warrant approval by the Planning Commission and the City Council.
2. After a study of the proposed final plan for a PUD or part thereof, the Planning Commission shall, within thirty (30) days of the receipt of said plan, recommend to the City Council approval, approval with modification, or disapproval of the project. The Planning Commission shall prepare a report explaining its action. The Planning Commission shall recommend approval of a final plan unless it is determined that said final plan is not in accordance with the approved preliminary plan.
3. Prior to final plan approval by the City Council the developer shall have executed, and submitted in duplicate to the City, an agreement with the City setting forth:
 - (a) The specific location and use of all common lands and common facilities within the development.
 - (b) The organizational structure of homeowners association and the provisions for implementation of transfer of control to said association from the developer.
 - (c) The methods for levying assessments on the common lands and facilities, both with respect to taxes and operation and maintenance fee.
 - (d) Provisions enabling the City to enter in and maintain such common lands and facilities, both with respect to taxes and operation and maintenance fee.
 - (e) Provisions whereby the Zoning Ordinance Enforcement Officer shall not issue a certificate of occupancy until all the required improvements as set forth in the site plan have been completed, or a financial guarantee sufficient to cover the cost of any improvements not completed, has been provided to the City as prescribed by the City Council.
 - (f) Provisions to allow the City to enter and complete such improvements if the developer has failed to do so within the stated period of time.
4. Upon approval of a final plan application by the City Council, the developer may obtain necessary building permits for the construction of the PUD.

f. **Final Plan Application Submission Requirements.** Fifteen (15) copies of the following items are required to be submitted as part of the final plan application in addition to the submittal requirements described in *ARTICLE 21 SITE PLAN REVIEW*:

1. A written legal description of the total site area proposed for development. (2 copies)
2. A letter of transmittal setting forth the proposed development schedule, including the sequence of any phases of development. (2 copies)

3. The organizational structure of the homeowner's association to be formed for the financing, operation and maintenance of all common open space and common property and facilities within the development. (2 copies)
4. A copy of all covenants pertaining to the development. (2 copies)

SECTION 1705. PUD REZONING

The application for PUD rezoning is reviewed and approved in accordance with *Article 28*. The preliminary PUD plan is to be considered concurrently with the application for rezoning.

SECTION 1706. APPROVAL PERIOD

- a. **Preliminary Plan.** The length of time during which the approval of the preliminary plan for a PUD remains valid shall be eighteen (18) months from the date of City Council approval. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by the City Council twice, each for a period of one (1) year.
- b. **Final Plan.** The length of time during which approval of a final plan for a PUD remains valid shall be two years from the date of City Council approval. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by the City Council twice, each for a period of one (1) year. Where a PUD is being developed in phases, the initiation of each new development phase shall automatically extend the approval for two (2) years from the date of issuance of a land use permit.

SECTION 1707. PERFORMANCE GUARANTEE

- a. **Condition for Issuance of Temporary Certificate of Occupancy.** If, when a certificate of occupancy is requested, all required site improvements have not been completed, the Zoning Ordinance Enforcement Officer may issue a temporary certificate of occupancy upon receipt from the developer by the City Clerk of a financial guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount sufficient to cover the cost of outstanding improvements.
- b. **Covered Improvements.** The amount of the performance guarantee shall be limited to cover the estimated cost of improvements necessary to comply with provisions of the Zoning Ordinance and any conditions attached to the PUD approval, and said improvements shall include, but not be limited to, roadways, lighting, utilities, sidewalks, screening and drainage.
- c. **Exemptions.** This Section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been

deposited pursuant to Act. No. 288 of the Public Acts of 1967, as amended, being Sections 560.101 to 560.293 of M.C.L.

- d. **Completion Time.** All required improvements covered by the performance guarantee shall be completed within two hundred forty (240) days of the issuance of the temporary certificate of occupancy. In the event all required improvements are not completed within the time period provided, the City, by resolution of the City Council, may proceed to have such work completed and reimburse itself for the cost thereof from the security furnished by the applicant proprietor.
- e. **Release of Performance Guarantee.** The City Clerk may authorize the release of such financial security upon completion of the outstanding improvements. Any written request from the developer seeking a release of a portion of the financial security shall be accompanied by the written certification from the developer's engineer or architect certifying what part of the improvements have, in fact, been completed.

SECTION 1708. AMENDMENTS TO PLANS

Minor changes in the location, siting, or character of buildings and structures may be authorized by the Zoning Ordinance Enforcement Officer, if required by engineering or other circumstances not foreseen at the time the final development program was approved. No change authorized under this Section may increase by more than ten (10) percent, or decrease by more than twenty percent (20%), the size of any building or structure, or change the location of any building or structure by more than ten (10) feet in any direction; provided, notwithstanding, anything in the foregoing, the Zoning Ordinance Enforcement Officer may not permit changes beyond the minimum requirements set forth in this Ordinance.

All other changes in the planned unit, including changes in the site plan and in the development schedule, must be made under the procedures that are applicable to the initial approval of the PUD.

SECTION 1709. SUBDIVISION REQUIREMENTS

Any PUD which will result in the creation of parcels of land under separate ownership, as defined in Act 288 of 1967, the Land Division Act, of Act 59 of 1978, the Condominium Act, shall comply with the provisions of those Acts.

ARTICLE 18

SITE CONDOMINIUMS

SECTION 1800. INTENT

The intent of this Article is to provide regulatory standards for condominiums and condominium subdivisions similar to those required for projects developed under other forms of ownership. This Article is not intended to prohibit or treat a proposed or existing condominium project different than a project or development under another form of ownership.

SECTION 1801. DEFINITIONS

The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of this Zoning Ordinance and the Condominium Act.

- a. **Condominium Act.** Act 59 of 1978, as amended.
- b. **Condominium Subdivision.** Equivalent to the term subdivision as used in this Zoning Ordinance.
- c. **Condominiums Subdivision Plan.** The site, survey and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location and approximate size of common elements.
- d. **Condominium Unit.** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.
- e. **Consolidating Master Deed.** The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.
- f. **Contractible Condominium.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.
- g. **Conversion Condominium.** A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

- h. **Convertible Area.** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.
- i. **Expandable Condominium.** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.
- j. **Front Yard Setback.** The distance between the front yard area line and the condominium dwelling.
- k. **Lot.** The same as Homesite and Condominium Unit.
- l. **Master Deed.** The condominium document recording the condominium project as approved by the Zoning Administrator to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
- m. **Rear Yard Setback.** The distance between the rear yard area line and the condominium dwelling.
- n. **Side Yard Setback.** The distance between the side yard area line and the condominium dwelling.

SECTION 1802. CONDOMINIUM SUBDIVISION APPROVAL

Pursuant to authority conferred by Section 141 of the Condominium Act, Act 59 of 1978, as amended, all condominium subdivision plans must be approved by the Planning Commission. All condominium plans must be approved by the Planning Commission following the same process identified in *ARTICLE 21 SITE PLAN REVIEW*. In making its determination, the Planning Commission shall consult with the Building Official and Zoning Administrator, City attorney, and the City engineer regarding the adequacy of the master deed, deed restrictions, utility systems, streets, project design and layout and compliance with the Condominium Act.

SECTION 1803. CONDOMINIUM PROJECTS

The following regulations shall apply to all condominium projects within the City of Au Gres. Concurrently with notice required to be given the City of Au Gres pursuant to Section 71 of Public Act 59 of 1978, as amended, (MCL 559.171) a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project:

- a. The name, address and telephone number of:
 - 1. All persons, firms or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).

2. All engineers, attorneys, architects or registered land surveyors associated with the project.
 3. The developer or proprietor of the condominium project.
- b. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
 - c. The acreage content of the land on which the condominium project will be developed.
 - d. The purpose of the project (for example, residential, commercial, industrial, etc.).
 - e. Approximate number of condominium units to be developed on the subject parcel.

SECTION 1804. SETBACKS AND BOUNDARIES

The setback requirements for condominium buildings shall be determined as follows:

- a. Single-family detached units:
 1. **Front yard Setback.** One-half the approved or recorded street right-of-way, plus the current setback for the existing zoning district.
 2. **Side yard Setback.** The distance between units shall be twice the zoned minimum of a typical single lot side yard setback. The distance from the unit to the limit of development shall meet the existing zoned minimum.
 3. **Rear yard Setback.** The distance between the rear of two (2) units shall be twice the zoned minimum rear yard setback of a typical single lot rear yard setback. The distance from the rear of the unit to the limits of the development shall meet the existing zoned minimum.
- b. Multiple-family buildings shall meet the standards of multiple-family development.
- c. The relocation of boundaries as defined in Section 148 of the Condominium Act shall conform to all setback requirements of this Ordinance of the district in which the project is located, shall be submitted to the Planning Commission for review and approval and these requirements shall be made a part of the bylaws and recorded as part of the master deed.

SECTION 1805. INFORMATION TO BE KEPT CURRENT

The information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy has been issued.

SECTION 1806. SITE PLANS - NEW PROJECTS MASTER DEED, AND ENGINEERING AND INSPECTIONS

1. Prior to recording to the Master Deed required by Section 72 of Public Act 59 of 1978, as amended (MCL 559.108), the condominium project shall undergo application and

- review procedures pursuant to *ARTICLE 17 PLANNED UNIT DEVELOPMENT* of this Ordinance, if submitted as a Planned Unit Development, or otherwise under *ARTICLE 21 SITE PLAN REVIEW*.
2. In determining whether to approve a condominium subdivision plan, the Planning Commission shall consult with the Zoning Administrator, City Attorney and City Engineer, regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.

SECTION 1807. CONDOMINIUM SUBDIVISION PLAN - REQUIRED CONTENT

All condominium subdivision plans shall include the information required by Section 66 of the Condominium Act and the following:

- a. A survey plan of the condominium subdivision.
- b. A floodplain plan, when appropriate.
- c. A site plan showing the location, size, shape, area and width of all condominium units.
- d. A utility plan showing all sanitary sewer, water, and storm sewer lines and easements granted to the City for installation, repair and maintenance of all utilities.
- e. A street construction, paving and maintenance plan for all private streets within the proposed condominium subdivision.
- f. A storm drainage and stormwater management plan, including all lines, swales, drains, basins and other facilities.
- g. Location and placement of street and or pedestrian scale lighting.
- h. Sidewalk Ordinance (refer to Appendix).
- i. Pedestrian Ways, if included in the Plan.
- j. All other information required for site plans in Article 21.

SECTION 1808. EXPANDABLE OR CONVERTIBLE PROJECTS

Prior to expansion or conversion of a condominium project to additional land the new phase of the project shall undergo site plan review and approval pursuant to *ARTICLE 21 SITE PLAN REVIEW* of this Ordinance.

SECTION 1809. MASTER DEED, RESTRICTIVE COVENANTS AND AS BUILT SURVEY TO BE FURNISHED

The condominium project developer or proprietor shall furnish the Zoning Administrator with the following: One (1) copy of the recorded Master Deed, one (1) copy of all restrictive covenants and two (2) copies of an as built survey. The as built survey shall be reviewed by the City Engineer for compliance with City ordinances. Fees for this review shall be established by resolution of the City Council.

SECTION 1810. MONUMENTS REQUIRED

All condominium projects which consist in whole or in part of condominium units which are building sites, or recreational sites shall be marked with monuments as provided in this subsection:

- a. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the side lines of the streets.
- b. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
- c. Monuments shall be located in the ground at all angles in the boundaries of the condominium.
- d. project: at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project: at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.
- e. If the required location of monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
- f. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
- g. All required monuments shall be placed flush with the ground where practicable.
- h. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.
- i. The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the City Clerk cash or a certified check, or irrevocable bank letter of credit running to the City of Au Gres whichever the proprietor selects, in an amount not less than twenty-five dollars (\$25.00) per monument and not less than one hundred dollars (\$100.00) in total. Such cash, certified check or irrevocable bank letter of credit shall be

returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

SECTION 1811. ASSESSMENT OF UTILITIES

The condominium subdivision plan shall include all necessary easements granted to the City of Au Gres for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and or removing pipe lines, mains, conduits and other installations of a similar character (hereinafter collectively called public structures) for the purpose of providing public utilities, if the City assumes ownership and operation of such utilities, including conveyance of sewage, water and storm water run-off across, through and under the property subject to such easement, and excavating and refilling ditches and trenches necessary for the location of such public structures.

SECTION 1812. PRIVATE STREETS

If a condominium subdivision is proposed to have private streets, they shall be developed to the minimum design, construction, inspection, approval, and maintenance requirements of *Section 1931 Private Roads*. In addition, all private streets in a condominium subdivision shall have a paved driving surface of asphalt or concrete.

SECTION 1813. ENCROACHMENT PROHIBITED

Encroachment of one condominium unit upon another, as described in Section 40 of the Condominium Act, shall be prohibited by the condominium bylaws and recorded as part of the master deed.

SECTION 1814. RELOCATION OF BOUNDARIES

The relocation of boundaries, as described in Section 48 of the Condominium Act, shall conform to all setback requirements of this Ordinance for the district in which the project is located, shall be approved by the Zoning Administrator, and this requirement shall be made part of the bylaws and recorded as part of the master deed.

SECTION 1815. SUBDIVISION OF CONDOMINIUM UNITS

All subdivisions of individual condominium units shall conform to the requirements of this Ordinance for minimum lot width, lot area, and building setback requirements, for the district in which the site condominium project is located, and these requirements shall be made part of the bylaws and recorded as part of the master deed.

SECTION 1816. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW

All condominium projects shall comply with Federal and State Statutes and local ordinances. The developer or proprietor of the condominium project shall establish that appropriate state, county and City of Au Gres approvals have been received with regard to the fresh water system for the proposed project and with regard to the wastewater disposal system for the proposed project.

SECTION 1817. TEMPORARY OCCUPANCY

The Zoning Administrator may allow occupancy of the condominium project before all improvements required by this Ordinance are installed provided that a bond is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the City.

SECTION 1818. CONDOMINIUM SUBDIVISION LAYOUT, DESIGN AND APPROVAL.

All Condominium Subdivision Plans shall conform to the design, layout and improvement standards of Article 21. Nothing in this section shall be construed as requiring a condominium subdivision to obtain plat approval under the Subdivision Control Act.

ARTICLE 19

GENERAL PROVISIONS

SECTION 1900. CONFLICTING REGULATIONS

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

SECTION 1901. SCOPE

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

SECTION 1902. BUILDING AND OCCUPANCY PERMITS

- a. **Building Permits Required.** Any construction related to any type of zoning administrative approval shall be commenced only after a building permit has been obtained.
- b. **Access.** To be eligible for a building permit a lot shall have access to public street or highway or to a private street meeting public standards.
- c. **Prior Building Permits.** Any building permit issued prior to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within ninety (90) days after the date the permit was issued and that the building is completed according to the plans filed with the permit application within one (1) year of the date of issuance.
- d. **Occupancy Permit.** Upon completion of a structure and all required site improvements per approved site plan, and before moving into a building in any district, an occupancy permit is required. See *ARTICLE 29* for specific permit requirements.

SECTION 1903. ABANDONED BUILDINGS AND STRUCTURES

Any building or structure not in continuous use as defined by Permitted, Special Land Use, or nonconforming uses in any district for a period greater than 365 days, shall be considered abandoned and come under the provisions of this ordinance and other City of Au Gres codes for buildings and structures. In order to obtain a certificate of occupancy as a use in the future, once three hundred sixty-five (365) days have passed, the building or structure shall

have to meet all the current standards of all applicable City codes, specifically Article 20 "Nonconformities."

SECTION 1904. UNLAWFUL BUILDING

In case any building, or part thereof, is used, erected, occupied or altered contrary to law or the provisions of this Ordinance, such building shall be deemed an unlawful structure and a nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this Ordinance. Public expenditures toward abating such nuisance shall become a lien upon the land. A building or structure which was deemed unlawful prior to the adoption of this Ordinance shall not be made legal solely by the adoption of this Ordinance.

SECTION 1905. TEMPORARY USES

The Zoning Administrator may issue temporary use permits for the following uses after determining that these uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second temporary use permit may be issued by the Zoning Administrator at the end of a time limit if the applicant shows good cause. The Zoning Administrator may attach the conditions and requirements deemed necessary to meet the intent of the provisions of this section. A third temporary use permit may only be authorized by the Zoning Board of Appeals.

- a. **Required Information.** In addition to the required information pertaining to the request as contained within this section, the applicant shall submit the following to the Planning Department:
 1. A completed application form and required fee.
 2. A written statement describing the requested use, operations plan, traffic control and the proposed time period.
 3. A plot plan or sketch that illustrates.
 - (a) The property lines of the site.
 - (b) Adjacent uses and zoning districts.
 - (c) Location of fire hydrants.
 - (d) Existing and proposed buildings or structures.
 - (e) Boundaries of proposed sales/activity areas.
 - (f) Proposed lighting.
 - (g) Proposed traffic circulation.
 - (h) Location and size of proposed signs.
 - (i) Location and method of waste disposal.
 - (j) Any other information deemed necessary by the Planning Department.
 4. Proof of ownership, or if the applicant is not the owner of the land, written permission from the owner to use the property for said use.
 5. Information establishing a reasonable liability insurance is carried.

6. A performance guarantee or escrow in the amount of \$250 for sites one acre or less in size and \$500 for sites over one (1) acre shall be paid to the City. If it is determined that based on the nature of the temporary use the standard bond amount will be insufficient to cover site restoration costs, the amount of the bond shall be determined by the City. The performance guarantee shall be deposited prior to the issuance of a permit and used by the City to pay the cost of returning the property to its state prior to commencement of the event or refunded to the proprietor upon compliance with the requirements of this or any other applicable ordinances.
 7. Outside agency permits and approvals, if necessary.
- b. **Standards for All Temporary Uses.** The review of temporary uses, events or buildings shall be reviewed in accordance with the following standards:
1. Proposed temporary event or use shall be located on a lot with a permitted principle building or on a vacant lot when the minimum required setbacks for the district are met.
 2. When temporary event is located on a parcel with an existing building, it shall be a maximum ten (10) feet from the building.
 3. Goods and display materials must be stored inside during non-business hours, excluding Christmas tree sales.
 4. The temporary event shall not eliminate or negatively impact required parking for the building or underlying use. Additional parking may be required upon a finding that the proposed temporary use increases the need for parking.
 5. All equipment, materials, goods, poles, wires and other items associated with the seasonal event shall be removed from the premises within five (5) days of the event.
- c. **Outdoor Cafes and Eating Areas.** Standards for temporary uses, outdoor cafes and eating areas are subject to the following conditions:
1. Permits shall be granted for May through October.
 2. No lighting or music is permitted, unless otherwise allowed by Planning Commission.
 3. Proposed area must meet Michigan barrier-free requirements.
 4. Permits shall be reviewed annually by the Zoning Board of Appeals.
- d. **Additional Standards**
1. **Mobile Homes.** An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to ninety (90) days while a dwelling or structure is being constructed or reconstructed on the same premises. A temporary permit shall be issued by the Zoning Administrator prior to any similar use.
 2. **Signs and Supplies.** The storage of building supplies and machinery; temporary storage buildings; the assembly of materials associated with a customary trade; and contractor, architect, and identification signs in connection with a construction project, may be authorized by the Zoning Administrator for a period of up to twelve (12) months. A temporary permit may be issued for the use of portable signs by business, industry, or institutions, but not including private dwellings.

3. **Seasonal Uses.** The Zoning Administrator may authorize a temporary permit for up to thirty (30) days for seasonal or unusual non-recurrent temporary uses and signs.

SECTION 1906. ACCESSORY USES

Nothing in this Ordinance shall be construed to prohibit the following accessory uses:

- a. Customary refreshment and service uses and buildings which are incidental to the recreational use of any park or recreational area.
- b. Buildings or structures necessary for provision of essential services.
- c. Gardens, garden ornaments and usual landscape features within required yard space.
- d. Fences, walls, and screens within required yard space.
- e. Retaining walls.
- f. Public playgrounds.
- g. Off-street parking for licensed automobiles, recreational vehicles and other motor vehicles not including trucks over one (1) ton rated capacity.
- h. Use of premises as a voting place.
- i. The renting of rooms to not more than two (2) non-transient persons in a dwelling unit which is otherwise occupied in a manner permitted in the district in which it is located.
- j. Storage sheds, playhouses, and shelters for transit or school bus passengers.
- k. Radio or TV antennas.
- l. Swimming Pools, in accordance with the provisions of *Section 1932 Swimming Pools, Spas or Hot Tubs*.

SECTION 1907. ACCESSORY BUILDINGS

Accessory buildings, except as otherwise permitted in this Ordinance shall be subject to the following regulations:

- a. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
- b. Accessory buildings shall not be erected in any required yard, except a rear yard.
- c. An accessory building shall not occupy more than twenty-five (25) percent of a

required rear yard, plus forty (40) percent of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.

- d. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than ten (10) feet to any side or rear lot line.
- e. No detached accessory building in R-1 through R-4, TC, C and CR Districts shall exceed one (1) story or fourteen (14) feet in height. Accessory buildings in the PT and I districts may be constructed to equal the permitted maximum height of structures in those districts.

The height of a detached building may be increased by an additional one (1) foot for every one (1) foot of setback provided to any side or rear lot line, up to a maximum height of 20 feet (e.g. a twenty (20) foot tall accessory building would need to be a minimum of sixteen (16) feet from any side or rear lot line). However, the maximum height of any accessory building on a waterfront lot shall be fourteen (14) feet.

- f. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot to the rear of the corner lot. In no instance shall an accessory building be located nearer than ten (10) feet to a street right-of-way line.
- g. When an accessory building in any Residential District is intended for other than the storage of private motor vehicles, the accessory use shall be subject to the approval of the Planning Commission.

SECTION 1908. BUILDINGS TO BE MOVED

Any building or structure which has been wholly or partially erected on any premises located within or outside the City shall not be moved and/or be placed upon any premises in the City unless there is full compliance with City ordinances. Any such building or structure shall fully conform to all provisions of this ordinance and applicable housing codes, and be compatible with the general character and design of surrounding properties. Such compatibility shall first be determined by the Zoning Administrator after reviewing the structure and site. Compatibility shall be based upon the definition of "dwelling" and the character of similar structures located within two thousand (2,000) feet, in the same zoning district. The application for a permit to move a building shall require a fee, which shall be determined by the City Council.

SECTION 1909. RESTORING UNSAFE BUILDINGS

Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Zoning Administrator. Any such strengthening or restoring shall be in accordance with the State Building Code

SECTION 1910. EXCAVATION OF HOLES

The construction, maintenance, or existence of unprotected or unbarricaded holes, pits, wells, building pads, or similar excavations which cause, or are likely to cause a danger to life, health, and safety to the general public shall be prohibited. This section shall not, however, prevent any excavation which is required for constructing, remodeling, or expanding structures, or for industrial operations, provided appropriate precautionary measures, such as the placement of warning signs, fences, etc., have been approved by the Zoning Administrator and placed on the premises. Nothing in this section shall apply to bodies of water, ditches, streams, or other major natural resources created or existing by the authority of the State of Michigan, Arenac County, the City of Au Gres, or other units of government.

SECTION 1911. MIXED OCCUPANCY

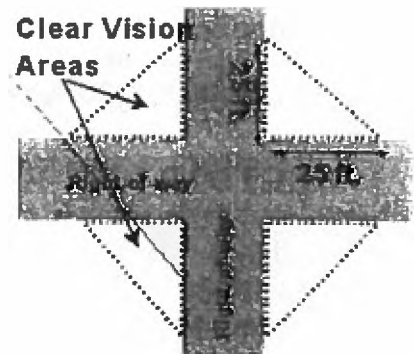
- a. The Zoning Administrator shall refer any plans to the Fire Chief and Health Department for their review of any existing or anticipated fire or health hazards before issuing a zoning permit for any construction for any premises that meet any of the following conditions:
 1. are intended for a combination of dwelling and commercial or dwelling and industrial occupancy.
 2. that would result in an increased number of dwelling units within a building partly occupied by business or industrial use.
 3. that would result in an increased area devoted to business or industrial use, within a building partly occupied as a dwelling.
- b. Recommendations as to additional provisions or changes in the interest of safety or health shall be complied with before issuance of a permit.

SECTION 1912. CONNECTIONS TO DRAINAGE SYSTEM

Surface drains, ground water drains, and foundation or footing drains shall be connected whenever possible to an enclosed storm sewer, but they shall not discharge to a sanitary sewer or private waste water treatment plant.

SECTION 1913. CORNER CLEARANCE

No fence, wall, shrubbery, sign, or other obstruction to vision above a height of two (2) feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines with other street right-of-way lines or access drives by a straight line drawn, to form a Clear Vision Area, between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection. No access drive shall be permitted within the Clear Vision Area.



SECTION 1914. HEIGHT LIMIT

The height limitations of this Ordinance shall not apply to parapets, cornices, cooling towers, elevator bulkheads, fire towers, cupolas, penthouses, ornamental towers, farm buildings, chimneys, church spires, flag poles or public monuments.

SECTION 1915. PORCHES AND DECKS

A porch, including an open, unenclosed, and uncovered porch or paved terrace, may project into a front yard for a distance not exceeding ten (10) feet, but this shall not be interpreted to include or permit fixed canopies.

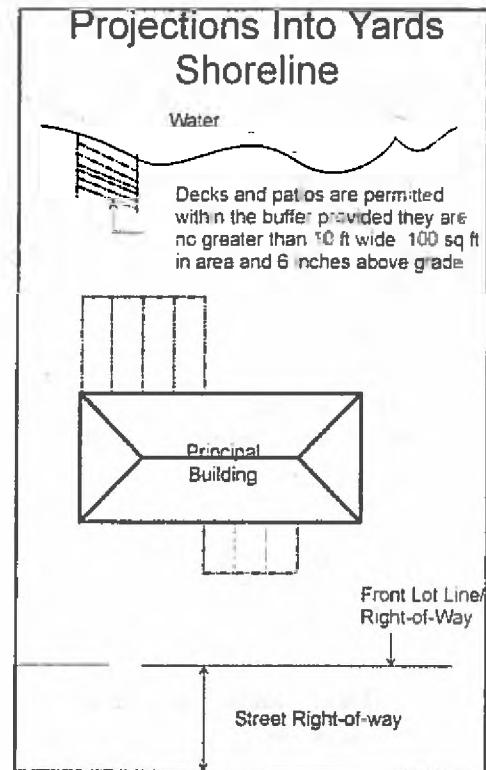
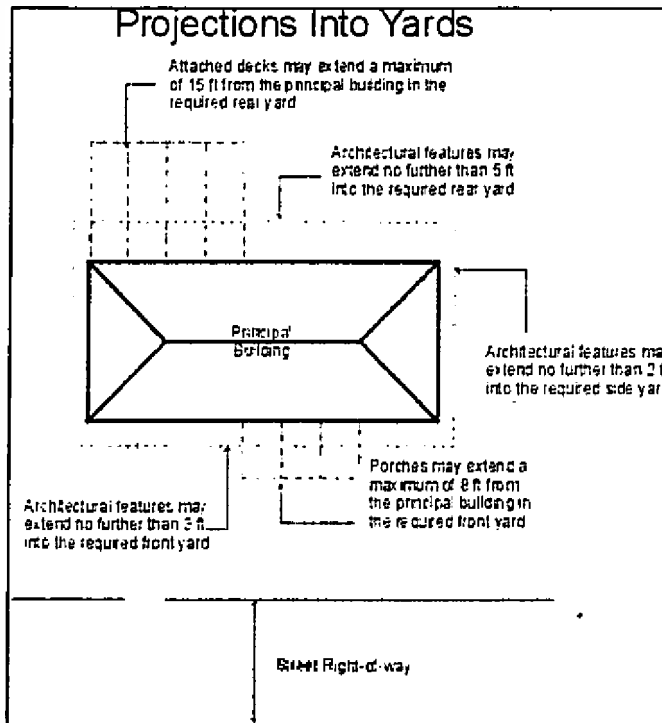
All decks and similar structures shall be allowed as accessory uses only and not as principal permitted uses in any district. Decks, uncovered, whether attached or unattached to a principle structure, shall be subject to the following:

- a. Decks may not extend further than 16 feet into the required rear yard setback. Stairs may extend beyond the end of the deck for the minimum distance necessary to meet the established grade in the rear yard.
- b. Decks shall not extend into the required side yard, except an uncovered, elevated walkway made of deck materials may be permitted as a means of accessing the deck. The width of the walkway shall not exceed three (3) feet, six (6) inches and may wrap around a bay window or other similar projection for the minimum distance necessary.
- c. When adjacent to a shoreline of any lake, pond, treatment basins, watercourse or wetland regulated by the Michigan Department of Natural Resources or United States Environmental Protection Agency, a minimum 15 foot wide buffer shall be provided between the deck and the nearest edge of the shoreline.
 1. A walkway, maximum ten (10) feet wide, is permitted within the 15 foot buffer.

SECTION 1916. PROJECTIONS INTO YARDS

- a. Certain architectural features, such as cornices, eaves, gutters, chimneys, pilasters, and similar features may project no farther than:
 1. Three (3) feet into a required front yard.
 2. Five (5) feet into a required rear yard.

3. Two (2) feet into a required side yard.



- b. Building appurtenances such as patios, balconies, stoops, window awnings, or similar features which are elevated six (6) inches or more above grade, shall not project into a required side yard. A patio, stoop, balcony, or window awning may project no farther than:
1. Ten (10) feet into a required front yard.
 2. Sixteen (16) feet into a required rear yard.

SECTION 1917. ACCESS THROUGH YARDS

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards and or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine (9) inches above the grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yard.

SECTION 1918. WASTE RECEPTACLES

All garbage and rubbish must be stored in closed containers within approved waste receptacles or within a building until the time of collection. No garbage or rubbish may be stored so as to cause hardship, health hazard, or annoyance to adjoining properties. The following standards apply to waste receptacles:

- a. Waste receptacles may be located in a required rear or side yard, provided it is not located in front of the front building line.
- b. Waste receptacles must be conveniently accessible to servicing vehicles.
- c. The concrete base shall extend six (6) feet beyond the front edge of the receptacle pad or gate, to support the front axle load of a refuse vehicle. The base shall be constructed with six (6) inches of reinforced concrete and designed to prevent any liquid or other matter from draining into adjacent areas.
- d. An enclosure, meeting the standards below, is required:
 1. The enclosure shall be provided on three (3) sides with a gate on the fourth side if visible to a residential unit or area visible to the public.
 2. The enclosure shall be constructed of brick or decorative concrete material, which matches or complements the primary building material. Wood may be approved provided the lumber at least five (5) inches wide with a thickness not more than two (2) inches greater than the width. All lumber products to be approved by the Chief Building Official.
 3. The height shall be at least six (6) feet or one (1) foot above the height of the enclosed waste receptacle, whichever is greater. The enclosure shall provide a three (3) foot clear area between the waste receptacle and any screen wall. A change to a larger or taller waste receptacle may require modifications to the screening to retain compliance with these standards.
- e. The waste receptacle must have an enclosing lid or cover.
- f. The enclosure shall be located as far as practical, but not less than 20 feet, from a residential property line or district.

SECTION 1919. PERFORMANCE STANDARDS

- a. **Scope.** After the effective date of this Ordinance, any use established or changed to (and any buildings, structure, or tract of land developed, constructed or used for) any permitted principal or accessory use in all Commercial and Industrial Districts shall comply with all of the performance standards herein set forth for the district. If any existing use or building or other structure is extended, enlarged, or moved, the performance standards for the district involved shall apply with respect to such extended, enlarged, moved, structurally altered or reconstructed building or other structure or portion thereof, and with respect to land use which is enlarged or moved.
- b. **Procedure for Determination of Compliance.** The purpose of these procedures is to insure that an objective, unbiased determination is made in those cases where there may be substantial doubt as to whether an individual use or group of uses complies with the Performance Standards of this Ordinance, and to formulate practical ways for the alleviation of such noncompliance.

1. Subsequent to a preliminary study of the performance characteristics of an existing or proposed use, the Zoning Administrator shall make a determination as to whether there exist reasonable grounds to believe that the use in question may violate the performance standards set forth in this Section and may initiate an official investigation. Following the initiation of an official investigation, the Building Official is hereby empowered to require the owner or operator of the use in question to submit such data and evidence as he or she may deem essential to permit an objective determination. Failure to submit data required by the Zoning Administrator shall constitute grounds for denying a permit for that use of land.
2. Where determinations can reasonably be made by the Zoning Administrator using equipment and personnel normally available to the City or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued. Where determination of a violation is made, the Zoning Administrator shall take or cause to be taken lawful action as provided by this Ordinance to eliminate such violation. Failure to obey lawful orders concerning cessation of violation shall be punishable as provided in this Ordinance.
 - (a) **Notice.** The Zoning Administrator shall give written notice, by certified mail (return receipt requested or other means insuring a signed receipt for such notice) to those owners or operators of subject use deemed responsible for the alleged violations. Such notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or a correction of the alleged violation to the City's satisfaction within a reasonable time limit set by the City. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the City within the time limit set constitutes admission of violation. The notice shall further state that upon request of those to whom it is directed, technical determinations as described in the appropriate portions of this Ordinance will be made. The notice shall also state that if the violation as alleged is found to exist in fact, costs of the determinations will be charged against those responsible in addition to such other penalties as may be appropriate. If it is determined that no substantive violation exists, then the costs of this determination will be paid by the City.
 - (b) **Reply Requesting Extension of Time.** If a reply is received within the time limit set indicating that an alleged violation will be corrected to the satisfaction of the City, but that more time is required than was granted by the original notice, the Zoning Administrator may grant an extension of time, if he or she deems such extension is warranted in the circumstances in the case, and if such extension will not, in the Zoning Administrator's opinion, cause imminent peril of life, health, or property.
 - (c) **Reply Requesting Technical Determination.** If a reply is received within the time limit set requesting technical determinations as described in the appropriate provisions of this Ordinance and if the alleged violations continue, the Zoning Administrator may call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards to exist in fact, the costs of the determinations shall be paid by the person(s) responsible for the violations, in addition to such other penalties as may be appropriate

under the terms of this Ordinance. If no substantive violation is found, costs of the determination shall be paid by the City.

3. If, after the conclusion of the time granted for compliance with the performance standards, the Zoning Administrator finds the violation is still in existence, any permits previously issued shall be void and the operator shall be required to cease operation until the violation is remedied.
- c. **Appeals.** The Zoning Administrator's action with respect to the performance standards procedure may be appealed to the Zoning Board of Appeals within thirty (30) days following said action. In the absence of such appeal, the Zoning Administrator's determination shall be final.
 - d. **Performance Standards.** Any use established in a Commercial or Industrial District shall not be permitted to carry out any activity or operation or use of land, building or equipment that produces an irritant to the sensory perceptions greater than the standard measures for safeguarding human safety and welfare.
 1. **Noise.** No operation or activity shall be carried out in a Commercial or Industrial District which causes or creates measurable noise levels exceeding the maximum sound pressure levels prescribed below, as measured on or beyond the property line of the operation or activity. A sound level meter and an octave band analyzer shall be used to measure the level and frequency of the sound or noise during the day and/or the night. The measuring equipment and measurement procedures shall conform to the latest ANSI specifications on acoustics. The sound level meter and octave band analyzer shall be calibrated before and after the measurements. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer; and the measurements so obtained may be permitted to exceed the maximum levels provided in Tables A by no more than five (5) decibels. For purposes of this Ordinance, impact noises shall be considered to be those noises whose peak values are more than seven (7) decibels higher than the values indicated on the sound level meter.

TABLE A - MAXIMUM PERMITTED SOUND PRESSURE LEVELS IN DECIBELS (Post-1960 Preferred Frequencies)		
Center Frequency (Cycles Per Second)*	Commercial and Industrial Districts	
	Day**	Night**
31	77db	72db
63	73	68
125	67	62
250	62	57

500	55	50
1,000	51	46
2,000	44	39
4,000	37	32
8,000	33	28
* Sound level meter set on the "C" or "flat" scale, slow response.		
** Day: 7:00 A.M. to 8:00 P.M.		
Night: Between 8:00 P.M. and 7:00 A.M.		

- (a) Where street traffic noises directly adjacent to the boundary line exceed these maximum permitted levels, the intensity levels permitted may then exceed those levels specified in the tables but may not exceed the level of the subject adjacent street traffic noises. For those areas in which the existing background noise levels exceed the maximum permitted levels, the noise levels at the boundary line may not exceed the background noise levels. In such cases, a study shall be made to determine the character of the background noise to include sources, levels and duration.
 - (b) Sounds of an intermittent nature or characterized by pure tones may be a source of complaints even if the measured level does not exceed that specified. In such cases, the complaints shall be investigated to determine the nature of and justification for the complaint and possible corrective action. If the complaints are not resolved within sixty (60) days, the Zoning Administrator may then proceed to take steps to enforce the terms of the Zoning Ordinance in accordance with the remedies provided herein.
 - (c) Application for variance from the sound level provisions may be submitted to the Zoning Board of Appeals. In such cases, the owner or operator of equipment on the property in the specific district shall submit a statement regarding the effects of noise from his equipment on the noise levels in the surrounding area. This statement will include a study of background noise levels, predicted levels at the boundary lines due to equipment operation and justification for the variance; The requests for variance will be reviewed by the Zoning Board of Appeals and granted where unnecessary hardship would otherwise be imposed upon the applicant and where no basic injury to the surrounding area will result. The Zoning Board of Appeals may impose conditions of operation in granting a variance.
2. **Dust, Soot, Dirt, Fly Ash and Products of Wind Erosion.** The regulation of smoke, dust, soot, dirt, fly ash and products of wind erosion shall be subject in all respects to the State of Michigan Air Pollution Control Act, Act 348 of the Public Acts of 1965, as amended.
 3. **Vibration.** Machines or operations which cause vibration shall be permitted, but no operation shall be permitted to produce ground transmitted oscillations which cause a displacement exceeding that specified in the following Tables B and/or C as

measured at the property line. These vibrations shall be measured with a seismograph or accelerometer; preferably the former. For purposes of this Ordinance, steady state vibrations are vibrations which are continuous, or vibrations in discrete impulses more frequent than sixty (60) per minute. Discrete impulses which do not exceed sixty (60) per minute shall be considered impact vibrations. Between the hours of 8:00 p.m. and 7:00 a.m. all of the following maximum vibration levels, as measured on or beyond the boundary line of residentially used areas adjacent to a Commercial or Industrial District, shall be reduced to one-half ($1/2$) the indicated permissible values.

TABLE B - MAXIMUM PERMITTED STEADY STATE VIBRATION IN INCHES	
Frequency (Cycles Per Second)	Vibration (inches)
below 10	0.001
10 to 19	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

TABLE C - MAXIMUM PERMITTED IMPACT VIBRATION IN INCHES	
Frequency (Cycles Per Second)	Vibration (inches)
below 10	0.002
10 to 19	0.0015
20 to 29	0.001
30 to 39	0.0005
40 and above	0.0002

4. **Odor.** The Emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.
5. **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 lines, except during the period of construction of the facilities to be used and occupied.
6. **Fire and Safety Hazards.** The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all regulations of the City and with all State rules and regulations, and regulations as established by the Fire Prevention Act, Act 207, Public Acts of 1941, as amended. Further, all storage tanks for flammable liquid

materials above ground shall be located at least one hundred and fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes or other types of retaining wall which will contain the total capacity of all tanks so enclosed. Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greater depth to the bottom of the buried tank.

7. **Light.** Exterior lighting shall be so installed that the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to reflect light away from any residential use. In no case shall more than one (1) foot-candle power of light cross a lot line five (5) feet above the ground into a Residential District. Illumination levels shall be measured with a footcandle meter or sensitive photometer and expressed in foot-candles. All outdoor lighting shall also conform to the following standards:
 - (a) All outdoor lighting used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights from all adjacent residential districts or adjacent residences.
 - (b) All outdoor lighting shall be directed toward and confined to the ground areas of lawns or parking lots.
 - (c) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
 - (d) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.
 - (e) All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
8. **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. SO₂ gas as measured at the property line at ground elevation shall not exceed an average of 0.3 ppm. H₂S likewise shall not exceed 1 ppm. Fluorine shall not exceed 0.1 ppm. Nitrous fumes shall not exceed 5 ppm and Carbon Monoxide shall not exceed 15 ppm. All emissions shall be measured as the average intensity during any 2-hour sampling period.
9. **Electromagnetic Radiation.** Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this Ordinance.
10. **Drifted and Air-Borne Matter, General.** The drifting or air-borne transmission beyond the lot line of dust, particles or debris shall be unlawful and shall be summarily caused to be abated.

SECTION 1920. DEVELOPMENT IN FLOODPLAINS

Any buildings considered for construction in a floodplain or floodway as defined by the FEMA shall be in conformance with the State of Michigan's laws being P.A. 167 of 1968 and P.A. 346 of 1972.

SECTION 1921. DUMPING OF SOIL, SAND, CLAY MATERIALS

The extensive dumping of soil, sand, clay or similar materials shall not be allowed on any lot or parcel without approval of the Planning Commission and subject to the requirements set forth by the Planning Commission.

SECTION 1922. SIDEWALKS

In all zoning districts the following sidewalk standard shall be complied with whenever a new or used building addition to an existing use or building or the erection of an accessory building occurs on a site.

- a. A public sidewalk shall be provided along-all public street rights-of-way.
- b. An interior lot sidewalk pattern for special uses in all districts except for the CR District shall be provided linking the parking area to the principal use.

SECTION 1923. RECREATION VEHICLES

Parking of recreation vehicles is permitted in the City of Au Gres only if the unit, while parked, is:

- a. Not used for dwelling purposes, except a recreation vehicle may be used for dwelling purposes for a maximum of fourteen (14) days in any calendar year on any given lot provided that a permit is obtained from the City and a fee is paid as established by City Council for the purpose of assuring public health and safety. Recreation vehicles cannot be located on a vacant lot except for once a year not exceeding fourteen (14) days.
- b. Not permanently connected to sewer line, water lines, or electricity.
- c. Not used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use.
- d. Notwithstanding the provisions of a. and b. above, during active loading or unloading, the use of electricity or propane fuel is permitted when necessary to prepare a recreation vehicle for use.
- e. A recreation vehicle not owned by the property owner or tenant cannot be stored outdoors for more than fourteen (14) days in any calendar year.
- f. Location Standards
 1. Generally. Recreational vehicles and/or recreational equipment shall be prohibited in the front yard unless otherwise permitted in this Section.
 2. Setbacks. Recreational vehicles or equipment shall be placed or parked on a hard surface not closer than ten (10) feet from any structure and set back a minimum of three

- (3) feet from any lot line, except as provided in paragraphs 3. through 9. below.
3. Placement on Lot. Recreational vehicles and equipment are permitted to be parked or stored only on a lot with a principal building, structure, or use unless it is adjacent lot which is under the same ownership.
 4. Time Limits. Recreational vehicles or recreational equipment may be stored, parked, or placed within any front yard or within a public right-of-way where on-site parking is permitted for a period not exceeding seventy-two (72) hours for loading and unloading or for normal maintenance and cleaning.
 5. Corner Lots. In the case of corner lots, as defined in this Ordinance, the regulations of this Section shall apply to both the front yard and the exterior side yard.
 6. Through Lots. In the case of through lots, as defined in this Ordinance, parking and storage shall be permitted in the rear yard, as determined by Building Official/Zoning Administrator, provided the parked vehicle meets the front and side yard principal building setback requirements of the zoning district.
 7. Through Corner Lots. In the case of through lots on a corner (i.e. lots with frontage along three (3) streets), parking shall be allowed only in the side yard. The Building Official/Zoning Administrator may permit parking in the rear yard, as noted in paragraph 5. above, upon determination that such parking is allowed on the adjacent lot.
 8. Waterfront Lots. Recreational vehicles and/or recreational equipment on waterfront lots shall be placed or parked on the street side of the property.
 9. Shoreline Setbacks. Recreational vehicles or structures on waterfront lots shall be stored so they comply with the same required minimum setbacks that apply to the main building. This requirement does not apply when the vehicle or structure is in use. For example, storage in the required setback is permitted for a boat during summer months and for an ice fishing shanty or snowmobile during winter months.
- g. Owner or Legal Tenant. The owner of any recreational vehicle or equipment placed or parked on a lot shall be the owner of the lot or the legal tenant.
- h. Condition and Licensing Requirements. All recreational vehicles and/or recreational equipment stored or parked in any Residential District shall be in an operable condition, as determined by the Building Official/Zoning Administrator.
- i. Detachable Camper Tops. Detachable camper tops shall not be stored in any Residential District except in accordance with above guidelines. Further, camper tops that are not installed on a licensed and operable vehicle must be placed on the ground and stabilized.

SECTION 1924. PARKING OF HEAVY TRUCKS

Overnight parking of commercial vehicles in excess of one (1) ton rated capacity, including all semi-truck tractors and trailers, is prohibited within any Residential Zoning District. Furthermore, all commercial trucks on non-residential property must be parking in the rear yard. This regulation does not apply to emergency vehicles or equipment.

SECTION 1925. PARKING OR STORAGE OF JUNK VEHICLES

Any motor vehicle, trailer, or semi-trailer which is inoperable and which, by virtue of its condition, cannot reasonably be restored to operable condition shall be considered a junk vehicle. A vehicle shall be considered inoperable if one of the following is evident for more than thirty (30) days: unable to start without assistance; one or more flat tires; on blocks or stands; not in safely driveable condition; or other condition making the vehicle inoperable. No junk vehicle shall:

- a. Be parked or stored on residentially zoned property except when parked or stored in a completely enclosed garage or building.
- b. Be considered a legal accessory use in any nonresidential district if stored or parked outside the confines of a building.
- c. Be stored outside a building unless located as part of an automobile repair station or junk yard.

SECTION 1926. AUTOMOBILE SALES

The commercial sale or trade of automobiles or other vehicles shall only be permitted on property which is zoned for such use. No vehicle(s) for sale or trade are to be parked or displayed on any property which has not been zoned and approved for such use. However, this restriction does not apply to the sale or trade of a personal vehicle which is registered to the owner or resident of the property upon which the vehicle is displayed.

SECTION 1927. VOTING PLACE

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

SECTION 1928. ESSENTIAL SERVICES

Essential services shall be allowed by Special Use Permit in all districts, provided that such uses shall be reviewed by the Planning Commission as to architecture and/or landscaping suitable to the District in which such services shall be located and all structures shall be compatible in appearance and design with the development of the area and with the zoning classification in which they are located. Basic Essential Services such as poles and wires, but not including buildings, storage areas, or other structures, shall be allowed as permitted use in all districts.

SECTION 1929. STREETS

To provide for the public health and welfare through adequate light and ventilation and for the safety of persons and property in the use of the streets of the City, all public streets platted,

laid out, or dedicated and accepted by the City shall have a right of way width of at least sixty-six (66) feet.

SECTION 1930. PRIVATE ROADS

Private Roads shall be allowed only in site condominium or condominium developments in the City of Au Gres. Such roads must be constructed according to the City's engineering and design standards for streets and be maintained by the developer or designated condominium association.

SECTION 1931. TEMPORARY COMMERCIAL USE, INCLUDING SEASONAL OUTDOOR SALES/VENDORS

Where a property is used for the commercial sale of retail or wholesale goods and services for a continuous period of thirty (30) days or less within any twelve (12) month period, it shall be required to obtain a permit from the City of Au Gres for such use for an initial period of thirty (30) days, with a renewal of the permit required for another (30) day period thereafter during which that business proposes to operate, up to a maximum of sixty (60) days. This shall include such for-profit businesses as seasonal fruit and vegetable stands, flower stands, crafts sales and similar businesses located on commercial parking lots or other properties along major and local streets within the City. This requirement also applies to portable vendor carts using public rights-of-way to conduct business, but not to typical residential garage/yard sales of a two to three day duration. The permit fee shall be initially determined and periodically modified as determined necessary by the City Council. The following restrictions shall apply to such Temporary Businesses:

- a. Temporary businesses in which a permanent or non-mobile structure is used shall be allowed only in the TC, C, PT and I business districts. Temporary businesses, aside from nonmotorized portable carts ("push carts"), that sell items out of motorized vehicles (van trucks, pickups, etc.) or two trailers shall be restricted to allocated spaces, i.e. trucks, selling meat, etc., within the City's Farmers Market. A permit shall be required from the City to use the space and facilities provided at the Farmers Market.
- b. All signs, unless permanently affixed to a free-standing structure or building, shall be removed during the period in which the seasonal business is not in use.
- c. No sign shall exceed sixteen (16) square feet in face area.
- d. In the case of permanent buildings in which a temporary use is located, all off-street parking shall adhere to the requirements of the district in which the building is located.
- e. Temporary uses associated with public and nonprofit activities, such as school outdoor concession stands, shall be exempt from the provisions of this Section. Temporary on-site business sales, outside the normal location and scope of that business, such as sidewalk sales, shall be exempt from the provisions of this Section.

- f. Vendors using a portable structure, such as a cart or other similar device, that can be moved to various locations within the City, shall adhere to the following:
1. A permit shall be required from the City for the period during which the portable vendor intends to operate.
 2. The cart or other similar device shall be allowed only on public rights-of-way or on private property after receiving permission from the property owner; if the property owner is an absentee owner, written permission shall be required from the owner or his/her agent.
 3. The cart or similar device shall be located in such a way as not to block the normal flow or vision of pedestrian/vehicular traffic.
 4. The hours of operation for the vendor shall be limited to the hours specified in the operating permit.
 5. Flashing or pulsating lights shall not be allowed on the portable structure or other fixtures associated with the vending business.
 6. Other requirements and restrictions contained in the provisions of the operating permit issued by the City.

SECTION 1932. SWIMMING POOLS, SPAS OR HOT TUBS

- a. Swimming pools, spas or hot tubs shall conform to the setback requirements for accessory uses pursuant to this article, and shall not be closer than five (5) feet to any building or structure.
- b. All electrical installations or wiring for all swimming pools, spas or hot tubs shall conform to the State Building Code.
- c. All in-ground swimming pools shall be enclosed by a fence. Such fence or enclosure, including the gates, shall not be less than four (4) feet in height or greater than six (6) feet in height. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children. The composition of the fence shall meet the barrier requirements contained in the State Building Code.
- d. All above-ground or on-ground swimming pools with side walls at least four (4) feet in height and with the means of access being a ladder or steps shall have a ladder or steps capable of being secured, locked or removed to prevent access or the ladder or steps shall be surrounded by a fence constructed per this section.
- e. All above-ground or on-ground swimming pools without side walls at least four (4) feet in height must be fenced per the fencing requirements contained in section this section or can be secured by mounting a fence or other barrier on top of the pool structure so that the pool is enclosed by a barrier at least four (4) feet in height. If the means of access to the pool is a ladder or steps, the ladder or steps shall be capable of being secured, locked or removed to prevent access.

- f. Spas or hot tubs with a safety cover which complies with ASTM F1346 (2003 Michigan Residential Building Code) and swimming pools with a water depth of 24" or less shall be exempt from subsections c. and d. of this section.

SECTION 1933. ADULT AND FOSTER CARE FACILITIES

- a. Adult and child care facilities are allowed only as provided for in the table on the following page. Applicable conditions are listed as footnotes to the table.

Adult and Child Care Facilities Regulations			
Type of Facility	Zoning District		
	R-1 & R-2	R-3	TC, C PT, I, CR
Adult Day Care Facilities	SLU as accessory	SLU as accessory	NA
Adult Foster Care Family Home (6 or fewer adults 24 hours per day) (1, 2, 3, 4, 5)	P	P	NA
Adult Foster Care Small Group Home (12 or fewer adults 24 hours per day) (1, 2, 3, 4, 5, 9)	SLU	SLU	NA
Adult Foster Care Large Group Home (13 to 20 adults 24 hours per day) (1, 2, 3, 4, 5, 9)	SLU	SLU	NA
Adult Foster Care Congregate Facility (more than 20 adults 24 hours per day) (1, 2, 3, 4, 5, 9)	NA	SLU	NA
Foster Family Home (4 or fewer children 24 hours per day)	P	P	NA
Foster Family Group Home (5 to 6 children 24 hours per day) (1, 2, 3, 4, 5)	P	P	NA
Family Day Care Home (6 or fewer children less than 24 hrs. per day) (1, 2, 3, 4, 5, 6, 7, 8, 10)	P	P	NA
Group Day Care Home (7 to 12 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9, 10)	SLU	SLU	NA
Child Day Care Center (more than 6 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9)	SLU as accessory	SLU as accessory	SLU
P:	Permitted use.		
SLU:	May be allowed upon review and approval of a special land use, in accordance with the general standards in Article XXII.		
SLU as accessory:	May be allowed as an accessory to an approved use, such as a church, school, office, or other place of employment, upon review and approval of a special land use.		
NA:	Not allowed in zoning district.		

Footnotes:

1. The use shall be registered with the City Clerk's Office and shall continually have on

- file with the City documentation of a valid license as required by the State.
2. Since the State law preempts in this area, the facility shall be brought into compliance with all State building and fire codes pursuant to State Licensing Rules R400.1831-R400.1835. Documentation of such compliance with State requirements shall be provided.
 3. The site shall comply with the sign provisions of the City's Sign Ordinance.
 4. Off-street parking shall be provided for the maximum number of employees on-site at any one (1) time.
 5. The building shall have an appearance which is non-intrusive and consistent in color, materials, roof-line, and architecture with the one-family or multiple-family residential district in which it is located, as determined by the Planning Commission.
 6. Documentation of sufficient indoor classroom, crib, or play area meeting State requirements shall be provided. Documentation of approved areas, as licensed by the State, shall be provided.
 7. There shall be sufficient outdoor play area to meet State regulations. All required outdoor play areas shall be fenced with a four (4) foot tall fence, provided that no fenced outdoor play area shall be located in a front yard.
 8. There shall be sufficient drop-off parking spaces to allow maneuvers without creating a hazard to traffic flow.
 9. The lot shall be at least one thousand five hundred (1,500) feet from another group day care home or similar facility. This may be reduced by the Planning Commission upon a finding by the Planning Commission that the proposed facility will not contribute to an excessive concentration of State licensed residential care facilities in the area.
 10. The facility shall operate not more than sixteen (16) hours per day.
- b. A state-licensed residential adult or child care facility existing prior to the effective date of this Ordinance that has been operating under a valid State license and is registered with the City no later than sixty (60) days following the effective date of this Ordinance, shall be considered an approved special land use, provided such use conforms with the conditions of this Section. Any change in class of the use to a larger care facility shall require approval in accordance with the requirements of this Ordinance.

SECTION 1934. TEMPORARY BUILDINGS

Mobile offices, tool sheds, and storage trailers shall be permitted during the time of actual construction provided they are located pursuant to the regulations of this ordinance and are in compliance with the Health Department Sanitary Code. These structures shall be removed within twelve (12) working days after the completion or abandonment of construction work on the property.

SECTION 1935. BOAT DOCKS AND WELLS

- a. No boat well, dock or similar structure shall by reason of its size, location or construction, endanger life and limb, impair water traffic flow, or obstruct vision upon the water.

- b. Boat wells and docks shall be allowed as accessory uses only and not as principal uses in the R-1, R-2 and CR districts.
- c. Construction of all docks and similar structures shall have a minimum ten (10) foot side yard setback.
- d. Boat wells shall be included in the maximum percent of lot area covered by all buildings as defined in *ARTICLE 16 SCHEDULE OF REGULATIONS* of this Ordinance. For purposes of the Article, boat wells shall be considered buildings.
- e. The use of any boat well or dock shall comply with the zoning regulations in effect for the district in which the boat well, dock or similar structure is erected. In addition, no docking facility or boat well shall be allowed until the owner has obtained all necessary permits from the State of Michigan, Department of Natural Resources.
- f. All boat wells shall have rectangular dimensions of at least ten (10) feet by sixteen (16) feet with a maximum of thirty (30) feet by thirty (30) feet.

SECTION 1936. BOAT CONDOMINIUMS

a. Intent

The purpose of providing regulations for the establishment of condominiums specifically for the use of boaters within the City of Au Gres is to protect the rights of purchasers of those condominium facilities and to ensure that boat dock condominiums ("dock-o-minimums") do not create intensities of use that create traffic, noise, and environmental nuisances and hazards and do not preclude access to the Au Gres River or interfere with the normal functions of adjacent property owners.

b. Definitions

The establishment and administration of Boat dock Condominiums within the City of Au Gres is provided under Section 141 of the Condominium Act, Act 59 of 1978 and the definitions of *Article 2 Definitions* of this Ordinance shall apply, in addition to the following: "Boat Dock Condominium (dock-o-minimum)" means a subdivision of property into sites for the exclusive and limited use of a boat dock and access to that dock and water and for picnic-related activities.

c. Requirements and Regulations

The requirements and regulations pertaining to establishing a Boat Dock Condominium are the same as the requirements and regulations in *Sections 1802 through 1806*, in addition to the following:

1. Boat Dock Condominiums shall be allowed only as a special use within the CR District.
2. The minimum unit size for a Boat Dock Condominium shall be one hundred forty-four (144)

feet.

3. The minimum unit width shall be twelve (12) feet.
4. Minimum length shall be twenty (20) feet.
5. No dwellings shall be constructed on a Boat Dock Condominium site.
6. Structures shall be limited to one (1) picnic shelter, not to exceed one hundred (100) square feet of roof area and ten (10) feet in height and one (1) storage shed, not to exceed sixteen (16) square feet in area and ten (10) feet in height. The boat dock associated with a condominium site shall be no wider than four (4) feet and extend no more than thirty (30) feet into the water, subject to permit by the Michigan Department of Natural Resources. No more than two (2) boats shall be accommodated on a dock at any one time.
7. No fuel or flammable liquid shall be stored on-site when not occupied.
8. Off-street parking shall be provided by the condominium association in accordance with the requirements of *Article 23 Off-Street Parking Requirements*. A minimum of two (2) parking spaces shall be provided for each site.
9. Restroom and shower facilities with fish cleaning facilities shall be required for each condominium development.
10. Parking of boat trailer shall not be allowed within a Boat Dock Condominium development unless there is a designated area for such parking.
11. Enclosed dumpster shall be required on-site for use by owners/guests of the condominium development.
12. Maintenance or repair will be allowed in the boat owner ship or a designated repair area, or in an enclosed building on the premises. Repair will not be allowed to present a nuisance or be offensive to others, either by sight or sound.
13. That no boat storage, storage of gear or equipment, nor boat parts, shall be allowed other than within an enclosed building upon the premises or allowable dock storage containers.
14. That there will be no discharge or depositing of garbage, oil, fuel, refuse matter, sewage or waste material of any kind into the Au Gres River or adjoining waterways.
15. Cooking on wood docks or similar structures shall be prohibited.

SECTION 1937. SIMILAR USE DETERMINATION

This Ordinance acknowledges that all potential uses of land cannot be specifically identified in the zoning districts. A land use which is not cited by name in a zoning district may be permitted upon determination by the Planning Commission that the use is clearly similar in nature and compatible with the principal uses permitted, special land use, or as a permitted accessory use listed in that district. This determination shall be made at a public hearing, with required notice given. The public hearing shall not replace the requirement for a separate public hearing to consider special land use approval, following the procedures and requirements of *Article 22 Special Land Use*, if the use is determined to be a special land use. The applicant shall be required to submit pertinent information on the physical and operational characteristics of the proposed use and any additional information that may be requested by the Planning Commission. In making a determination of similarity and compatibility with the listed uses in that district, the Planning Commission shall consider the following:

- a. **Determination of Compatibility.** In making the determination of compatibility, the Planning Commission shall consider specific characteristics of the use in question and compare such characteristics with those of the uses which are expressly permitted by right or special land use in the district. Such characteristics shall include, but are not limited to, traffic generation, generation of nuisances, parking, types of service offered, types of goods produced, methods of operation, and building characteristics.
- b. **Method by Which Use may be Permitted.** If the Planning Commission determines that the proposed use is compatible with permitted uses in the district, the Planning Commission shall decide whether the proposed use is most similar to those permitted by right, as a special land use, or as a permitted accessory use. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The Planning Commission shall have the authority to establish additional standards and conditions under which a use may be permitted in a district.
- c. **Use Provided for in Other District.** No use shall be permitted in a district under the terms of this Section if that use is specifically listed as a use permitted by right or as a special land use in any other district.
- d. **Prohibited Uses.** Certain uses may not be appropriate within the City given the existing development pattern, environmental conditions, and overall character in the community. All uses not permitted are prohibited. In finding that there is no appropriate location for the use within the City, the Planning Commission shall consider the following:
 1. The land area required by the proposed use.
 2. Existing environmental conditions and potential environmental hazards.
 3. The potential impact on surrounding properties in terms of traffic, noise, lighting, property valuation, and views.
 4. Demand and capacity of utilities and municipal services to support the proposed use.
 5. The applicant cannot demonstrate to the satisfaction of the Planning Commission that there is not an alternative land use that will provide the property owner with a reasonable rate of return on investment.
- e. In the event that an applicant for a similar use determination is not satisfied with the ruling of the Planning Commission, the applicant may appeal the Planning Commission's ruling to the Zoning Board of Appeals.

SECTION 1938. KEEPING OF ANIMALS

The keeping, housing, raising, use or care of animals is permitted, subject to Arenac County animal control regulations and furthermore:

- a. Customary household pets may be kept on a noncommercial basis provided that the number of adult animals does not exceed six. Customary household pets include such animals as dogs, cats, rabbits, birds, and similar animals; but do not include pigeons, chickens, ducks, geese, goats, sheep, pigs, and other farm livestock.

SECTION 1939. LOT WIDTH/DEPTH RATIO

Lots created after the effective date of the ordinance from which this Article is derived having a lot area of less than ten acres shall have a lot width which is equal to, or greater than, one-third quarter the depth of the lot.

SECTION 1940. SATELLITE DISH ANTENNAS

- a. In residential districts a satellite dish antenna greater than 24 inches in diameter shall be permitted only in a rear yard, or mounted or attached to a building.
- b. In all districts, a satellite dish antenna greater than 24 inches in diameter shall comply with the side and rear yard setback requirements applicable to main buildings in the district in which it is located.
- c. In nonresidential districts a satellite dish antenna greater than 24 inches in diameter shall be located only in the side or rear yard or mounted on top of a building. No more than two satellite dish antennas shall be located on the same lot as a main building. Satellite dish antennas are permitted only in connection with, incidental to and on the same lot as a principal use or main building.
- d. Satellite dishes less than 24 inches in diameter are exempt from the preceding regulations.

SECTION 1941. HOME OCCUPATIONS:

- a. **Intent:** It is the intent of this Section to allow for and regulate the establishment of home occupations that are compatible with the neighborhood in which they are located and which will preserve the peace, quiet, and domestic tranquility within all residential districts in the City.
- b. **Conditions:** Home occupations may be permitted subject to the following conditions:
 1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than twenty percent (20%) of the habitable floor area of the dwelling unit may be used for the purposes of the home occupation. Further, the use shall not exceed 400 square feet and at least 850 square feet of the dwelling unit must remain in residential use.
 2. A home occupation, including storage of materials and goods, shall be entirely conducted within the confines of the dwelling unit.
 3. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of the home occupation, and there shall be no external or internal alterations that are not customary in residential areas.
 4. Unless specifically otherwise provided herein, no article shall be sold or offered for sale on the premises except as prepared within the dwelling or accessory building or is provided as incidental to the service or profession conducted therein. A retail showroom, sales area, outlet, or similar facility is prohibited.

5. Traffic generated by such operation shall not be greater than that for normal residential purposes.
6. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odor, or electrical interference that are nuisances to persons off the lot. Any electrical equipment or process which creates visual or audible interference with any radio or television receivers off the premises or which cause fluctuations in line voltages off the premises shall be prohibited.
7. Any necessary parking spaces for vehicles generated by the conduct of the home occupation shall be provided off the road. Parking shall not be permitted in the front yard
8. A permit and fee is required once every two (2) years.
9. No employees other than occupants of the premises shall be engaged in such occupation. The operator of a home occupation shall reside within the same dwelling unit in which the activity is conducted.

c. **Procedure:** A person may request a home occupation permit by:

1. Submitting to the Zoning Administrator an application for a home occupation permit on forms to be provided by the Zoning Administrator.
2. If the Zoning Administrator finds the application to be complete, and all conditions are met, a Home Occupation Permit shall be issued by the Zoning Administrator.
3. The Home Occupation Permit shall be renewed every two years, subject to review and approval by the Zoning Administrator.

d. **Prohibited Home Occupations:** The following uses are not permitted as home occupations:

1. Stables or kennels.
2. Automobile body repair, machine shop or any similar business.
3. Animal hospitals.
4. Welding service.
5. Funeral parlors or undertaking establishments.
6. Antique shops.
7. Rooming houses and tourist homes.
8. Dancing schools.
9. Contractors, such as building construction, electrical, plumbing landscaping, lawn mowing, masonry, snow plowing, excavating, and similar businesses.
10. Trailer rental.
11. Private clubs.
12. Restaurants and tea rooms.
13. Repair shops of any kind that may create nuisance factors.
14. Repair, maintenance, painting service, and storage of automobiles, machinery, tools, trucks, boats, recreational vehicles and similar items.
15. Utility and public service buildings
16. Any proposed home occupation neither specifically permitted above, nor specifically prohibited above, shall be reviewed as a special land use. The City Council may

establish appropriate standards for the operation of such special land use to meet the standards of the Ordinance. The Council may determine, after public hearing, that a use not specifically mentioned above that has similar negative impacts as one or more of the uses above is also not permitted.

- e. **Required Application Information:** A site plan and a home occupation information sheet shall accompany a permit application for a home occupation. Issuance of Home Occupation Permit shall be based on the site plan. For purposes of this section, the site plan shall illustrate at a minimum, the following:
 - 1. Dimensions of a subject parcel.
 - 2. Dimensions of the building in which the home occupation is proposed.
 - 3. Dimensions of the exact area which is to be utilized for the home occupation.
 - 4. Location of exterior doors.
 - 5. The proposed location and dimensions of the parking area.
- f. **Voiding of Permit:** Home occupations may be monitored and reviewed to insure that they are operated in compliance with the requirements herein or any conditions stipulated in their approval. Noncompliance with the requirements herein and/or the conditions of approval relating to the permit for a home occupation shall constitute grounds for the Zoning Administrator to terminate said permit.

Section 1942. RESIDENTIAL DESIGN STANDARDS:

Any single-family dwelling, including a manufactured home, constructed and erected on a lot outside a manufactured housing development, shall be permitted only if it complies with all of the following requirements:

- a. If the dwelling unit is a manufactured home, it must either be:
 - 1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated.
 - 2. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Official/Zoning Administrator or his designee, to be in excellent condition and safe and fit for residential occupancy.
- b. If the dwelling unit is a manufactured home, the manufactured home shall be installed on a foundation with the wheels and tongue removed.
- c. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Manufactured Home Commission, or any similar or successor agency having regulatory

responsibility for manufactured home parks or manufactured housing communities.

- d. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the City, provided, that where a dwelling unit is required by law to comply with any Federal or State standards or regulations for construction, and where such standards or regulations for construction are more strict than those imposed by City codes, then and such Federal or State standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Official/Zoning Administrator.
- e. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, yard requirements, and maximum building height requirements of the zoning district in which it is located.
- f. The dwelling unit shall have a minimum horizontal dimension across any side or rear elevation of twenty (20) feet.
- g. The main roof of the dwelling unit shall have a minimum pitch of four (4) feet of rise for each twelve (12) feet of horizontal run.
- h. The dwelling unit shall be placed on the lot so that the portions nearest the principal street frontage are at least thirty (30) feet in dimension parallel to the street.
- i. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site. Such foundation must have a wall of the same perimeter dimensions as the dwelling unit and be constructed of such materials and type as required by the State Building Code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation and skirting shall fully enclose the chassis, undercarriage, and towing mechanism.
- j. A storage area within a building not less than one hundred twenty (120) square feet in a area shall be provided. This storage area may consist of a basement, closet area, attic, or attached garage in a principal building, or in a detached accessory building which is in compliance with all other applicable provisions of this Ordinance pertaining to accessory buildings.
- k. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade. Railings shall be provided in accordance with the State Building Code.
- l. The exterior finish of the dwelling unit shall not cause glare or reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
- m. The dwelling unit shall not contain any additions of rooms or other areas which are not

constructed with similar quality workmanship and materials as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

- n. The above standards may be modified by the Building Official/Zoning Administrator upon determination that the proposed design is consistent with the predominant standard in the surrounding area.

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ARTICLE 20

NON-CONFORMITIES

SECTION 2000. INTENT

- a. Non-conformities are considered to be incompatible with the current or intended use of land, buildings or structures in the district in which they are located. This Article is intended to meet the objectives stated below by establishing regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of non-conformities, and specify the circumstances and conditions under which non-conformities shall be permitted to continue.
- b. The intent of this Article is to eliminate, or bring into compliance, lots, buildings, structures and uses which legally existed at the date of adoption of this Ordinance, but do not meet the current standards of this Ordinance. This Ordinance also has special provisions to permit certain non-conforming situations considered to be less harmful to continue under certain conditions, but to discourage their expansion, enlargement, or extension. The requirement and standards of this Article are intended to accomplish the following:
 1. Terminate and remove any use, building, accessory structure or any combination thereof that was established after the effective date of this Ordinance and in violation of this Ordinance. Such uses, buildings, or accessory structures are classified as violations of this Ordinance and shall not receive any of the rights, privileges or protection conferred by this Article for non-conforming situations.
 2. Discourage the continuation of non-conforming uses that are more intense than the uses permitted within the zoning district and are considered to be incompatible with permitted uses, or encourage their redevelopment into a more conforming use.
 3. Permit legal non-conforming buildings, structures or uses to remain until they are discontinued, removed or abandoned.
 4. Encourage a gradual upgrading to a more conforming status of site landscaping, parking, paving, signs or other features of a site required by the Zoning Ordinance developed in compliance with the requirements at the time of their construction, but which do not meet the site requirements of this Ordinance.
 5. Encourage the combination of contiguous non-conforming lots of record to create lots which conform or more closely conform to current requirements, for better compatibility with other lots in the zoning districts in which they are located, to promote the public health, safety and welfare and to eliminate problems associated with the overcrowding of land.

SECTION 2001. APPLICABILITY

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, upon which actual building construction has been diligently continued and there is a valid building permit. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such work shall be deemed to be actual construction, provided that such work shall be diligently continued until completion of the building involved.

SECTION 2002. NON-CONFORMING USES

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use on open land, a lot(s), building(s) or accessory structure(s) exists that is made non-conforming by this Ordinance or its amendments, such use may be continued, as it remains otherwise lawful, subject to the following provisions:

- a. **Expansions.** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the effective date of this Ordinance. Except for one-family dwellings as permitted below, a non-conforming use shall not be enlarged, expanded or extended to occupy a greater area of land, constructed, reconstructed or structurally altered except with approval by the Zoning Board of Appeals (ZBA).
- b. **Accessory Uses and Structures.** No new accessory use, building or structure shall be established.
- c. **Relocation.** The non-conforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this Ordinance.
- d. **Change in Use.** If no structural alterations are made, any non-conforming use of a building, or building and land in combination, may be changed to another non-conforming use if the ZBA finds the proposed use is more appropriate to the district than the existing non-conforming use. In permitting the change, the ZBA may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- e. **Removal.** Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

- f. **Abandonment or Discontinuance.** If the non-conforming use of land ceases for any reason for a period exceeding one (1) year and the Zoning Administrator determines that the owner has established intent to abandon the non-conforming use, any subsequent use of such land shall conform to the requirements specified by this Ordinance for the zoning district in which it is located. A non-conforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:
1. Utilities, such as water, gas and electric to the property, have been disconnected.
 2. The property, buildings, and grounds, have fallen into disrepair.
 3. Signs or other indications of the existence of the non-conforming use have been removed.
 4. Removal of equipment or fixtures which are necessary for the operation of the Non-conforming use.
 5. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.

g. **Special Standards for One-Family Dwellings in a Non-Residential District**

1. A one-family residential dwelling in a zoning district which does not permit that use may be expanded to occupy the floor area necessary for living purposes.
2. A one-family dwelling and its accessory structures, in a zoning district which does not permit that use may be continued, replaced, repaired or remodeled if damaged by flood, fire, or vandalism, if approved by the ZBA. Such approval requires a finding that the resulting building footprint and floor area will be the same size or smaller than that of the building before such change. Replacement of such non-conforming one-family building shall commence no sooner than receiving a valid building permit and no later than six (6) months of the date of damage. Work shall be diligently pursued toward completion. The applicant may be required to provide the City with evidence, visual or otherwise, that demonstrates to the satisfaction of the City that work is being diligently pursued. Failure to complete replacement or to diligently work toward completion shall constitute abandonment and result in the loss of its non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.

SECTION 2003. NON-CONFORMING BUILDINGS OR STRUCTURES

Where a lawful building or structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, that building or structure may be continued provided it remains otherwise lawful, subject to the following provisions. Except as noted below, no building or structure may be enlarged unless a variance is granted by the ZBA.

- a. **Damage by Fire or Other Catastrophe.** Any non-conforming structure or building,

or any structure or building that contains a non-conforming use that is damaged by fire, flood, or other means to a point where the cost of repairs will be in excess of 51% of the structure and/or building's pre-catastrophe market value (as described in paragraph (I) below) shall not be rebuilt, repaired, or reconstructed, except in complete conformity with the provisions of this Ordinance. In the event that the cost of repairing the damage is less than 51% of the structure or building's pre-catastrophe market value (as described in paragraph (I) below), the structure or building may be restored to its pre-catastrophe status. Such restoration shall take place only upon approval of the Zoning Administrator and all construction shall be in full compliance with applicable provisions of this Ordinance and other applicable City Codes. Any request for such rebuilding, repair, or restoration shall be made to the Zoning Administrator within one hundred eighty (180) days following the incident. Any such rebuilding, repair, or restoration shall be completed within one (1) year from the date of the catastrophe.

- b. **Replacement of a Non-Conforming One-Family Dwelling.** A non-conforming building used as a one-family residence, and its accessory structures, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster if the cost of repairs will be less than 51% of the structure and/or building's pre-catastrophe market value. The resulting building footprint will be the same size or smaller than that of the building before such change or that the building will become more conforming. Replacement, repair or remodeling of such a non-conforming one-family building shall commence within one (1) year of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or to diligently work toward completion shall result in the loss of legal non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.
- c. **Relocation of a Non-Conforming Building or Structure.** Should any non-conforming building or structure be relocated or moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- d. **Safety Related Repairs, Improvements, and Modernization.** Repairs, improvements, or modernization of non-conforming buildings or structures deemed necessary by the Zoning Administrator to maintain a non-conforming building in a structurally safe and sound condition are permitted provided such repairs or improvements do not exceed the market value (as described in paragraph (I) below) of the building or structure during any period of twelve (12) consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems to meet Building Code requirements. Any such repairs, improvements, and modernization shall not result in an enlargement of the non-conforming structure. However, if a non-conforming building or a structure containing a non-conforming use becomes physically unsafe, dangerous, and/or unlawful due to lack of maintenance and repairs and is formally declared as such by the Zoning Administrator, it shall not thereafter be restored,

repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

- e. **Non-Safety Improvements and Modernization.** Repairs, improvements, or modernization of non-conforming buildings or structures which are not deemed necessary by the Building Department to keep a non-conforming building structurally safe and sound shall be permitted provided such repairs or improvements do not exceed fifty percent (50%) of the market value of the structure (as described in paragraph (l) below) during any period of twelve (12) consecutive months. Any such repairs, improvements or modernization shall not result in an enlargement of the non-conforming structure or building.
- f. **Alterations That Decrease Non-Conformity.** Any non-conforming structure or building or structure or building containing a non-conforming use, may be altered if such alteration serves to clearly decrease the non-conforming nature of the structure, building, and/or use. The Zoning Administrator shall determine if a proposed alteration decreases the degree of non-conformity.
- g. **Permitted Expansions to One-Family Dwellings.** An expansion (footprint or floor area) of a non-conforming one-family building or structure shall be permitted when both of the following conditions exist:
 - 1. Only one (1) wall of the existing building or structure does not comply with the applicable setback requirement.
 - 2. The expansion is on a conforming wall of the existing building or structure and will comply with applicable setback and height requirements.
- h. **Elimination of Non-Conformity.** In the event a non-conforming situation is removed, the corresponding section of the building or structure shall thereafter conform.
- i. **Market Value.** For the purpose of this Article, market value shall be determined by an acceptable independent appraisal provided by the applicant. The City Assessor and Zoning Administrator shall review the appraisal. The value of the repairs or improvements shall be based on a written estimate from a licensed contractor provided by the applicant. This estimate shall be reviewed by the Zoning Administrator.

SECTION 2004. NON-CONFORMING LOTS

The following regulations shall apply to any non-conforming lot of record or non-conforming lot described in a deed or land contract executed and delivered prior to the effective date of the Zoning Ordinance or amendment thereto:

- a. **Use of Non-Conforming Lots.** Any non-conforming lot may be used only for a use permitted in the zoning district in which it is located.

- b. **Variance from Area and Bulk Requirements.** In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory building(s) may be erected on a lot that does not meet the requirements for lot width, lot area, or both without obtaining a variance from the ZBA provided that all other applicable requirements are met. In all other circumstances, use of a non-conforming lot requires a variance from the lot width and/or lot area requirements as applicable.
- c. **Non-Conforming Contiguous Lots under the Same Ownership.** To develop a non-conforming lot(s) under the provisions of paragraphs a. and b. of this Section, the applicant is required to submit evidence that ownership of the lot is not under contiguous single ownership with other lots that could be combined into a conforming or more conforming lot. The following regulations shall apply to non-conforming contiguous lots under the same ownership.
1. If two (2) or more lots or combination of lots with contiguous frontage are or have been under single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lands shall be considered as a singular, individual parcel for the purposes of this Ordinance. Any altering of lot lines or combination of lots shall result in lots that more closely conform to the requirements of this Ordinance.
 2. No portion of the non-conforming parcel shall be used, occupied, or sold in a manner that diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made that creates a new lot having a width or area less than the requirements stated in this Ordinance.
 3. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing dwelling unit.
- d. **Combination of Non-Conforming Lots.** The following regulations shall apply to the combination of non-conforming lots.
1. Any combination, in whole or in part, of non-conforming lots of record shall result in lots that more closely conform to the requirements of this Ordinance to the maximum extent feasible.
 2. Once any combination that creates a conforming lot occurs, the resulting lot shall not retain non-conforming lot of record status and will hereafter be required to comply with the lot requirements of this Ordinance.

SECTION 2005. NON-CONFORMING SITES

The intent of this Section is to permit improvements and minor modifications to an otherwise conforming use and building which does not meet all of the various site improvement related regulations of this Ordinance. The purpose is to allow gradual compliance with the site related requirements, for the entire site, for sites which predate

the various Ordinance standards for landscaping, paving, and other non-safety site related items.

Improvements or expansions may be permitted by the Planning Commission during special land use or site plan review without a complete upgrade of all site elements under the following conditions. The City may require a performance guarantee to ensure that all improvements permitted under this Section will be made in accordance with the approved plan.

- a. The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.
- b. The applicant has addressed safety related site issues on the overall site.
- c. The improvements or minor expansion will not increase noncompliance with site requirements.
- d. Signs must comply with *ARTICLE 24 SIGNS*.
- e. A site plan shall be submitted in accordance with *ARTICLE 21 SITE PLAN REVIEW*.

SECTION 2006. CHANGE OF TENANCY OR OWNERSHIP, PURCHASE, OR CONDEMNATION

- a. In the event there is a change in tenancy, ownership, or management, a non-conforming use, structure or building shall be allowed to continue provided there is no change in the nature or character of such non-conformity and the use, structure, or building is otherwise in compliance with this Ordinance.
- b. The City Council may acquire, by purchase, condemnation or otherwise private property or an interest in private property for the removal of non-conforming buildings, structures or uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in the City.
- c. The elimination of the non-conforming buildings, structures, or uses is declared to be for a public purpose and for a public use. The City Council may institute and prosecute proceedings for condemnation of non-conforming buildings, structures or uses under the power of eminent domain in accordance with Act 149 of the Public Acts of 1911, as amended, being Sections 213.21 to 213.41 of the Michigan Compiled Laws or other applicable statute.

SECTION 2007. ACQUISITION OF NON-CONFORMING BUILDINGS, STRUCTURES, OR USES

The Zoning Administrator, from time to time, may recommend to the City Council, the acquisition of private property for the purpose of removal of non-conformities. Where such acquisition is contemplated, the following procedures shall be followed:

a. **Zoning Administrator Documentation and Recommendation.** Prior to initiating acquisition, the Zoning Administrator shall prepare or cause to have prepared a report for the City Council. The report shall include the following:

1. A list of all requirements of this Ordinance that are not met by the subject property.
2. An estimate of the expense of such acquisition.
3. An estimate of the cost of removing the non-conformities.
4. An estimate of the probable resale price of the property after acquisition and removal of the non-conformities.
5. Recommendations concerning the allocation of costs to be incurred by the City.

b. **City Council Consideration**

1. **Public Hearing.** After receiving and reviewing the report from the Zoning Administrator, the City Council shall determine if acquisition of the non-conforming property should be pursued. If the City Council decides to pursue acquisition, then it shall first set a public hearing. Not less than fifteen (15) calendar days prior to the public hearing, notice of the time, place, and purpose of the public hearing shall be published in the official newspaper of the City, and sent by mail to the owners of property for which acquisition is being considered. The notice shall be sent to the owner's address as stated in the most recent assessment roll.
2. **Special Assessment.** If any or all of the expense related to acquisition of the subject property is assessed to a special district, then the City Assessor shall be directed to furnish the City Council with a tentative special assessment district and tentative plan of assessment. The names and addresses of the owners of property located in the district (as stated in the latest assessment roll) shall be provided to the City Council. Notice of the time, place, and purpose of the public hearing shall be sent by mail to the owners of property located in the tentative special assessment district.
3. **City Council Determination.** If, following the public hearing, the City Council finds that elimination of the non-conforming use, structure, or building would be for a legitimate public purpose, then it shall declare by resolution of the City Council that the City shall proceed to acquire the non-conforming use, structure, or building in accordance with the laws of the State of Michigan and applicable City Ordinances. The City Clerk shall send by registered mail a certified copy of the resolution of the City Council to the owners of property to be acquired and to owners of property in any special assessment district, at the addresses stated in the

latest assessment roll.

- c. **Removal of Non-Conformity.** Upon passing of title of the property so acquired by the City, the City Council shall cause the discontinuance or removal of the non-conforming use, or the removal or demolition or remodeling of the non-conforming building or structure.

- d. **Disposition of Property.** The City Council may thereafter elect to retain all or part of the property so acquired for municipal purposes. If acquisition costs and expenses are to be assessed against a special assessment district, the amount to be assessed shall be reduced by the market value of any part of the property retained for municipal use, as determined by the City Assessor. The City Council shall thereafter order the sale of the portion of the property not retained for municipal purposes, but only for use in conformance with this Ordinance. The City Council shall confirm the expenses related to the project and report the assessable cost to the City Assessor, who shall then prepare an assessment roll in the manner provided for law. Such an assessment may, at the discretion of the City Council, be paid in one (1) or more, but not to exceed ten (10) annual installments.

ARTICLE 21

SITE PLAN REVIEW

SECTION 2100. INTENT AND PURPOSE

It is the purpose of this article to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development in the vicinity. The requirements contained in this article are intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards; and to facilitate the provision of a system of roads, streets, parking, municipal sewage disposal, storm sewers, municipal water supply, public education, and other public needs. These requirements are further intended to promote orderly development and harmonious design in order to conserve the value of existing development and property.

SECTION 2101. USES SUBJECT TO SITE PLAN REVIEW

A building permit shall not be issued until a full site plan or sketch plan has been reviewed and approved in accordance with the procedures and standards set forth herein and all necessary review, inspection, and permit fees have been fully paid. The extent of site plan review for various types of projects is classified into four (4) types in *Table XXI-01 Table of Eligible Uses and Required Review Process*.

- a. Full Site Plan. The most involved process for larger and more intense projects, including most new developments and major expansions.
- b. Sketch Plan. Smaller scale projects and expansions or changes in use to existing sites are permitted to provide less detailed information than a full scale site plan review. The level of information is intended to be proportionate to the extent of the change and yet insure adequate review for compliance with applicable standards. Sketch plans shall still undergo a formal review by the Planning Commission.
- c. Administrative Review. Select smaller scale projects and expansions or changes in use to existing sites, which are required to provide a sketch plan, do not require review by the Planning Commission; but instead shall undergo a formal review for approval by the Development Official.
- d. Exempt. Select projects, such as single family homes in an individual lot, are exempt from site plan review given their relatively low level of impact on adjacent land uses, and given that compliance with applicable zoning regulations can be addressed during the building permit review process.

Table XXI-01 Table of Eligible Uses and Required Review Process				
Situation/Use	Required Review			
	Full Site Plan	Sketch Plan	Admin. Review	Exempt
New Development				
Construction of Single & Two Family Dwellings in Residential Zoning District unless submitted as a Site Condominium			X	
Construction of more than One Main Building or Use on a Single Lot or Parcel, submitted as a Site Condominium	X			
Construction of any Multiple Family Dwellings	X			
Construction of any Nonresidential Use or Building	X			
Establishment of Special Land Uses in all Zoning Districts	X			
Minor Changes During Construction such as Changes in Landscape Species to a Similar Variety, Realignment of a Driveway or Road Due to an Unanticipated & Documented Constraint During Construction, or to Improve Safety or Protect Natural Features			X	
Minor Changes During Construction Required by Outside Agencies			X	
Expansions				
Expansion of 1 Single Family Dwelling Unit on 1 Lot in a Residential Zoning District				X
An Increase in the Floor Area up to 25% of the Existing Floor Area for a Use Requiring Site Plan Approval		X		
An Increase in the Floor Area Greater than that Specified Above	X			
An Increase in Parking or Loading Area of up to 25% or 6,000 sq. ft. of Pavement Area without any Building Changes			X	
An Increase in Parking or Loading Area over 25% or 6,000 sq. ft. of Pavement Area without any Building Changes		X		
Changes to Building Height that do not Add Additional Floor Area			X	
Changes in Use				
Any Change in the Use of Land or a Building to a More Intensive Use, in Terms of Parking Needs, Noise, Traffic Volumes, & Similar Impacts		X		
A Change in Use to a Similar or Less Intense Use Provided the Site shall Not Require any Significant Changes in the Existing Site Facilities such as Parking, Landscaping, Lighting, or Signs			X	

Table XXI-01 Table of Eligible Uses and Required Review Process				
Situation/Use	Required Review			
	Full Site Plan	Sketch Plan	Admin. Review	Exempt
A Change from a Nonconforming Use, Building or Site, to a More Conforming Situation		X		
Other Types of Projects				
Accessory Buildings & Structures in any Zoning District			X	
Home Occupations			X	
Internal Construction or Change in the Floor Plan that Does not Increase Gross Floor Area, Increase the Intensity of Use or Affect Parking Requirements on a Site which Meets all Site Design Standards of this Ordinance				X
State Licensed Residential Family Care Facilities & Family Day Care Homes			X	
Temporary Uses		X		
Terraces, Patios, Porches, & Decks (Covered or Uncovered)			X	
Any Use Which, in the Opinion of the Development Official, should be Reviewed by the Planning Commission for Site Plan Approval because of the Intensity of Development Proposed & Potential Effects on Properties in the General Vicinity	X			
Other projects not specifically listed in this Table			X	

SECTION 2102. PROCEDURE FOR SITE AND SKETCH PLAN REVIEW

Site plans and sketch plans must be submitted in accordance with the following procedures and requirements:

a. Application

1. Complete Application.

- (a) An application for site plan review deemed to be complete, according to the requirements of subsection a.2. below, shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting through the Development Official, who will review the application materials to ensure that the requirements of this section are met, then transmit it to the Planning Commission.
- (b) An application shall not be accepted until all required materials are provided. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application.

2. Site Plan Submittal. The applicant shall submit twenty (20) copies of the following to the city.
 - (a) A completed application form, as provided by the city.
 - (b) Written description of the proposed project or use.
 - (c) A complete site plan or sketch plan that includes the information required in *Section 2104 Submittal Requirements*.
 - (d) Payment of a fee, in accordance with a fee schedule, as determined by City Council resolution.
 - (e) A legal description, including the permanent parcel number, of the subject property.
 - (f) Any additional information the Planning Commission or Development Official finds necessary to make the determinations required herein.
3. Applicant Attendance. The application shall be submitted by the owner of an interest in the land for which site plan approval is sought, or the designated agent of the owner. The applicant or a designated representative must be present at all scheduled review meetings or consideration of the plan shall be tabled without consideration of the site plan due to lack of representation. The representative must be the property owner or someone designated in writing by the property owner as the authorized representative.

b. Preliminary and Final Site Plan Review

1. Preliminary Review
 - (a) If desired by the applicant, a preliminary site plan may be submitted to the Planning Commission for review prior to final site plan review. The purpose of the preliminary site plan review is to allow discussion between the applicant and the commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs which may be necessary for the review of the final site plan.
 - (b) The Planning Commission shall review the preliminary site plan and make such recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this chapter.
2. Final Review. A final site plan, unless reviewed in conjunction with a special land use request, shall be reviewed by the Planning Commission. Final site plans for special land use requests shall be reviewed by the City Council, after receipt of a recommendation from the Planning Commission.
3. Additional Information. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.

c. Agency Review

Upon receipt of a completed application for final site plan review, the city clerk shall transmit one (1) copy of the site plan to the Planning Commission and each of the following officials or agencies for their comments:

1. City fire chief.
2. City police chief.
3. Arenac County Drain Commissioner.
4. Superintendent of Au Gres Public Schools.
5. City engineer.
6. District Health Department.

d. Planning Commission Consideration. Following staff review and comment, and compliance with administrative procedures, the site plan shall be placed on the agenda of the Planning Commission. The Planning Commission shall review the application for site plan review, together with the reports and recommendations from its planning consultant, engineering consultant, fire chief, police chief and other reviewing agencies, as appropriate. The Planning Commission shall then make a determination based on the requirements and standards of this Ordinance. The Planning Commission is authorized to table, grant approval, grant approval subject to conditions, or denial as follows:

1. Table. The application may be tabled if it is determined to be incomplete, the applicant has not fully responded to deficiencies identified in the technical review, a variance is needed from the Zoning Board of Appeals (ZBA), or revisions are necessary to bring the site plan into compliance with applicable standards and requirements. The Planning Commission shall direct the applicant to prepare additional information, revise the site plan, or direct the city staff to conduct additional analysis. The applicant shall be required to prepare revised plans accompanied by a complete list of all changes, signed by the applicant's design professional.
2. Approval. Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable Ordinances and laws, approval shall be granted subject to the applicant providing copies of all required outside agency approvals.
3. Approval Subject to Revisions. Upon determination that a site plan is in compliance except for minor revisions, said revisions shall be identified and the applicant shall correct the site plan prior to applying for a building permit. The applicant shall resubmit the site plan, accompanied by a complete list of all changes, signed by the applicant's design professional, to the city for final approval after the revisions have been completed. The city shall review and approve the resubmitted plan if all required revisions have been addressed and copies of any permits required by outside agencies have been provided.
4. Denial. Upon determination that a site plan does not comply with standards and requirements set forth in this Ordinance site plan approval shall be denied. Any

resubmittal shall be considered a new site plan and be required to reinitiate the full site plan review process.

5. Appeal. Any person aggrieved by the decision of the Planning Commission or City Council with respect to an action regarding the final site plan may have that decision reviewed by the ZBA; provided the petition for appeal is filed with the city clerk within fifteen (15) days of the Planning Commission or City Council decision.

e. Completion of Site Design

1. Following final approval of the site plan and final approval of the engineering plans by the city's engineering consultant, a building permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable city, county, or state permits prior to issuance of a building permit.
2. If construction has not commenced within one (1) year of site plan approval, approval becomes null and void and a new application for site plan review shall be required. The applicant may request a one (1) year extension by the Planning Commission, provided a written request is received before the expiration date and the site plan complies with current requirements (i.e. any amendments to the zoning ordinance since the site plan was approved).

SECTION 2103. PROCEDURE FOR ADMINISTRATIVE PLAN REVIEW

For uses and projects eligible for administrative review, the following procedures and requirements shall apply:

- a. Submittal Requirements. Five (5) copies of the sketch plan that contains the information listed in *Table XXI-2 Submittal Requirements* shall be submitted to the city. The city may waive some of the submittal requirements if the information is not relevant or required based on the proposed project.
- b. Review by City. The city shall confine its review to the proposed alterations only, rather than review of the entire building or layout. The city shall either approve the sketch plan, approve the sketch plan with a condition that certain revisions be made, or deny the sketch plan.
- c. Planning Commission Review. Both the city planning consultant and the applicant shall have the option to request sketch plan review by the Planning Commission.
- d. Issuance of Building Permit. A building permit shall be issued following review and approval of any construction plans by the city engineering consultant, as appropriate.

SECTION 2104. SUBMITTAL REQUIREMENTS

The following data shall be included with and as part of the site plan(s) or sketch plan(s) submitted for review:

Table XXI-02 Site Plan and Sketch Plan Submittal Requirements		
Plan Data	Required for:	
	Site Plan	Sketch Plan
Application Form		
Name & Address of the Applicant & Property Owner	X	X
Address & Common Description of Property & Complete Legal Description	X	X
Dimensions of Land & Total Acreage	X	X
Zoning on the Site & All Adjacent Properties	X	X
Description of Proposed Project or Use, Type of Building or Structures, & Name of Proposed Development, if Applicable	X	X
Name & Address of Firm or Individual Who Prepared Site Plan	X	X
Proof of Property Ownership	X	X
Site Plan Descriptive & Identification Data		
Site Plans Shall Consist of an Overall Plan for the Entire Development, Drawn to an Engineer's Scale of not Less than 1 in. = 50 ft. for Property Less than 3 Acres, or 1 in. = 100 ft. for Property 3 Acres or More in Size. Sheet Size shall be at Least 24 x 36 in. If a Large Development is Shown in Sections on Multiple Sheets, then One Overall Composite Sheet shall be Included	X	X
Title Block With Sheet Number/Title; Name, Address & Telephone Number of the Applicant & Firm or Individual Who Prepared the Plans; & Date(s) of Submission & any Revisions (Month, Day, Year)	X	X
Scale & North-Point	X	X
Location Map Drawn to a Separate Scale with North-Point, Showing Surrounding Land, Water Features, Zoning & Roads within 1/2 Mile	X	
Legal & Common Description of Property	X	X
Zoning Classification of Petitioner's Parcel & all Abutting Parcels	X	X
Proximity to Major Thoroughfares	X	
Net Acreage (Minus Right-of-Ways & Submerged Land) & Total Acreage	X	X
Site Data		
Existing Lot Lines, Building Lines, Structures, Parking Areas & Other Improvements on the Site & within 100 ft. of the Site	X	X
Topography on the Site & within 100 ft. of the Site at Two-Foot Contour Intervals, Referenced to a U.S.G.S. Benchmark	X	
Location of Existing Drainage Courses, Floodplains, Lakes & Streams, & Wetlands with Elevations	X	X
All Existing & Proposed Easements Including Type	X	X

Table XXI-02 Site Plan and Sketch Plan Submittal Requirements		
Plan Data	Required for:	
	Site Plan	Sketch Plan
Location of Exterior Lighting (Site & Building Lighting)	X	
Location of Trash Receptacle(s) & Transformer Pad(s) & Method of Screening	X	X
Access & Circulation		
Driveways & Intersections within 250 ft. of Site	X	
Dimensions of Acceleration, Deceleration, & Passing Lanes	X	
Dimensions of Parking Spaces, Islands, Circulation Aisles & Loading Zones	X	X
Calculations For Required Number of Parking & Loading Spaces	X	X
Designation of Fire Lanes	X	X
Location of Existing & Proposed Sidewalks/Pathways within the Site or Right-of-Way	X	X
Location, Height, & Outside Dimensions of all Storage Areas & Facilities	X	X
Traffic Impact Study may be Required at the Planning Commission's Request when the Use Generates Traffic that Exceeds Trip Generation Rates Recognized by the Institute of Traffic Engineers (ITE)	X	X
Landscape Plans		
Location, Sizes, & Types of Existing Trees 6 in. or Greater in Diameter, Measured at 3.5 ft. off the Ground, Evergreen Trees 10 ft. or Taller & the General Location of all other Existing Plant Materials, with an Identification of Materials to be Removed & Materials to be Preserved	X	X
The Location of Existing & Proposed Lawns & Landscaped Areas	X	X
Landscape Plan, Including Location & Type of all Proposed Shrubs, Trees, & other Live Plant Material	X	
Planting List for Proposed Landscape Materials with Caliper Size or Height of Material, Method of Installation, Botanical & Common Names, & Quantity	X	
Building & Structure Details		
Location, Height, & Outside Dimensions of all Proposed Buildings or Structures	X	X
Building Floor Plans & Total Floor Area	X	
Details on Accessory Structures	X	
Size, Height & Method of Shielding for all Site & Building Lighting	X	
Location, Size, Height, & Lighting of all Proposed Signs	X	X
Building Facade Elevations for all Sides, Drawn at an Appropriate Scale	X	
Description of Exterior Building Materials & Colors (Samples may be Required)	X	
Information Concerning Utilities, Drainage & Related Issues		
Location of Sanitary Sewers & Septic Systems, Existing & Proposed	X	
Location & Size of Existing & Proposed Water Mains, Well Sites, Water Service, Storm Sewers, & Fire Hydrants	X	

Table XXI-02 Site Plan and Sketch Plan Submittal Requirements		
Plan Data	Required for:	
	Site Plan	Sketch Plan
Stormwater Drainage & Retention/Detention Calculations	X	X
Indication of Site Grading, Drainage Patterns & other Stormwater Management Measures	X	X
Stormwater Retention & Detention Ponds	X	X
Location & Size of Underground Storm Sewers & Drains	X	X
Location of Above & Below Ground Gas, Electric & Telephone Lines, Existing & Proposed	X	
Location of Transformers & Utility Boxes	X	
Assessment of Potential Impacts from the Use, Processing, or Movement of Hazardous Materials or Chemicals, if Applicable	X	
Additional Information Required for Multiple Family Residential Development		
The Number & Location of Each Type of Residential Unit (One Bedroom Units, Two Bedroom Units, etc.)	X	
Density Calculations by Type of Residential Unit (Dwelling Units Per Acre)	X	
Garage &/or Carport Locations & Details	X	
Mailbox Clusters	X	
Location, Dimensions, Floor Plans & Elevations of Common Building(s) (e.g. Recreation, Laundry, etc.), if Applicable	X	
Swimming Pool Fencing Detail, including Height & Type of Fence, if Applicable	X	
Location & Size of Recreation & Open Space Areas	X	
Indication of Type of Recreation Facilities Proposed for Recreation Area	X	

SECTION 2105. STANDARDS FOR SITE PLAN APPROVAL.

- a. The Planning Commission in making its determination shall review the final site plan and find the following compliance with the following prior to approval:
 - 1. The requirements of this chapter and other applicable city ordinances.
 - 2. Any applicable comments received from circulated agencies.
 - 3. Other applicable state and federal statutes and standards.

- b. Site plan approval shall be granted only if the site plan meets all applicable standards set forth in this section as outlined below:
 - 1. Adequacy of Information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed use(s) and structure(s).
 - 2. Site Design Characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the

character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter. The site shall be designed to conform to all provisions of this Article.

3. Preservation of Natural Areas. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this chapter. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
4. Emergency Vehicle Access. All buildings or groups of buildings shall be arranged so as to permit emergency vehicle access by some practicable means to all sites.
5. Vehicular and Pedestrian Circulation Layout. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations, within the site and at ingress/egress points. Every structure or dwelling unit shall have access to a private street, public street, walkway or other areas dedicated to common use. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the city.
6. Stormwater Drainage. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the city, or county storm drainage system. Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.
7. General Purpose Floor Drains. General purpose floor drains shall only be allowed if they are approved by the city's department of public services for a connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a state groundwater discharge permit.
8. Hazardous Materials. State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without permits and approvals. Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances.

SECTION 2106. APPROVED PLANS AND AMENDMENTS

- a. Upon approval of the final site plan, the Planning Commission chair, or the chair's designee, shall sign three (3) copies thereof. One (1) signed copy shall be made a

part of the city's files; one (1) copy of the final site plan shall be forwarded to the building official for issuance of a building permit; and one (1) copy shall be returned to the applicant.

- b. Each development shall be under construction within one (1) year after the date of approval of the final site plan, except as noted in this section.
 1. An applicant may request from the Planning Commission one (1) six (6) month extension of the final site plan approval. Any request for extension must be applied for in writing prior to the date of the expiration of the final site plan. Such request may only be granted provided that:
 - (a) The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
 - (b) The site plan requirements and standards, including those of this chapter and the comprehensive development plan, that are reasonably related to the development have not changed.
 2. Should neither of the provisions of 1. above of this section be fulfilled, or a six (6) month extension has expired without construction having been started and proceeding meaningfully, the final site plan approval shall be null and void.
- c. Amendments. Amendments to an approved final site plan may occur only under the following circumstances:
 1. The holder of a valid final site plan approval shall notify the Development Official of any proposed amendment to such approved site plan.
 2. Minor changes may be approved by the Development Official upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Planning Commission. The Development Official shall consider the following to be a minor change:
 - (a) Reduction of the size of any building and/or sign.
 - (b) Movement of buildings and/or signs by no more than ten (10) feet provided that such movement does not cause a violation of this chapter.
 - (c) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - (d) Changes in floor plans which do not alter the character of the use or increase the amount of required parking.
 - (e) Changes in building materials to a comparable or higher quality.
 - (f) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (g) Changes required or requested by the city for safety reasons or by outside agencies such as the county, state, or federal departments.

3. Should the Development Official determine that the requested modification to the approved final site plan is not minor, a new site plan shall be submitted and reviewed as required by this article.

SECTION 2107. PERFORMANCE GUARANTEE

To ensure compliance with the zoning ordinance and any condition imposed thereunder, as such condition applies to public facilities, infrastructure, and roadways, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City covering the estimated cost of improvements pertaining to general public use associated with a project for which site plan approval is sought be deposited with the Clerk of the City to ensure faithful completion of the improvements.

- a. The performance guarantee shall be deposited at the time of the issuance of the building permit authorizing the activity or project. The City may not require the deposit of the performance guarantee prior to the time when the City is prepared to issue the permit. The City shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work relative to improvements associated with general public use or modifications to those site components completed on the required general public use improvements will be made as work progresses.
- b. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967 (Subdivision Control Act) as amended through the Land Division Act (Act 591 of 1996, as amended).
- c. As used in this section, "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and drainage. Improvements do not include the entire project which is the subject of zoning approval.
- d. The City shall provide to owner/developer a reasonable amount of time to begin construction of the improvements covered by the performance guarantee. Such time shall be established when a building permit is obtained.

SECTION 2108. FEES

Any application for site plan approval shall be accompanied by a fee as determined by the City Council.

SECTION 2109. RECORD OF SITE PLAN APPROVAL

- a. The site plan, as approved, shall become part of the record of approval, and subsequent actions relating to this activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the Planning Commission.

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ARTICLE 22

SPECIAL LAND USES

SECTION 2200. INTENT

Special land uses are uses considered to be more intense, or potentially more disruptive, compared to the various uses in a particular zoning district which are permitted by right. The uses classified as special land uses vary by district and are listed in the regulations of each zoning district. These provisions encourage cooperation and consultation between the City and the applicant to facilitate development in accordance with the City's land use objectives. An approved special land use shall be considered a conforming use permitted in the district at the specific site where it is located. The review procedures and standards set forth herein are intended to accomplish the following purposes

- a. Accommodate uses which are needed and beneficial to the City but need to be carefully located due to their potential impacts.
- b. Provide a consistent and uniform method for review.
- c. Provide a mechanism for public input.
- d. Ensure full compliance with the standards contained in this Ordinance and other applicable federal, state, and local regulations.
- e. Regulate the use of land operations and site design based on the characteristics of a particular use.
- f. Achieve efficient use of the land.
- g. Minimize impacts associated with a specific use within the environmental capacities of the impacted area.
- h. Provide site design and operational standards to minimize any negative impact on adjoining or nearby properties.
- i. Establish procedures for expansion or change in use of a special land use for both uses which have received special land use approval and those which existed prior to the adoption of special land use review procedures.

SECTION 2201. SPECIAL LAND USE APPLICATION PROCEDURE

An application for a special land use shall be submitted in accordance with the following procedures, standards and requirements. A site plan must be submitted with the

application for special land use. Approval of the proposed land use is required prior to the site plan approval by the Planning Commission.

- a. **Applicant Eligibility.** An application shall be submitted by the owner of an interest in land for which approval is sought, or by an agent designated by the owner. The applicant or agent shall be present at all scheduled review meetings or consideration of the proposal may be tabled by the reviewing body.
- b. **Required Information.** An application for a special land use permit shall include all of the following document and information:
 - (1) **Application Form.** A special land use application form supplied by the City which has been completed in full by the applicant.
 - (2) **Site Plan.** A full site plan in accordance with *Article 21*.
 - (3) A statement with regard to compliance with the standards for approval in *Section 2203*.
- c. **Planning Commission Consideration.** After all required information has been received and review fees paid, the application shall be processed in accordance with the following procedures:
 - (1) **Acceptance for Processing.** The application shall be placed on the agenda of a scheduled Planning Commission meeting and a public hearing scheduled.
 - (2) **Public Hearing.** Notice of the public hearing shall be published and circulated in accordance with the requirements of the Michigan Zoning Enabling Act (Public Act 110 of 2006).
 - (3) **Planning Commission Review.** Following the public hearing, the special land use proposal and plan shall be reviewed by the Planning Commission, based upon the standards and requirements of this Article.
 - (4) **Plan Revision.** If the Planning Commission determines that revisions are necessary to bring the proposed special land use application into compliance with applicable standards and regulations, the applicant shall submit a revised application and site plan. A second hearing is not required on a revised application that addresses concerns raised through the review process unless the Planning Commission determines that it is necessary. Following submission of revised application materials, the proposal shall be placed on the agenda of a scheduled meeting of the Planning Commission for review and possible action.
- d. **Planning Commission Determination.** The Planning Commission shall review the application, together with the public hearing input, and reports from the City Engineer, Fire Official, and other reviewing agencies. The Planning Commission shall then make a determination on the application, based on the requirements and standards of this Article. The Planning Commission may approve, approve with conditions, or deny a request as follows:

- (1) Approval. Upon determination by the Planning Commission that the application for a special land use is in compliance with the standards and requirements of this article and other applicable laws, approval shall be granted.
 - (2) Approval with Conditions. With an approval of a special land use proposal, the Planning Commission may impose reasonable conditions. A listing of conditions shall be sent to the applicant by registered mail, return receipt requested. The applicant shall submit a revised site plan or other information that demonstrates compliance with the conditions for administrative approval by the City within sixty (60) days of the date of conditional approval and prior to issuance of a building permit or the submission shall be considered null and void. The City Manager may submit the revised site plan to the Planning Commission for comments or approval.
 - (3) Denial. Upon determination that a special land use does not comply with standards and regulations set forth in this Ordinance, or requires excessive revisions in order to comply with the standards and regulations, the Planning Commission shall deny the application. Resubmittal of an application which was denied shall be considered a new application.
- e. Recording of Planning Commission Action. Each action taken with respect to a special land use shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the grounds for the action taken, and any conditions imposed in conjunction with approval.
 - f. Effect of Approval. Any special land use approval shall run with the land in perpetuity, unless the use is specifically determined to be temporary in nature or the use is discontinued. The special land use approval shall apply only to the land area contained within the parcel, lot, condominium unit, or other legally defined location for which the special land use approval was granted.
 - g. Building Permits. Following final approval of the special land use, and site plan, the applicant shall submit engineering plans to the City Engineer. The applicant shall also obtain all other applicable City, County or State permits. The City shall issue a building permit once all required approvals and permits are granted.
 - h. Expiration of an Approved Special Land Use. If construction has not commenced within twelve (12) months of the date of final approval, the approval becomes null and void and a new application shall be required. Upon written request from the applicant, a twelve (12) month extension may be granted by the Planning Commission if they find that the approved application and site plan continue to represent conditions on and surrounding the site. A written request for an extension of time must be received by the City prior to the special land use expiration date or a new application will be required.
 - i. Revocation of an Approved Special Land Use. The Planning Commission shall have the authority to revoke any special land use approval after the applicant has failed to comply with any of the applicable requirements of this Article, other applicable

sections of this Ordinance, or conditions of the special land use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification process for the original approval. The applicant shall be provided an opportunity to present information and to answer questions. The Planning Commission may revoke any previous approval if it finds that a violation exists and has not been remedied prior to the hearing.

SECTION 2202. STANDARDS FOR APPROVAL

A special land use proposal shall be approved by resolution that the proposed use will comply with all applicable requirements of this Ordinance including site plan review criteria set forth in *Article 21*, standards for specific uses listed in the district, and all of the following standards

- a. **Compatibility with Adjacent Uses.** The proposed special land use shall be designed, constructed, operated, and maintained to be compatible with existing or planned uses on surrounding land. The design of the site shall minimize the impact of site activity on neighboring properties. In determining whether a special land use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the special land use may have on adjacent property, as compared with the expected benefit to the community. The following types of impacts shall be considered:
 1. Use activities, processes, materials, equipment, or conditions of operation.
 2. Vehicular circulation and parking areas.
 3. Outdoor activity, visible storage and work areas and mechanical equipment.
 4. Hours of operation.
 5. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
 6. Impacts on adjacent property values.
 7. The relative ease by which the impacts above will be mitigated.
- b. **Use of Adjacent Property.** The proposed land use shall not substantially interfere with the use and enjoyment of adjacent property.
- c. **Isolation of Existing Uses.** The location of the proposed land use shall not result in a small residential area being substantially surrounded by nonresidential development. Also, the location of the proposed land use shall not result in a small nonresidential area being substantially surrounded by otherwise incompatible uses.
- d. **Impact on Public Health, Safety, and Welfare.** The proposed land use shall not include any activities, processes, materials, equipment, or conditions of operation that may threaten public health, safety, and welfare. The physical layout of the site shall be designed in a manner that is not detrimental to public health, safety, and welfare. In determining whether this requirement is met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.

- e. **Enhancement of Surrounding Environment.** The proposed land use shall complement and enhance the surrounding environment, and shall not unreasonably interfere with nor discourage the appropriate future development and use of adjacent land and buildings nor unreasonably affect their value. In determining whether this requirement is met, consideration shall be given to:
 - (1) The provision of landscaping and other on-site amenities. Provision of additional landscaping over and above the specific requirements in this Ordinance may be required as a condition of approval of special land use approval.
 - (2) The bulk, placement, and materials to be used in the construction of proposed structures as they relate to surrounding land uses.
- f. **Compatibility with the Master Plan.** The proposed special land use shall be consistent with and in accordance with the general principles and objectives of the adopted City Master Plan and shall promote the intent and purpose of this Ordinance and the district in which it is located.
- g. **Compliance with Applicable Regulations.** The proposed special land use shall be designed, constructed, operated and maintained to meet all applicable Federal, State, and local Ordinances.
- h. **Public Services.** The proposed special land use shall be located where it can be adequately served by and not exceed the capacity of existing essential public facilities and services, including, but not necessarily limited to utilities, public roads, and public safety 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 permitted use after special approval is available for occupancy.
- i. **Impacts of Traffic.** The location and design of the proposed special land use site shall minimize the negative impact of traffic generated by the proposed use on the road system in consideration of items such as vehicle trip generation (i.e. volumes), types of traffic, access location and design, circulation and parking design, road and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The City may require mitigation to maintain the pre-existing traffic operations. Route and operational restrictions (such as hours, cleaning of dust or debris) may be established for construction traffic to minimize negative impacts. The City may require submittal of a traffic impact study to ensure compliance with this standard. The traffic study shall be in accordance with standard practices and procedures, and prepared by a qualified traffic professional.
- j. **Impact on the Overall Environment.** The proposed special land use shall not have an unacceptable significant adverse effect on the quality of the natural environment in comparison to the impacts associated with typical permitted uses.

SECTION 2203. SPECIAL LAND USE AMENDMENTS OR EXPANSIONS

- a. **Major Amendments.** Any person or agency shall notify the City of any change in an existing special land use. Any major amendment to an approved special land use shall require submittal of a new application for special land use and follow the review procedures contained in this Article. Amendments to the site plan shall bring the site into compliance with all zoning Ordinance requirements determined to be reasonable by the Planning Commission in proportion with the extent of the change at the site and in consideration with the physical constraints of the site. The City shall determine whether the proposed amendment constitutes a minor or major amendment, based on the requirements below:
 1. **Increase in Building.** Changes increase the buildings usable floor area by more than twenty-five percent (25%) since the originally approved building.
 2. **Increase in Parking.** Parking lots are expanded by more than twenty-five percent (25%) since the originally approved lot.
 3. **Existing Special Land Uses:** Any expansion of a special land use that predates the special land use requirements of this Ordinance and has not previously received a special land use permit.
- b. **Minor Amendment.** Minor amendment to an approved special land use does not require submittal of a new application for a special land use.
- c. **Change in Use.** Change to another special land use shall require submittal of a new application for special land use and follow the review procedures contained in this Article.
- d. **Required Site Plan.** Any changes, whether it is deemed minor and major, shall require submittal of a site plan in accordance with *Article 21*.
- e. **Multiple Uses.** For a use or building which involves more than one (1) activity classified as a special land use, a separate special land use permit shall be required for each use requiring special land use review on a lot.

ARTICLE 23

OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 2300. OFF-STREET PARKING REQUIREMENTS

The purpose of this Article is to ensure sufficient automobile off-street parking space with adequate access to all spaces at the time of erection, enlargement or change in use, of any principle building or structure. Off-street parking and loading areas are to be designed, maintained and operated in a manner that will ensure their efficient use, promote public safety, improve aesthetics and, where appropriate, protect surrounding uses from undesirable impacts. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed:

- a. Off-street parking shall not be permitted within a front yard or a required rear or side yard setback within Residential Districts unless otherwise provided in this Ordinance.
- b. Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- c. Off-street parking spaces in nonresidential districts shall be permitted within the side yard or rear yard setback, provided that there shall be a minimum setback from the side and rear lot lines of at least ten (10) feet, unless otherwise provided in this Ordinance. Off-street parking shall be permitted within a front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of twenty (20) feet between the nearest point of the off-street parking area and the nearest right-of-way line.
- d. Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for Use as parking by the applicant.
- e. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
- f. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- g. Two (2) or more buildings or uses may collectively provide the 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.

- h. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.
- i. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited in those areas designated as off-street parking.
- j. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers is similar in type.
- k. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.
- l. For the purpose of computing the number of parking spaces required, the definition of usable floor area in *ARTICLE 2 DEFINITIONS* shall govern.
- m. Parking spaces-for the physically handicapped shall be located as close as possible to walkways and entrances. Signs shall be provided when necessary, indicating the direction of travel to an accessible entrance. All parking lots and sidewalks shall be designed in conformance with State Act No. 1 of the Public Acts of 1966, as amended.

TOTAL NUMBER OF SPACES REQUIRED	MINIMUM NUMBER OF ACCESSIBLE SPACES REQUIRED
1 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	8
301 - 400	12
over 400	12, plus 2 for every 250 or fraction thereof over 400

SECTION 2301. MINIMUM REQUIRED OFF-STREET PARKING SPACES

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

RESIDENTIAL	
One - and Two-family Dwellings	2.0 spaces per dwelling unit
Multiple-family Dwellings	1.5 spaces per each efficiency or one-bedroom dwelling unit; 2.0 spaces per each unit with two bedrooms; 2.5 spaces per each unit with three or more bedrooms; plus 5.0 additional spaces for any office, plus 1.0 space per 200 sq. ft. of gross floor area of any clubhouse facility, plus visitor off-street parking equal to at least 20% of the total spaces required
Mobile or Manufactured Homes in a Mobile Home or Manufactured Housing Park	2.0 spaces per dwelling unit plus 5.0 additional spaces for any office or clubhouse facility, plus 1 visitor space for every 3 homes
HOUSING FOR THE ELDERLY	
Senior Apartments	1.0 space per unit
Congregate, Assisted Living or Interim Care Housing	1.0 space per each room or three beds, whichever is less
Dependent Housing Facilities Including Convalescent Homes, Nursing Homes, Rest Homes, Etc.	1.0 space per each four beds or two rooms, whichever is less
INSTITUTIONAL/PUBLIC	
Auditoriums, Assembly Halls, Stadiums and Sports Arenas with Fixed Seating	1.0 space per each three seats or six lineal feet of bleachers, plus 1.0 space per employee

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Lodge, and Union Halls; Fraternal Orders; Private and Civic Clubs and Similar Uses	1.0 space per 120 sq. ft. of gross floor area
Child Care Centers, Adult Day Care Facilities	1.0 space per 400 sq. ft. of gross floor area, plus 1.0 space per employee, plus adequate drop-off area
Churches, Temples and Other Places of Worship	1.0 spaces per each three seats or six feet of pews in the main unit of worship, plus required spaces for any accessory uses such as a school, child care center, recreation facilities, etc.
Community Centers Including Senior Centers, Cultural Centers and Teen Centers	1.0 space per each 100 sq. ft. of gross floor area
Group Day Care Homes, Adult Foster Care Group Homes, and Adult Congregate Care Facilities	1.0 space per four residents, plus 1.0 space per employee, plus adequate drop-off spaces
Hospitals	1.0 space per 175 sq. ft. of gross floor area plus 1.0 space per employee
Municipal Office Buildings	1.0 space per 250 sq. ft. of gross floor area
Post Offices, Public Libraries and Museums	1.0 space per 200 sq. ft. of gross floor area (available for public use) plus spaces for employee and delivery vehicles
Public Utility Use	1.0 space per employee
Schools, Primary (Elementary) and Intermediate (Junior High or Middle Schools)	2.0 spaces per classroom plus 2.0 drop-off spaces per classroom plus spaces required for any assembly hall, auditorium, and/or outdoor arena or athletic fields
Schools, Secondary (High Schools), Colleges, Business and Vocational Schools, and Technical Training Facilities	2.0 spaces per classroom plus 15.0 student spaces per classroom plus parking required for any assembly hall, auditorium, or outdoor arena

OFFICE	
Branch Banks, Credit Unions, Financial Institutions and ATM Machines	1.0 space per 200 sq. ft. of gross floor area, plus 2.0 spaces per each 24-hour teller, plus 4.0 stacking spaces per each drive-through window or ATM machine
Business Offices and Professional Services	1.0 space per 300 sq. ft. of gross floor area
Medical and Dental Clinic/offices	1.0 space per 200 sq. ft. of gross floor area (when such use comprises less than 50% of the building or site) 1.0 space per 150 sq. ft. of gross floor area (when such use comprises more than 50% of the building or site)
Veterinary Offices, Clinics or Hospitals	1.0 space per 250 sq. ft. of gross floor area excluding kennels or boarding areas
COMMERCIAL	
Automobile Gasoline Stations	1.0 spaces per each pump island and service bay (bay can be included as a space), plus 1.0 space per employee, plus 1.0 space per each tow truck, plus 1.0 space for each 500 sq. ft. of gross floor area devoted to sales of automotive goods, plus required spaces for any convenience store (mini-mart), restaurant or auto wash
Automobile and Vehicle Service Establishments	3.0 spaces for each service bay (bay can be included as a space), plus 1.0 space per employee, plus 1.0 space for each tow truck, plus 1.0 stacking space per bay
Automobile and Vehicle Dealerships Including Recreational Vehicles, Boats, Motorcycles, and Mobile Homes	1.0 space per 400 sq. ft. of gross floor area of interior sales space, plus 1.0 space per 600 sq. ft. of gross floor area of exterior display, plus 3.0 spaces per each service bay (bay can be included as a space)
Automobile Washes (Automatic)	2.0 spaces, plus 1.0 space per employee, plus 10.0 stacking spaces per freestanding bay or 6.0 spaces when accessory to a gas station
Automobile Washes (Self-service or Coin Operated)	2.0 spaces per bay for drying, plus 3.0 stacking spaces per wash bay

Bars, Taverns, Lounges, and Brewpubs (Majority of Sales Consist of Alcoholic Beverages)	1.0 space per 50 sq. ft. of gross floor area
Barber Shops, Beauty Salons, and Tanning Facilities	1.0 space per 175 sq. ft. of gross floor area or 2.5 spaces per each barber or beautician's chair/station, whichever is greater
Bookstores	1.0 space per 125 sq. ft. of gross floor area
Business and Personal Service Establishments	1.0 space per 300 sq. ft. of gross floor area
Conference, Meeting or Banquet Rooms; Exhibit Halls and Similar Uses	1.0 space per 120 sq. ft. of gross floor area
Discount Stores, Department Stores, Warehouse Clubs	1.0 space per 200 sq. ft. of gross floor area including outdoor sales area
Dry Cleaners	1.0 space per 500 sq. ft. of gross floor area plus 2.0 stacking spaces per drop off station
Equipment Repair Establishments	1.0 space per 800 sq. ft. of gross floor area
Funeral Homes and Mortuary Establishments	1.0 space per 50 sq. ft. of gross floor area of service parlors, chapels and reception area, plus 1.0 space per each funeral vehicle stored on the premises
Furniture and Appliance, Carpet and Flooring Stores	1.0 space per 500 sq. ft. of gross floor area
General Retail and Service Uses Not Otherwise Specified	1.0 space per 150 sq. ft. of gross floor area
Grocery Stores and Convenience Stores (Mini-marts)	1.0 space per 175 sq. ft. of gross floor area
Hardware, Paint and Home Improvement Stores	1.0 space per 200 sq. ft. of gross floor area

Kennels (Commercial) and Animal Grooming Establishments	5.0 spaces plus employee parking
Laundromats	1.0 space per each two washing machines, plus 2.0 spaces for employees
Mini or Self-storage Warehouses	6.0 spaces
Motel, Hotel, Bed and Breakfast Inn, Boarding Houses and Similar Uses	1.0 space per guest room plus 1.0 space per employee, plus 75% of required spaces for restaurants, conference rooms, banquet halls and other uses
Open Air Businesses Including Nurseries, Garden Centers and Other Outdoor Display, Sales, and Storage Uses	1.0 space per 500 sq. ft. of gross floor area of outdoor display, sales and storage area, plus 1.0 space per 200 sq. ft. of gross floor area of indoor space, plus 1.0 space per employee
Pharmacies	1.0 space per 250 sq. ft. of gross floor area plus 3.0 stacking spaces for any drive-through windows
Restaurants, Standard, with Liquor License	1.0 space per 60 sq. ft. of gross floor area, or 0.6 spaces per seat, whichever is greater, plus spaces required for any banquet or meeting rooms
Restaurants, Standard, Without Liquor License	1.0 space per 70 sq. ft. of gross floor area or 0.5 spaces per seat, whichever is greater, plus spaces required for any banquet or meeting rooms
Restaurants, Fast Food with Drive-through Window, Including Coffee Shops, Cafes, Delicatessens, Etc.	1.0 space per 80 sq. ft. of gross floor area, plus 1.0 space per employee, plus 5.0 spaces between the pick-up window and order station, plus 10.0 stacking spaces
Restaurants, Fast Food Without Drive-through Window	1.0 space per 80 sq. ft. of gross floor area or 0.5 spaces per seat, whichever is greater
Restaurants, Drive-in	1.0 space per drive-in station, plus 1.0 space per employee

Restaurant Carry-out and Open Front Window, with less than Six Tables And/or Booths	6.0 spaces plus 1.0 space per employee
Shopping Centers with less than 100,000 Sq. Ft. Gross Leasable Floor Area	1.0 space per 200 sq. ft. of gross floor area, plus spaces required for any grocery store, bookstore or restaurant, or outlot parcel
Shopping Centers with 100,000 Sq. Ft. or More Gross Leasable Floor Area	1.0 space per 225 sq. ft. of gross floor area, plus spaces required for any grocery store, bookstore, or restaurant or outlot parcel
Studios for Art, Photography, Music, Dance and Similar Uses	1.0 space per 300 sq. ft. of gross floor area plus 1.0 space per employee
Video rental establishments	1.0 space per 150 sq. ft. of gross floor area, with a minimum of 8.0 spaces provided
RECREATION/ENTERTAINMENT	
Arcades	2.0 spaces per machine plus 1.0 space per employee
Baseball and Softball Fields	25.0 spaces per field
Batting Cages	3.0 spaces per cage
Bowling Centers	5.0 spaces per lane, plus 1.0 space per employee, plus 25% of required spaces for any lounge or other uses
Golf Course Driving Ranges	1.0 space per tee
Golf Courses, Miniature and Par Three	2.0 spaces per each course hole, plus 1.0 space per employee
Golf Courses	6.0 spaces per each course hole, plus 1.0 space per employee, plus required spaces for restaurants, banquet rooms, pro shop, offices, and other uses

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Health and Fitness Centers and Clubs	1.0 space per 200 sq. ft. of gross floor area, plus required spaces for swimming pools, courts, restaurants and other uses
Ice/roller Skating Rinks	1.0 space per 170 sq. ft. of gross floor area plus 50% of parking required for restaurants, pro shops and other uses
Pool and Billiard Halls	1.0 space per 70 sq. ft. of gross floor area or 1.0 space per every three persons of capacity authorized by the BOCA Code
Recreation Centers (Indoor) Commercial, Not Already Specified	1.0 space per 1,000 sq. ft. of gross floor area, plus required spaces for restaurants, banquet rooms, offices, sales area, and other uses
Recreation Centers (Outdoor) Public or Commercial	1.0 space per 200 sq. ft. of gross floor area
Soccer and Football Fields	30.0 spaces per field
Swimming Pools	1.0 space per each three persons of capacity authorized by the State Building Code building code
Tennis Courts And Racquetball Centers	1.0 space per 1,000 sq. ft. gross floor area or 6.0 spaces per court, whichever is greater, plus 50% of required spaces for restaurants, banquet rooms, offices, sales area, and other uses
Theaters, Cinemas	1.0 space per each three seats plus 1.0 space per two employees
INDUSTRIAL	
Light Industrial, Manufacturing, Testing Labs, Research, Design and Development Centers	5.0 spaces, plus 1.0 space per 500 sq. ft. of gross floor area, or 1.2 spaces per employee, whichever is greater, plus 1.0 space for each corporate vehicle, plus spaces required for any office or sales area
Warehousing and Wholesale Establishments (Non-retail)	5.0 spaces plus 1.0 space per employee or 1.0 space per 2000 sq. ft. of gross floor area, whichever is greater plus 1.0 space for each corporate vehicle plus spaces required for any office or sales area

- a. **Uses Not Cited.** For those uses not specifically mentioned, the requirements for off-street parking for a similar use shall apply, subject to review by the Planning Commission.
- b. **Parking Deferment.** A smaller amount of parking may be approved by a finding by the Planning Commission that the required amount of parking is excessive, provided that the area to meet the full parking requirement is retained as open space. The site plan shall note the area where parking is being deferred with a dotted parking lot layout. If within a two (2) year period following issuance of a certificate of occupancy the City determines, based on observed use, that the deferred parking is needed, then the parking shall be constructed by the applicant within six (6) months of being informed in writing by the City. The Planning Commission may require posting of a performance bond to cover the estimated construction cost of the deferred parking with a refund in two (2) years if the additional parking is not found to be necessary.
- c. **Limits on Excessive Parking.** In order to minimize excessive areas of pavement which reduces aesthetic standards and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by more than twenty percent (20%) shall only be allowed with approval by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.
- d. **Location of Parking.** All off-street parking and loading areas shall be located on the same lot, or other lot in the same district located not more than three hundred (300) linear feet from the building being served. On-street parking may be considered available to meet all or any portion of the needs of a non-residential use in the Town Center District, provided the Planning Commission finds parking spaces are reasonably available at the time of day needed and provided that off-street parking is shown to be not feasible.

SECTION 2302. OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE

Whenever the off-street parking requirements in *Section 2301 Minimum Required Off-Street Parking Spaces* require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- a. No parking lot shall be constructed unless and until a permit therefore is issued by the Building Official. Applications for a permit shall be submitted in such form as may be determined by the Building official and shall be accompanied with two (2) sets of site plans for the development and construction of the parking lot showing that the provisions of this Section will be fully complied with.

- b. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces plus Maneuvering Lane	Total Width of Two Tiers of Spaces plus Maneuvering Lane
0° (parallel parking)	12 ft. (one way)	8ft.	28ft.	20 ft.	28 ft.
30° to 53°	12 ft. (one way)	9ft.	20ft.	32 ft.	52 ft.
54° to 74°	15 ft. (one way)	9ft.	20ft.	36 ft. 6 in.	58 ft.
75° to 90°	24 ft. (two way)	10ft.	18ft.	40 ft.	60 ft.

- c. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- d. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
- e. Ingress and egress to a parking lot lying in an area zoned for other than single family residential use shall not be across land zoned for single-family residential use.
- f. The entire parking area in the R-3, R-4, TC, and C Districts and special uses in the R-1 and R-2 Districts, including parking spaces and maneuvering lanes, required under this Section shall be provided with asphalt or concrete surfacing in accordance with specifications approved by the City Engineer. Parking in the PT and I Districts shall have driveway approaches in the public right-of-way paved with asphalt or concrete. Parking in the R-1 and R-2 Districts shall have driveway approaches in the public right-of-way paved with asphalt.
- g. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- h. All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, parking space striping, lighting fixtures, signage, and related appearances shall be maintained in good condition. All required lawns, landscaping, and plantings

shall be maintained in a healthy, growing condition, neat and orderly in appearance. Trees and shrubs shall be properly pruned of dead and damaged limbs. Dead and severely damaged trees and shrubs shall be removed and replaced according to the minimum planting standards.

SECTION 2303. OFF-STREET WAITING AREA FOR DRIVE-THROUGH FACILITIES

- a. An off-street waiting space is defined as an area with a minimum width of ten (10) feet and a minimum length of twenty (20) feet and shall not include the use of any public space, street, alley or sidewalk and shall be located entirely within the TC or C District.
- b. On the same premises with every building structure or part thereof, erected and occupied for the purpose of serving customers in their automobile by means of a service window or similar arrangements where the automobile engine is not turned off, there shall be provided off-street waiting spaces as follows:

USE SERVED BY DRIVE-THROUGH LANE	MINIMUM STACKING REQUIREMENTS (PER LANE)
a. Restaurant	The distance between the order board and the pick-up window shall store four (4) vehicles, and storage shall be provided for four (4) vehicles in advance of the menu board (not including the vehicles at the pick-up window and menu board)
b. Financial Institution	Six (6) vehicles per lane inclusive of the vehicle at the window.
c. Car Wash (unattended, coin-operated)	Three (3) vehicles in advance of the washing bay and storage for one and one-half (1/2) vehicles beyond the washing bay as a drying and vacuum area.
d. Car Wash (tunnel wash)	Four (4) times the maximum capacity of the autowash in advance of the tunnel and three (3) vehicles beyond the tunnel for drying areas.
e. Child Care Centers	One (1) vehicle per fifteen (15) children inclusive of the vehicle at the drop-off point. No parking area or maneuvering lanes shall be permitted between the drop-off point and the principal entrance to the building.
f. Dry Cleaners	Four (4) vehicles per lane inclusive of the vehicle at the window.
g. Quick Oil Change	Four (4) vehicles per lane inclusive of vehicle being serviced.
h. Pharmacy	Three (3) vehicles per lane inclusive of the vehicle at the window.
i. Convenience Market	Three (3) vehicles per lane inclusive of the vehicle at the window.

j. Other Uses	For uses not listed above, the Planning Commission shall make a determination of minimum required vehicle stacking at the time of site plan review, based upon analysis by the Traffic Engineer and Zoning Administrator.
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- c. Drive-through lanes shall not utilize any space which is necessary for adequate access to parking spaces from internal maneuvering lanes.
- d. Drive-through lanes shall have a minimum centerline radius of twenty-five (25) feet.
- e. Drive-through lanes shall be striped, marked, or otherwise distinctively delineated, and shall require a by-pass lane with minimum width of fourteen (14) feet.
- f. No space shall be located closer than fifty (50) feet to any lot in any Residential District, unless wholly within a completely enclosed building or enclosed on all sides facing Residential Zones, by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six (6) feet in height, and lights used to illuminate loading areas shall be arranged so as to reflect away from adjacent areas.

SECTION 2304. OFF-STREET LOADING AND UNLOADING

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

- a. Off-street loading and unloading areas provided pursuant to this Article shall conform to the setbacks provided in *Section 2300 Off-Street Parking Requirements*.
- b. All loading and unloading configurations must be able to accommodate safe and efficient truck and automobile maneuvering.
- c. Within the C and TC Districts, all loading areas shall be laid out in the dimension of at least ten (10) square feet per foot of building frontage and shall be computed separately from off-street parking requirements.
- d. Within the PT and I Districts all spaces shall be located in the rear yard and laid out in the dimension of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or cement binder so as to provide a permanent, durable and dustless surface. All spaces in the I District shall be provided in the following ratio of space to floor area.

Gross Floor Area (In Square Feet)	Loading and Unloading Space Required
0 - 1,400	None
1,401 - 20,000	One (1) space
20,001 - 100,000	One (1) space plus one (1) space for each 20,000-square feet in excess of 20,001 -square feet
100,001 and over	Five (5) spaces

SECTION 2305. ACCESS MANAGEMENT AND DRIVEWAY STANDARDS

The purpose of this Section is to provide access standards which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The standards are specifically designed for streets whose primary function is the movement of through traffic, as opposed to local streets whose primary function is access to adjacent properties.

a. **Application of Standards**

The standards of this Article shall be applied to the following major traffic routes, as identified in the Au Gres Comprehensive Plan:

1. U.S. 23
2. Main Street
3. Michigan Avenue
4. Court Street
5. West Street
6. Santiago Street

- b. The access standards contained herein shall be required in addition to, and where permissible shall supersede, the requirements of the Arenac County Road Commission (ACRC) and the Michigan Department of Transportation (MDOT).
- c. The standards contained in this Section shall apply to all uses, except permitted single-family and two-family dwelling units.
- d. For expansion and/or redevelopment of existing sites where the Planning Commission determines that compliance with all the standards of this Article is unreasonable, the standards shall be applied to the maximum extent possible. In such situations, suitable alternatives which substantially achieve the purpose of this Article may be accepted by the Planning Commission, provided that the applicant demonstrates all of the following apply:

1. Size of the parcel is insufficient to meet the dimensional standards.
 2. The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost.
 3. The use will generate less than five hundred (500) total vehicle trips per day or less than seventy-five (75) total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers (ITE).
 4. There are no other reasonable means of access.
- e. Number of Driveways
1. Access to a parcel shall consist of either a single two-way driveway or a pair of one-way driveways wherein one (1) driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
 2. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.
 3. Where parcels of at least two (2) acres in area, have frontage along two (2) streets, access should be provided only along the street with the lower average daily traffic volume, unless the Planning Commission determines this would negatively affect traffic operations or surrounding land uses.
 4. Where the property has continuous frontage of over three hundred (300) feet and the applicant can demonstrate, using the Institute of Transportation Engineers manual Trip Generation or another accepted reference, that a second access is warranted, the Planning Commission may allow an additional access point. Where possible, this access should be spaced accordingly to the standards contained herein, located on a side street, shared with an adjacent property, and/or be constructed to restrict one (1) or both left turn movements.
 5. Where the property has continuous frontage of over six hundred (600) feet, a maximum of three (3) driveways may be allowed, with at least one (1) such driveway being constructed and signed for right-turns-in, right-turns-out only.
- f. Shared Access-Joint Driveways, Frontage Roads, Parking Lot Connections and Rear Service Drives
1. Shared use of access between two (2) or more property owners should be encouraged through use of driveways constructed along property lines, connecting parking lots and construction on-site of frontage roads and rear service drives; particularly within one-quarter mile of major intersections, for sites having frontage on two (2) or more streets, where frontage dimensions are less than three hundred (300) feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In such cases, shared access of some type may be the only access design allowed.
 2. In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility may be

required by the Planning Commission.

3. In cases where a site is adjacent to undeveloped property, the site should be designed to accommodate a future frontage road, parking lot connection or rear service drive.
4. The applicant shall provide the City with letters of agreement or access easements from all affected property owners.

g. Adequate Sight Distance

1. Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in Chapter 9 of A Policy on Geometric Design of Highways and Streets. 1994.
2. The Planning Commission may adjust driveway location where there is inadequate sight distance.

h. Driveway Spacing From Intersections

1. Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.
2. In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:
 - (a) For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one (1) or more movements) and/or a significant number of traffic accidents (five or more annually), the Planning Commission may require that access be constructed along the property line furthest from the intersection.
 - (b) For locations within two hundred (200) feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of one hundred fifty (150) feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of seventy-five (75) feet from the intersecting street right-of-way.
 - (c) For locations not addressed by paragraph (b) above, not including single-family parcels, driveways shall be spaced one hundred (100) feet from the intersection.

i. Driveway Spacing From Other Driveways

1. Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.

2. Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as follows:

Driveway Spacing From Other Driveways	
Posted Speed (mph)	Minimum Driveway Spacing
25 mph	100 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet
55 mph	350 feet

3. Driveways shall be directly aligned with those across the street or, where offset, the minimum driveway spacing from driveways across the street shall be a minimum of one hundred fifty (150) feet, as determined by the Planning Commission, excluding when one (1) or both driveways are designed and signed for right-turn-in, right-turn-out only.
- j. Driveway Design, Channelized Driveways, Deceleration Lanes and Tapers, Bypass Lanes
1. Standards. Driveways shall be designed to the standards of the Arenac County Road Commission, except where stricter standards are included herein or by the *City Driveway Construction Standards*.
 2. Driveway Width and Radii
 - (a) The typical driveway design shall include one (1) ingress and one (1) egress lane, with a combined maximum throat width of thirty (30) feet, measured from face to face of curb.
 - (b) Wherever the Planning Commission determines that traffic volumes or conditions may cause significant delays for traffic exiting left, two (2) exit lanes may be required.
 - (c) For one-way paired driveway systems, each driveway shall be sixteen (16) feet wide, measured perpendicularly.
 - (d) In areas with pedestrian traffic, the exit and enter lanes may be separated by a median with a maximum width of ten (10) feet.
 - (e) Driveways shall be designed with a twenty-five (25) foot radii; thirty-foot radii where daily semi truck traffic is expected.
 3. Driveway Storage. Driveway storage shall be determined by the Planning Commission based on traffic volumes and conditions. A minimum of forty (40) feet of driveway storage shall be provided for less intense developments and a minimum of one-hundred and twenty (120) feet of driveway storage shall be required for larger developments. Driveway storage shall be measured from the right-of-way line.

ARTICLE 24

SIGNS

SECTION 2400. INTENT

The purpose of this Article is to regulate signs and to minimize outdoor advertising within the City of Au Gres to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction and loss of visibility; promote public convenience; preserve property values; support and complement strategies of the City of Au Gres Master Plan and this Ordinance; and enhance the aesthetic appearance and quality of life within the City.

The regulations and standards of this Article are considered the minimum amount of regulation necessary to achieve a substantial government interest for public safety, aesthetics, protection of property values, and are intended to be content neutral. These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the City so as to:

- a. protect the public right to receive messages, especially non-commercial messages such as religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution;
- b. recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premise activities; alternative channels of advertising communication and media are available for advertising which do not create visual blight and compromise traffic safety;
- c. recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents;
- d. prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair;
- e. enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs;
- f. prevent placement of signs which will conceal or obscure signs of adjacent uses;
- g. prevent off-premise signs from conflicting with land uses;
- h. preserve and improve the small town atmosphere of the City by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings; and
- i. prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

SECTION 2401. DEFINITIONS

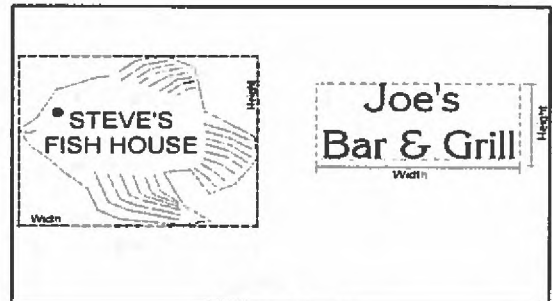
- a. **Community Events Sign:** A temporary sign announcing local community events.
- b. **Construction Sign:** A sign erected on a site-designated on a building permit issued by the City Building Official, which advises the public of the pertinent facts regarding the construction of the building and site improvements
- c. **Accessory Ground Sign:** A permanent sign supported directly by the ground or with freestanding support provided by upright, braces, or pylons and located in or upon the ground but not attached to a building and accessory to the principal use of the premises.
- d. **Non- Accessory Sign:** A permanent sign which is not accessory to the principal use of the premises (e.g. billboard)
- e. **Individual Property Sale or Rent Sign:** A temporary sign advertising the sale, rent or lease of the property upon which is located.
- f. **Institutional Bulletin Board:** A sign which displays the name of a religious institution, school, library community center, or similar public or quasi-public institution, and the announcement of its services or activities.
- g. **Portable Sign:** A sign that is free-standing not permanently anchored or secured to either a building or the ground may be capable of being transported on wheels and/or being pulled by a motor vehicle. So called "sandwich" signs, "A" framed signs are not to be construed as portable signs under this Section. "Sandwich" signs and "A" frame signs are specifically prohibited.
- h. **Private Traffic Direction Sign:** A sign directing traffic movement onto or within a premise, located entirely thereupon, and containing no advertising message or symbol.
- i. **Public Sign:** Any sign erected by a state county, or local authority having lawful jurisdiction over public property or right-of-way, for the purpose of traffic control, public safety, or public information.
- j. **Subdivision Sale Sign:** A sign promoting the sale of lots or homes within a subdivision for which final plat approval has been received.
- k. **Wall Sign:** A sign which is attached directly to the wall of a building and which extends not more than twelve (12) inches from the wall, including window signs.
- l. **Projecting Sign:** A sign (other than a wall sign) which projects from and is supported by a building wall, and part of which extends more than twelve (12) inches beyond the building face of ends of the building wall.
- m. **Roof Sign:** A sign attached and any portion of which is erected, constructed and maintained above the roof of a building.
- n. **Free Standing Pylon Sign:** A sign supported by one post placed in the ground, no attached to any building. A pylon sign is of a height and dimension that can be seen from a substantial distance, primarily by state highway traffic, with the bottom of the sign at a higher elevation than the highest point of any building on the lot on which the sign is located.

SECTION 2402. SIGN PROVISIONS APPLICABLE IN ALL DISTRICTS

- a. All signs shall conform to applicable Ordinances of the City and, where required, shall be approved by the Building Official, and a permit issued.
- b. No sign except those established and maintained by the city, county, state, or federal governments shall be located in, project or overhand a public right-of-way or dedicated public easement.
- c. No sign otherwise permitted shall project above the maximum height limitation of the use district where located.
- d. No sign shall be illuminated by other than a steady light, nor shall any intermittent or flashing illumination be permitted. Further, no sign or part of a sign move, either by mechanical means or reaction to air, current. This provision shall not preclude message signs and time, temperature, stock market data or similar information.
- e. No banners, pennants, balloons, spinners or streamers are permitted on a permanent basis. The Building Official may authorize such decorative streamers on a temporary basis not to exceed 48 hours for special events. In no case shall a business be granted more than three (3) such temporary requests within any given twelve (12) month period.
- f. Freestanding accessory ground signs may be located in the required front yard except as otherwise provided herein.
- g. No sign shall be of color, lighting or shape or be so located as to conflict or obscure official traffic control signs, light or devises.

h. Measurement of Area of a Sign

- 1. Measurement of a sign includes the entire area within a circle, or parallelogram enclosing the extreme limits or writing representation, emblem, or any figure of similar character, together with any frame or other material or color forming and integral part of the display or used to differentiate the sign from the background against which it is placed. This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower.
- 2. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more that two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
- 3. In the case of the sphere, the total area of the sphere shall be divided by four (4) to determine the maximum permitted sign area.



i. Sign Setbacks

1. All signs, unless otherwise provided for, shall be set back a minimum of fifteen (15) feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.
2. Side yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least one hundred (100) feet from any residential district.
3. Sight Triangle. No sign shall be located within, project into, or overhang the triangular area formed at the intersection of any two road right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

j. Location

1. Sign location to assure adequate sight distance. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of twenty-four (24) inches and six (6) feet within a triangular area measured twenty-five (25) feet back from intersection of public right-of-way lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs.

k. Design and Construction Standards

1. All signs, as permitted, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein.
2. Signs shall be constructed in a safe and stable manner in accordance with the State Building Code and Electrical Code. All electrical wiring associated with a freestanding sign shall be installed underground.
3. All signs shall be designed so that the supporting framework, other than the supporting poles on a freestanding sign, is contained within or behind the face of the sign or within the building to which it is attached so as to be totally screened from view.
4. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least twenty (20) pounds per square foot or seventy-five miles per hour.
5. All signs, including any cables, guy wires, or supports shall have a minimum clearance of four (4) feet from any electric fixture, street light, or other public utility pole or standard.

l. Illumination

1. Signs shall be illuminated only by steady, stationary, shielded light sources directed

- solely at the sign, or internal to it.
2. Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.
 3. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
 4. Illumination by bare bulbs, neon, luminous tubing or flames is prohibited, except that bare bulbs are permitted on changeable copy signs and theater marques.

SECTION 2403. PROHIBITED SIGNS

Signs are prohibited which.

- a. Contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency.
- b. Contain or are an imitation of an official traffic sign or signal or contain the words "stop", "go slow", "caution", "danger", "warning", or similar words. Traffic directional signs in a private parking area are exempted from this provision.
- c. Are of size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or emergency vehicle.
- d. Obstruct a motorist's view of any traffic signs, street sign, or traffic signal.
- e. Contain or consist of banners, pennants, pinwheels, ribbons, streamers, strings of lights bulbs other than holiday decorations, or similar devices. Upon site plan review, the City Planning Commission may approve specific modifications of this provision.
- f. Are freestanding exterior signs and are not anchored or secured to a building or the ground.
- g. Are part of a structure designed to be moved from one location to another with a change in message.
- h. Are off-site signs.
- i. Are roof signs

SECTION 2404. EXEMPT SIGNS

The following signs are specifically exempt from the permit requirements of this Article, provided such signs are outside of the public street right-of-way and are located to ensure adequate sight distance:

- a. Address Signs. address numbers with a numeral height no greater than six (6) inches for residences and eighteen (18) inches for businesses;

- b. Barber Poles;
- c. Flags. Flags or insignia bearing the official design of a nation, state, municipality, educational institution, or noncommercial organization, provided the maximum height of the flagpole is thirty-five (35) feet measured from the average surrounding grade, a maximum of (two) flagpoles per lot;
- d. Construction Signs;
- e. Public Signs;
- f. Political Campaign Signs;
- g. For Sale Signs;
- h. No Hunting Signs;
- i. Small Signs Advertising Commercial Agricultural Products;
- j. Rummage/Garage Sale Signs;
- k. Awning Signs;
- l. Employment Signs "help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be six (6) square feet with a maximum height of four (4) feet;
- m. Historic Markers. Historical marker including plaques or signs describing state or national designation as a historical site or structure and containing narrative, not exceeding twelve (12) square feet in area;
- n. Incidental Signs. Incidental signs not exceeding a total of two (2) square feet, a total of two (2) signs per business indicating acceptance of credit cards or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance or window;
- o. Memorial Signs. Memorial signs or tablets, names of buildings and date of erection, monumental citations, commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other noncombustible material and made an integral part of the structure and not exceeding twenty-five (25) square feet in area;
- p. Non-commercial Signs. Non-commercial signs including signs containing non-commercial messages, such as those designating the location of public telephones, restrooms, restrictions on smoking and restrictions on building entrances, provided that such signs do not exceed two (2) square feet in area;
- q. Traffic Control Signs. Private traffic control signs which conform to the requirements of

the Michigan Manual of Uniform Traffic Control Devices;

- r. **Nameplates.** Residential nameplates identifying the occupants of the building, the home occupation, or for professional purposes provided such sign shall be limited to one (1) per dwelling and not to exceed two (2) square feet in area; the sign shall not be illuminated and must be attached to an exterior building wall;
- s. **Signs on Vehicles.** Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked;
- t. **Device Signs.** Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three (3) square feet in area, limit of one (1) sign per vending machine, gas pump or ice container;
- u. **Open House Signs.** Portable real estate "open house" signs provided the following conditions are met:
 - 1. there shall be only two (2) such signs placed off-premise and one (1) on-premise;
 - 2. each sign shall be a maximum of four (4) square feet in size and three (3) feet in height above grade;
 - 3. signs shall not be affixed to other signs, utility poles, fire hydrants or trees;
 - 4. signs may be located in the public right-of-way but shall be placed at least ten (10) feet from the curb or fifteen (15) feet from the pavement edge where there is no curb;
 - 5. the person or firm placing the signs shall obtain the written permission from the owner or occupant of all properties on which such signs are placed;
 - 6. the signs shall be allowed for a maximum of eight (8) hours per day; and
 - 7. the signs shall be removed within one (1) hour following closing of the open house;
- v. **Parking Lot Signs.** Private parking lot and driveway identification sign limited to one (1) per lot and not to exceed three (3) square feet per sign and six (6) feet in height;
- w. **Warning Signs.** Publicly authorized warning signs, such as no trespassing, warning of electrical currents or animals, provided such signs do not exceed two (2) square feet in area;
- x. **Public Signs.** regulatory and directional traffic control and street signs erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices; and
- y. **Enclosed Signs.** Any sign which is located completely within an enclosed building, and which is not visible from outside the building.

Sign Regulations			
Name	Districts Permitted	Maximum Number and Area of Sign	Other Provisions
a. Community Events Signs	All Districts	<ul style="list-style-type: none"> ▪ 32 square feet per sign face 	<ul style="list-style-type: none"> ▪ Maximum 14 days display ▪ Traditional holiday displays, when occurring on private property, are exempt from any restrictions.
b. Construction Signs	All Districts	<ul style="list-style-type: none"> ▪ Six (6) square feet per sign face for residential districts ▪ 100 square feet per sign face for all other districts 	<ul style="list-style-type: none"> ▪ Permitted during building construction
c. Accessory Ground Signs	TC	<ul style="list-style-type: none"> ▪ 24 square feet per sign face ▪ One (1) ground sign per building, shopping center or group of buildings on a single lot 	<ul style="list-style-type: none"> ▪ Height not to exceed 12 feet ▪ Minimum setback from front lot line- Six (6) feet. ▪ Minimum clearance from ground level to bottom of sign- Eight (8) feet
	C	<ul style="list-style-type: none"> ▪ 45 square feet per sign face ▪ One (1) ground sign per building, shopping center or group of buildings on a single lot 	<ul style="list-style-type: none"> ▪ Height not to exceed 16 feet ▪ Minimum setback from front lot line- 10 feet
	PT	<ul style="list-style-type: none"> ▪ 24square feet per sign face ▪ One (1) ground sign per building or group of buildings on a single lot 	<ul style="list-style-type: none"> ▪ Height not to exceed 12 feet ▪ Minimum setback from front lot line- 10 ft.
	CR	<ul style="list-style-type: none"> ▪ 20 square feet per sign face ▪ One (1) ground sign per building or group of buildings on a single lot 	<ul style="list-style-type: none"> ▪ Height not to exceed 12 feet ▪ Minimum setback from front lot line- 10 feet
	I	<ul style="list-style-type: none"> ▪ 32 square feet per sign face One (1) ground sign per building or group of buildings on a single lot 	<ul style="list-style-type: none"> ▪ Height not to exceed 16 feet ▪ Minimum setback from front lot line- 10 feet

<p>d. Non-accessory Signs (Billboards)</p>	<p>I</p>	<ul style="list-style-type: none"> ▪ 200 square feet per sign face 	<ul style="list-style-type: none"> ▪ Shall be spaced no closer than 1,000 feet from another non-accessory sign on the same side of the right-of-way. ▪ Minimum setback of twenty-five (25) feet of the road right-of-way. ▪ Minimum setback of twenty (20) feet from a side lot line. ▪ Sign shall not be placed in such a manner as to prevent any traveler on a curve of the highway or at a street intersection from obtaining a clear view of approaching vehicles. ▪ Height not to exceed twenty (20) feet. ▪ A minimum vertical clearance of ten (10) feet shall be provided below the sign if sign located within four (4) feet of any driveway or parking lot. <p>Permit and site plan review by Planning Commission required.</p>
<p>e. Individual Property Sale/Rent Signs</p>	<p>All Districts</p>	<ul style="list-style-type: none"> ▪ One (1) sign per parcel; two (2) if on corner lot. ▪ Six (6) square feet per sign face for residential districts. ▪ The total area of each side in a non-residential district shall be at a ratio of one (1) square foot for each linear foot of lot's frontage, but in no case exceeding 32 square feet 	<ul style="list-style-type: none"> ▪ Three (3) feet maximum height in residential districts, and no permit required ▪ 10 feet maximum height in non-residential districts, and permit required
<p>f. Institutional Bulletin Boards</p>	<p>All districts</p>	<ul style="list-style-type: none"> ▪ One (1) sign per parcel. ▪ 32 square feet per sign face; 64 square feet total 	<ul style="list-style-type: none"> ▪ Six (6) feet maximum height ▪ Permit and site plan review by Planning Commission required.

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g. Portable Signs	All Districts Except Residential	<ul style="list-style-type: none"> ▪ 32 square feet per sign face 	<ul style="list-style-type: none"> ▪ Maximum permitted duration of 21 days ▪ Sign shall not encroach upon the public right-of-way. ▪ No flashing or intermittent lights shall be permitted on sign.
h. Private Traffic Directional Signs	All Districts	<ul style="list-style-type: none"> ▪ Three (3) square feet per sign face 	<ul style="list-style-type: none"> ▪ Five (5) feet maximum height ▪ Subject to review by Building Official ▪ Subject to permit from Building Official
i. Public Signs	All Districts		<ul style="list-style-type: none"> ▪ Subject to regulation of applicable law of jurisdiction
j. Subdivision Sale Signs	All Districts	<p>Two (2) per subdivision</p> <ul style="list-style-type: none"> ▪ 50 square feet per sign face for residential districts ▪ 100 square feet per sign face for all other districts 	<ul style="list-style-type: none"> ▪ Subject to District's minimum building setbacks
k. Wall Signs	All Districts Except Residential	<ul style="list-style-type: none"> ▪ The total maximum area of sign shall be 10% of the wall width on which it is attached, but in no case exceeding 50 square feet. 	<ul style="list-style-type: none"> ▪ Subject to permit from Building Official
l. Projecting Signs	All Districts	<ul style="list-style-type: none"> ▪ 32 sq. feet 	<ul style="list-style-type: none"> ▪ Outside edge of sign may not project more than three (3) feet horizontally from building face
m. Free Standing Pylon Signs	C	<ul style="list-style-type: none"> ▪ One (1) per lot ▪ The total area of each side shall be at a ratio of two (2) square feet for each linear foot of the building's front yard setback that exceeds the C District's minimum required setback, but in no case exceeding one hundred fifty (150) 	<ul style="list-style-type: none"> ▪ 20 feet max height ▪ The principle building must be set back at least twenty-five (25) feet more than the district setback requirement and must be located on a lot having a width of at least 90 feet. ▪ The sign structure shall be located not closer than fifteen (15) feet to the front street right-of-way and at least forty (40) feet from any

		square feet.	adjacent property. ▪ The sign shall not be higher than the principal building nor close than ten (10) feet to grade level.
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SECTION 2406. PERMIT PROCEDURE

- a. Application for a permit to construct or locate a permanent sign shall be obtained from the City Zoning Administrator. The application shall include the following information.
 - 1. Name, address, telephone number of the landowner, developer, or petitioner.
 - 2. A map of the property at a scale of 1"=25' showing the location and type of existing structures on the site, property boundaries, location and type of structures on adjacent properties, road right-of-way, entrances and exits onto the subject property and approximate location of the proposed sign(s)
 - 3. An elevation drawing of the proposed sign(s) depicting its design, lettering, method of illumination and other relevant information. The dimensions of the height and length and width of the sign(s) and height between ground elevation and the bottom of the sign shall be noted.
 - 4. In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be noted.
 - 5. The proposed dates of construction and completion of the sign.
 - 6. Other information or data as may be required by the Zoning Administrator.
- b. In case of a temporary sign, the length of time the proposed sign will be on the site.
- c. The Planning Commission shall approve, disapprove, or approve subject to specified conditions, the request for a permit, based upon the standards for this Section.
- d. Exceptions to Permit. No permit shall be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for signs which are stated as being allowable without a permit.

SECTION 2407. NONCONFORMING SIGNS

Nonconforming signs are those signs that do not comply with the size, placement, construction or other standards or regulations of this Article, but were lawfully established prior to its adoption. The intent is to encourage eventual elimination of nonconforming signs in a timely manner. This objective is considered as much a subject of public health, safety and welfare as the prohibition of new signs in violation of this Article. Therefore, the purpose of

administering this Article is to remove illegal nonconforming signs while avoiding any unreasonable invasion of established private property rights.

- a. Signs lawfully erected prior to the effective date of this Article which do not meet the standards thereof may be maintained except as hereafter provided.
- b. Nonconforming signs.
 1. Shall not be changed to another nonconforming sign
 2. Shall not have any changes made in the message displayed unless the sign is specifically designed for periodic change of message
 3. Shall not be structurally altered so as to prolong the life of the sign or so to change the shape, size, type, or design of the sign unless such change renders the sign conforming.
- c. If the owner of a sign or the premises on which a sign is located changes the location of a building, property line or sign or changes the use of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Article.
- d. On-site signs for any building or land use not conforming to the zoning provisions for the district in which it is located shall not exceed the following size limitations, whichever results in the larger sign area.
 1. One-half (1/2) square foot of sign area for each foot of building frontage or one-fourth (1/4) square foot of sign area for each lineal foot of lot frontage, whichever is greater, not to exceed a maximum of twenty-five (25) square feet in area; or,
 2. The maximum sign area permitted for the zoning district in which the sign is located.
- e. No nonconforming sign shall not be altered or reconstructed, unless the alteration or reconstruction is in compliance with this Ordinance, except that nonconforming signs shall comply with the following regulations:
 1. Repairs and Maintenance. Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty percent (50%) of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of surface panels provided the new panels are no larger than the existing panels; or, repair or replacement of electrical wiring or electrical devices.
 2. Nonconforming Changeable Copy Signs. The message on a nonconforming changeable copy sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity.
 3. Modifications to the Principal Building. Whenever the principal building on a site on which a nonconforming sign is located is modified to the extent that site plan review and approval is required, the nonconforming sign shall be removed.
 4. Discontinuance. A nonconforming sign shall not be re-established after the activity, business, or use to which it related has been discontinued for ninety (90) days or longer.

5. Continued Use of Non-conforming Sign Structure. Where the City's Building Official and Zoning Administrator determine that a non-conforming sign structure and frame are in good condition and can be reused by a new occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied. If the building is unoccupied for less than 30 days the previous business' sign information may be retained. If the building is unoccupied for more than 30 days, the previous business' sign information must be removed. In such cases, the sign must be maintained in good condition and any openings must be covered with appropriate panels.
- f. Dangerous, Unsafe, Abandoned and Illegally Erected Signs
1. Dangerous Signs. Any sign constituting an immediate hazard to health or safety shall be deemed a nuisance and may be immediately removed by the City and the cost thereof charged against the owner of the property on which it was installed.
 2. Unsafe Signs. Any sign that becomes insecure, in danger of falling, or otherwise unsafe but not considered an immediate danger by the Building Official and Zoning Administrator to the health or safety of the public shall be removed or repaired according to the process outline in (5) below.
 3. Abandoned Signs. Any sign that advertises a business that has been discontinued for at least ninety (90) days or that advertises a product or service that is not longer offered shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended by a change in ownership or management shall not be deemed abandoned unless the structure remains vacant for at least six (6) months. An abandoned sign shall be removed by the owner or lessee of the premises. If the owner or lessee fails to remove the sign, the Building Official and Zoning Administrator shall initiate the process noted in five (5) below.
 4. Illegally Erected Signs. The Building Official and Zoning Administrator shall order the removal of any sign erected illegally in violation of this Article, according to the process outlined below.

SECTION 2408. CONSTRUCTION AND MAINTENANCE

The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements. No advertising sign or billboard permit shall be issued until the building and zoning inspectors are satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing, anchorage and foundation. A sign shall not be erected or installed until a permit is first obtained from the City Zoning Administrator and from the Building Inspector.

SECTION 2409. VIOLATIONS AND REMOVAL THEREOF

- a. Any sign erected, altered, or converted subsequent to the passage of this Article and in violation of any of the provisions thereof is hereby declared to be a nuisance per se.

- b. Upon discovery of a violation of this Article the Zoning Administrator shall provide written notice to the person in possession of the premises upon the sign is erected as is reasonably available and the owner of the premises upon which the sign is erected as shown by the records of the City assessor. Such notice shall state the defects found upon inspection of the sign and order the sign to be brought into compliance with this Article or removed.
- c. The Zoning administrator or his/her representative shall also post a copy of such notice upon the violative sign or upon the premises upon which the sign is erected. Such notice shall be sufficiently weatherproof of withstand normal exposure to the elements and shall be readily visible from the nearest public thoroughfare.
- d. If the violative sign has not been removed or brought into compliance with this Article within thirty (30) days from the issuance of the order specifies in b. above, the Zoning Administrator or his/her deputies shall provide notice to the person in possession of the premises upon which the violative sign is erected and to the owner of premises upon which the sign is erected to appear at a hearing before a hearing officer and to show cause why the sign should not be considered to be in violation of this Article. Notice shall be provided in the same manner as in b and c above. The hearing shall not be less than ten (10) days from the posting of the notice.
- e. The hearing officer shall determine whether the sign involved is in violation of the ordinance based on competent evidence and testimony.
- f. If the hearing officer determines that the sign involved is in violation of this Article he/she shall order the action necessary to bring the sign into compliance. Based upon competent evidence and testimony the hearing officer shall also establish a reasonable time by which the requirements of the order shall commence and shall be completed.
- g. If the decision and order provided for in f above are not complied with in the specific time, the hearing officer may cause the violative sign to be removed and destroyed. The cost of removal, destruction, and disposal of the sign may be charged against the premises.
- h. Nothing in this section shall prevent the Zoning Administrator or Building Inspector from ordering a complete removal of any sign presenting an immediate threat to the safety of the public.

SECTION 2410. APPEAL TO THE ZONING BOARD OF APPEALS

Any party who has been refused a sign permit for a proposed sign may file an appeal with the Zoning Board of Appeals in accordance with this Article of this Ordinance. In determining whether a variance is appropriate, the Zoning Board of Appeals shall study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the Zoning Board of Appeals may decline to grant a variance even if certain of the circumstances are

present.

In granting a variance the ZBA may attach such conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable. In granting a variance, the ZBA shall state the grounds and findings upon which it justifies granting the variance.

- a. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
- b. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the Zoning Board of Appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
- c. Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.
- d. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
- e. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.
- f. Variance from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.
- g. A sign which exceeds the permitted height or area standards of this Article would be more appropriate in scale because of the large size or frontage of the parcel or building.
- h. Adjustment in Size, Location. The Zoning Board of Appeals may, upon application by the property owner, make reasonable adjustment in the size and location requirements for any sign, where such action meets all of the following standards:
 1. a variance is deemed in the public interest;
 2. the variance would not adversely affect properties in the immediate vicinity of the proposed sign;
 3. the alleged hardship or practical difficulties supporting the variance request results from conditions that do not generally exist throughout the City, and denial of a variance would preclude all reasonable use of the property;
 4. granting a variance would result in substantial justice being done, considering the

public interests protected by the standards of this Article, the individual hardships that would be suffered by denial of the variance and the rights of others throughout the City whose property may be affected by granting the variance; and

5. the type of sign has been designed to make it compatible with the surrounding area.

ARTICLE 25

TELECOMMUNICATIONS FACILITIES

SECTION 2500. PURPOSE

The general purpose of this Article is to regulate the placement, construction and modification of transmission towers and telecommunications facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Au Gres, Michigan. Specifically, the purposes of this Article are:

- a. To regulate the location of transmission towers and telecommunications facilities in the City.
- b. To protect residential areas and land uses from potential adverse impact of transmission towers and telecommunications facilities.
- c. To minimize adverse visual impact of transmission towers and telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques.
- d. To promote and require, where feasible, shared use/collocation of transmission towers and antenna support structures as the primary option rather than construction of additional single-use transmission towers.
- e. To avoid potential damage to property caused by transmission towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound.
- f. To ensure that transmission towers and telecommunications facilities are compatible with surrounding land uses.
- g. Nothing in this Article shall apply to amateur radio antennas, or facilities, used exclusively for the transmission of television or radio signals.

SECTION 2501. DEFINITIONS

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. **Ancillary Facilities.** The buildings, cabinets, vaults, closures and equipment required for operation of telecommunication systems including but not limited to

repeaters, equipment housing and ventilation and other mechanical equipment.

- b. **Antennas.** An electrical conductor or group of electrical conductors that transmit or receive radio waves, excluding amateur radio antennas.
- c. **Antenna Support Structure.** Any building or other structure other than a transmission tower which can be used for location of telecommunications facilities.
- d. **Applicant.** Any person that applies for a transmission tower development permit.
- e. **Application.** The process by which the owner of a parcel of land within the City submits a request to develop, construct, build, modify, or erect a transmission tower upon such parcel of land. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request.
- f. **Attachment.** An antenna or other piece of related equipment affixed to a transmission tower, building, light or utility pole, or water tower.
- g. **City-Owned Facilities.** Any structures, buildings or land owned by the City of Au Gres or its assigns.
- h. **Collocation.** Placement of an antenna on an existing transmission tower, building, light or utility pole or water tower where the antenna and all supports are located on the existing structure.
- i. **Engineer.** Any engineer licensed by the State of Michigan.
- j. **Owner.** Any person with fee title, a land contract purchaser's interest, a long-term (exceeding 10 years) leasehold to any parcel of land within the City who desires to develop, construct, build, modify, or erect a transmission tower upon such parcel of land.
- k. **Person.** Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- l. **Provider.** A person in the business of designing and using telecommunication facilities including cellular radio, telephones, personal communications services, enhanced/specialized mobile radios, and commercial paging services.
- m. **Stealth.** Any transmission tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and transmission towers designed to look other than like a transmission tower such as light poles, power poles and trees. The term "stealth" does not necessarily exclude the use of uncamouflaged lattice, guyed or

monopole transmission tower designs.

- n. **Telecommunications Facilities.** Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a transmission tower or antenna support structure. However, the term telecommunications facilities shall not include any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
- o. **Transmission Tower.** The monopole or lattice framework designed to support transmitting and receiving antennas. For the purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not "transmission towers." Transmission towers include:
 - 1. **Guyed Tower.** A tower which is supported by the use of cables (guy wires) which are permanently anchored;
 - 2. **Lattice Tower.** A tower characterized by an open framework of lateral cross members which stabilized the tower; and
 - 3. **Monopole.** A single upright pole, engineered to be self supporting and does not requiring lateral cross supports or guys.

SECTION 2502 SITING RESTRICTIONS

- a. No telecommunication facility or transmission tower, as defined in this Article, may be constructed, modified to increase its height, installed or otherwise located within the City except as provided in this Article. The telecommunication facility shall be subject to a special use permit.
- b. A telecommunication facility or transmission tower, which, pursuant to Sections 2503 through of this Article, requires a special use permit shall be processed in accordance with the special use permit procedures of *ARTICLE 22 SPECIAL LAND USES* of this ordinance and in accordance with established administrative policies. The criteria contained in *ARTICLE 22 SPECIAL LAND USES* of this ordinance and *Sections 2506 Application Requirements* and *Section 2507 Standards for Transmission Towers and Antennas* of this Article shall govern approval or denial of the special use permit application. In the event of a conflict in criteria, the criteria contained in *Sections 2506 Application Requirements* and *Section 2507 Standards for Transmission Towers and Antennas* of this Article shall govern. No building permit shall be issued prior to completion of this special use permit process, including any appeals.

SECTION 2503. COLLOCATION OF ADDITIONAL ANTENNAS ON EXISTING TRANSMISSION TOWERS.

- a. The applicant must demonstrate to the Planning Commission that a feasible co-location on an existing tower for the new wireless communication facility is not available for the coverage and capacity needs and that a location on municipal property is not practical.
- b. Antennae which are attached to an existing tower are encouraged to minimize the adverse visual impacts associated with the proliferation and clustering of towers. Co-location of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
 1. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower.
 2. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the co-location of an additional antenna.
 3. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site when approved by the Planning Commission.
- c. Collocation of an additional antenna on an existing transmission tower shall require a special use permit in property zoned TC, C, PT OR I and approval for collocation was not granted through a prior special use permit process.

SECTION 2504. COLLOCATION OF ANTENNAS ON EXISTING BUILDINGS, LIGHT POLES, UTILITY POLES AND WATER TOWERS

In addition to collocation on an existing transmission tower, an antenna may be collocated on existing buildings, light poles, utility poles and water towers. Such collocation on a building, light pole, utility pole, or water tower shall require a special use permit on property zoned TC, C, PT or I. Said antenna(s) shall not exceed the building height allowed in the zone, or 18 feet above the structure, whichever is less. Said antenna(s) shall project no more than two (2) feet away from the existing structure, and the color of the antenna(s) shall blend in with the existing structure and surroundings.

SECTION 2505. CONSTRUCTION OF NEW TRANSMISSION TOWERS

- a. Construction of a transmission tower, or a modification of an existing transmission tower to increase its height shall require a special use permit in the I zone. Such construction shall also require a special use permit in zones TC, C and PT, but shall be permitted only in the following locations:

1. Religious institutions, but only when designed as a steeple, bell tower, or similar accessory structure compatible with the primary use on the property.
 2. Parks.
 3. Government, public utility, or public school sites.
- b. No new transmission tower shall be built, constructed, or erected in the City unless the transmission tower is capable of supporting another firm's operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed on the applicant's transmission tower within six (6) months of the completion of the transmission tower construction pursuant to *Section 2507. Standards for Transmission Towers and Antennas*.

SECTION 2506. APPLICATION REQUIREMENTS

- a. **Collocation of Antennas.** In addition to standard building permit application material, an applicant for the collocation of antennas on existing transmission towers or on existing buildings, light poles, utility poles or water towers shall submit the following information.
1. A description of the proposed antenna's location, design and height.
 2. Documentation from an engineer demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antennas are collocating on or in structures within five hundred (500) feet of the entrance.
 3. Documentation from an engineer that placement of the antennas is designed to allow future collocation of additional antennas if technologically possible.
 4. Documentation from an engineer that the ancillary facilities will not produce sound levels in excess of those standards specified in *Section 2507. Standards for Transmission Towers and Antenna* or designs showing how the sound s to be effectively and reduced pursuant to those standards.
 5. Plans showing the connection to utilities, right-of-way cuts required, ownership of utilities and easements required.
 6. Documents demonstrating that necessary easements have been obtained.
 7. Plans showing how vehicle access will be provided.
 8. If ancillary facilities will be located on the ground, a landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.
 9. Documents demonstrating that the Federal Aviation Administration (FAA) has reviewed and approved the proposal. Alternatively, when a special use permit process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA. The special use permit process may proceed and approval may be granted for the proposal as submitted, subject to FAA approval. If FAA approval requires any changes involving increased height or additional lighting other than as initially approved, then that initial special use permit approval shall be void. A new application will need to be submitted, reviewed and approved through an additional special use permit process. No building

permit application shall be submitted without documents demonstrating FAA review and approval.

10. The names, addresses, and telephone numbers of all owners of other transmission towers or usable antenna support structures within a one-half (1/2) mile radius of the proposed new transmission tower site, including City-owned property.
11. Each application to allow collocation of antennas shall include a written statement from an engineer(s) that the construction and placement and proposed use of the antennas will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent residential and non-residential properties.
12. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed transmission tower, antennas, and ancillary facilities from at least four (4) points within a three (3) mile radius. Such points shall be chosen by the applicant with review and approval by the City Planner to ensure that various potential views are represented.
13. Documentation from an engineer that alternative sites within a radius of at least one-half (1/2) mile have been considered and have been determined to be technologically unfeasible or unavailable.
14. A current overall system plan for the City, showing facilities presently constructed or approved and future expansion plans.
15. A statement providing the reasons for the location, design and height of the proposed transmission tower or antennas.

b. Installation, Construction, or Increasing the Height of Transmission Tower.

In addition to standard building permit application material, an applicant seeking to construct, install or increase the height of a transmission tower shall submit the following information.

1. A description of the proposed transmission tower location, design and height.
2. The capacity of the transmission tower in terms of the number and type of antennas it is designed to accommodate.
3. Documentation from an engineer demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).
4. A signed agreement stating that the applicant will allow collocation with other users, provided all safety, structural and technological requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the transmission tower.
5. Documentation from an engineer that the ancillary facilities will not produce sound levels in excess of those standards specified in *Section 2507 Standards for Transmission Towers and Antennas*, or designs showing how the sound is to be effectively muffled and reduced pursuant to those standards.
6. A landscape plan drawn to scale showing proposed and existing landscaping, including type, spacing, size and irrigation methods.

7. Plans showing the connection to utilities, right-of-way cuts required, ownership of utilities and easements required.
8. Documents demonstrating that necessary easements have been obtained.
9. Plans showing how vehicle access will be provided.
10. Documents demonstrating that the Federal Aviation Administration (FAA) has reviewed and approved the proposal. Alternatively, when a special use permit process is required, submit a statement documenting that notice of the proposal has been submitted to the FAA. The special use permit process may proceed and approval may be granted for the proposal as submitted, subject to FAA approval. If FAA approval requires any changes involving increased height or additional lighting other than as initially approved, then that initial special use permit approval shall be void. A new application will need to be submitted, reviewed and approved through an additional special use permit process. No building permit application shall be submitted without documents demonstrating FAA review and approval.
11. The names, addresses and telephone numbers of all owners of other transmission towers or usable antenna support structures within a one-half (1/2) mile radius of the proposed new transmission tower site, including City-owned property.
12. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on City-owned facilities or usable antenna support structures located within a one-half (1/2) mile radius of the proposed transmission tower site.
13. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts to install or collocate the applicant's telecommunications facilities on transmission towers or usable antenna support structures owned by other persons located within a one-half (1/2) mile radius of the proposed transmission tower site.
14. Written, technical evidence from an engineer(s) that the proposed transmission tower or telecommunications facilities cannot be installed or collocated on another person's transmission tower or usable antenna support structure located within a one-half (1/2) mile radius of the proposed transmission tower site because of the coverage requirements of the applicant's communications system.
15. Each application to allow construction of a transmission tower shall include a written statement from an engineer(s) that the construction and placement of the transmission tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent residential and non-residential properties.
16. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed transmission tower, antennas, and ancillary facilities from at least four (4) points within a three (3) mile radius. Such points shall be chosen by the applicant with review and approval by the City Planner to ensure that various potential views are represented.
17. Documentation from an engineer that alternative sites within a radius of at least one-half (1/2) mile have been considered and have been determined to be

- technologically unfeasible or unavailable.
18. A current overall system plan for the City, showing facilities presently constructed or approved and future expansion plans.
 19. A statement providing the reasons for the location, design and height of the proposed transmission tower or antennas.

SECTION 2507. STANDARDS FOR TRANSMISSION TOWERS AND ANTENNAS

Installation, construction or modification of all transmission towers and antennas shall comply with the following standards, unless a waiver is obtained pursuant to the provisions of *Section 2509 Waiver*:

- a. **Separation between Transmission Towers.** No transmission tower may be constructed within one-half (1/2) mile of any existing transmission tower. Tower separation shall be measured by following a straight line from the portion of the base of the proposed transmission tower which is closest to the base of any pre-existing transmission tower. For purposes of this paragraph, an existing tower shall include any transmission tower for which the City has issued a building permit, or for which an application has been filed and not denied. Transmission towers constructed or approved prior to the adoption of this Ordinance may be modified to accommodate additional providers consistent with provisions for collocation in this section.
- b. **Height Limitation.** Transmission tower heights shall be governed by this section except as provided for below.
 1. If located within the I District, the maximum height of a transmission tower, including antennas, is one hundred fifty (150) feet, unless a waiver is granted pursuant to the provisions of *Section 2509 Waiver*.
 2. If located within the C or PT districts, the maximum height of a transmission tower, including antennas, is one hundred (100) feet, unless a waiver is granted pursuant to the provisions of *Section 2509 Waiver*.
 3. If located within the TC District, the maximum height of a transmission tower, including antennas, is seventy-five (75) feet, unless a waiver is granted pursuant to the provisions of *Section 2509 Waiver*.
- c. **Collocation.** It is the policy of the City to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the city and to encourage the use of existing structures for attached wireless communication facilities. If a provider fails or refuses to permit collocation on a facility owned or controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be required, in contradiction with this policy. Collocation shall be required unless an applicant demonstrates that collocation is not feasible.

Collocation shall be deemed feasible for the purpose of this article where all of the following are met:

- (1) The wireless communication provider or property owner where collocation is proposed will accept market rent or other market compensation for collocation and the wireless communication provider seeking the facility will pay such rates.
 - (2) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - (3) The collocation being considered is technically reasonable, e.g. the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas and the like.
- d. New transmission towers shall be designed to accommodate collocation of additional providers:
1. New transmission towers of a height of one hundred (100) feet or more shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification to the transmission tower.
 2. New transmission towers of a height of at least sixty (60) feet and no more than one hundred (100) feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification to the transmission tower.
- e. **Nonconforming facilities and penalties for not permitting collocation.**

If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure to accommodate a proposed and otherwise feasible collocation such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect. In addition, if a party refuses to allow collocation in accordance with the intent of the article and, this action results in construction of a new tower, the City may refuse to approve a new wireless communication support structure from the party for a period of up to five (5) years. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonable discriminate amount providers of functionally equivalent wireless communication services or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

- f. **Setback.** The following setbacks from adjacent property lines and adjacent streets shall be required unless a waiver is granted pursuant to the provisions of *Section 2509 Waiver*:

1. In all zoning districts in which telecommunication towers are allowed by special permit, the transmission tower shall be set back from adjacent property lines a minimum number of feet that is equal to the height of the transmission tower.
 2. If the transmission tower is located on a parcel which abuts residentially zoned property, the transmission tower shall be set back from the adjacent residentially zoned property line a minimum number of feet that is equal to the height of the transmission tower.
 3. In all zones in which telecommunication towers are allowed by special permit, transmission towers shall be set back from the edge of adjacent public street right-of-way a minimum number of feet that is equal to the height of the transmission tower.
- g. **Buffering.** In all zoning districts in which telecommunication towers are allowed by special permit, existing vegetation shall be preserved to the maximum extent possible. Landscaping shall be placed completely around the transmission tower AND ancillary facilities located at ground level except as required to access the facility. Such landscaping shall consist of evergreen vegetation with a minimum planted height of six (6) feet placed densely so as to form a screen. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well-maintained. Landscaping shall be installed on the outside of any fencing.
- h. **Noise Reduction.** In the TC, C, PT and I districts, when the adjacent property is zoned residentially or occupied by a dwelling, medical facility, school, library, or nursing home, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 45 decibels. In all other locations, noise shall be regulated by application of ordinances.
- i. **Lighting.** Transmission towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses located within a distance which is three hundred percent (300%) of the height of the transmission tower from the transmission tower, and when required by federal law, dual mode lighting shall be requested from the FAA.
- j. **Color.** The transmission tower and attached antennas shall be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the City.
- k. **Display.** No signs, striping, graphics or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than three (3) square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).

SECTION 2508. STANDARDS FOR ANCILLARY FACILITIES

All ancillary facilities shall comply with the standards of *Section 2507. Standards for Transmission Towers and Antennas*.

SECTION 2509. WAIVER

- a. Any waiver to the requirements of this Article shall be granted only pursuant to the following provisions. The criteria for granting a waiver shall be limited to this Article, and shall not include criteria beyond *ARTICLE 25 TELECOMMUNICATIONS FACILITIES*.
- b. The City may grant a waiver from the provisions of *Section 2507 Standards for Transmission Towers and Antennas* providing the applicant demonstrates that:
 1. It is technologically impossible to locate the proposed transmission tower on available sites more than one-half (1/2) mile from a pre-existing transmission tower and still provide the approximate coverage the transmission tower is intended to provide;
 2. The pre-existing transmission tower that is within one-half (1/2) miles of the proposed transmission tower cannot be modified to accommodate another provider; and
 3. There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the transmission tower is intended to provide.
- c. The City may grant a waiver to the setback requirements of *Section 2507. Standards for Transmission Towers and Antennas* upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.
- d. The City may grant a waiver to the one hundred fifty (150) foot height limitation in I District, the one hundred (100) foot height limitation in the C and PT districts or to the seventy-five (75) foot height limitation in the TC District, if the applicant shows, through written documentation provided by an engineer, that the proposed height is the minimum height needed to meet service needs AND to accommodate future collocations per *Section 2507. Standards for Transmission Towers and Antennas*.

SECTION 2510. REMOVAL OF FACILITIES

- a. All transmission towers, antennas, transmission tower substructures and ancillary facilities shall be removed within six (6) months of the time that the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices. The responsibility to so remove shall be born by the owner and operator of the tower, antenna, substructure or facility and by the real property owner upon which the tower, antenna, substructure or facility is located. The site must be restored to the extent possible with appropriate landscaping to its pre-transmission

tower appearance. The City Manager may grant one (1), six (6) month extension where a written request has been filed, within the initial six (6) month period, to reuse the transmission tower or antennas.

- b. The City may require the posting of an open-ended bond before building permit issuance to ensure removal of the transmission tower, substructure or antennas after the facility no longer is being used.

SECTION 2511. FEES

Notwithstanding any other provision of this code, the City Manager may require, as part of application fees for building or special use permits for telecommunication facilities, an amount sufficient to recover all of the City's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunications expertise. This amount shall be set by City Council resolution.

SECTION 2512. REPEALER

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Article are hereby repealed.

ARTICLE 26

RESERVED

ARTICLE 27

ZONING BOARD OF APPEALS (ZBA)

SECTION 2700. CREATION AND INTENT

A Zoning Board of Appeals (ZBA) is hereby established in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006). The purpose of this Article is to establish the authority, procedures and requirements under which the ZBA shall function. It shall also insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured and substantial justice done.

SECTION 2701. MEMBERSHIP

- a. **Base Membership.** The Zoning Board of Appeals (ZBA) shall consist of not less than five (5) members appointed by the City Council. The Chairman of the Planning Commission, a member of the City Council appointed by the City Council; and the remaining members appointed by the City Council from the electors residing in the City.
- b. **Alternates.** The City Council may appoint not more than two (2) alternate members for the same term as regular members to the ZBA. The alternate members may be called upon as specified herein to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate having been appointed shall serve in the case until a final decision has been made. While serving, the alternate member shall have the same voting rights as a regular member of the ZBA.
- c. **Terms of Appointment.** Appointments shall be for a period of one (1), two (2), and three (3) years, respectfully, so as nearly as may be to provide for appointment at an equal number each year, thereafter, each member to hold office for the full three (3) year term.
- d. **Reappointment.** Members may be reappointed.
- e. **Membership Restrictions.** An elected officer of the City shall not serve as chairperson of the ZBA. An employee of the City may not serve as a member of the ZBA.
- f. **Removal.** Members of the ZBA shall be removable by the City Council for nonfeasance, malfeasance, and misfeasance of office.
- g. **Conflict of Interest.** A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office

- h. **Compensation.** The compensation of the appointed members of the ZBA may be fixed by the City Council.

SECTION 2702. ORGANIZATION

- a. **Rules of Procedure.** The Zoning Board of Appeals (ZBA) may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect a chairperson, a vice-chairperson, and a secretary.
- b. **Meetings and Quorum.** Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its Rules of Procedure may specify. Three (3) members of the ZBA shall constitute a quorum for the conduct of business. All meetings shall be open to the public.
- c. **Oaths and Witnesses.** The chairperson shall have the power to subpoena, administer oaths, compel the attendance of witnesses, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
- d. **Records.** The minutes of all meetings shall contain the grounds for every determination made by the ZBA and the final ruling on each case. The ZBA shall file its minutes in the office of the City Clerk.
- e. **Fees.** The City Council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the ZBA. At the time the notice of appeal is filed said fee shall be paid over to the City Treasurer to the credit of the general revenue fund of the City.

SECTION 2703. JURISDICTION AND RESPONSIBILITIES

The Zoning Board of Appeals (ZBA) shall have all jurisdiction and powers granted by the Michigan Zoning Enabling Act (Public Act 110 of 2006), and the following specific jurisdiction and powers:

- a. **Appeals.** To hear and decide appeals from and review any order, requirements, permit, decision or determination made by the Zoning Administrator or any other administrative official or body in enforcing the provisions of this Ordinance. The ZBA may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, decision or determination as in the ZBA's opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official or body from whom the appeal is taken.
- b. **Interpretations.** To hear and decide matters referred to it or upon which it is required to pass under this Ordinance adopted pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006) of the State, or by other Articles of this Ordinance.

- c. **Variances.** Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Article applicable to the matter appealed from, the ZBA shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in, equipment, or alteration of buildings or structures or the uses of land, buildings or structures, so that the spirit of the particular Article shall be preserved, public safety secured and substantial justice done.
- d. **Limits of Authority.** The ZBA shall not have the power to alter or change the zoning district classification of any property.

SECTION 2704. APPEALS

- a. **Filing an Appeal.** Appeals shall be filed with the Zoning Administrator. The application shall describe the action taken and specify the grounds for the appeal. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals (ZBA) all the papers constituting the record upon which the action appealed from was taken.
- b. **Appeal Time Limit.** An appeal shall be filed within such reasonable time as prescribed by the ZBA by general rule. If no general rule has been adopted, an appeal shall be filed within sixty (60) days of the order, requirements or determination of an administrative official or body.
- c. **Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed. The only exception is if the Zoning Administrator certifies to the ZBA that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In which case, proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court for the County, on application, on notice to the Zoning Administrator and on due cause shown.
- d. **Criteria.** The ZBA is to review the record and decision of the administrative body or official and determine whether the record supports the conclusion that was reached, in light of the requirements of this ordinance. The ZBA is bound by the same rules, procedures, and standards in this ordinance as the original decision body. The ZBA should uphold the original decision unless the record clearly shows that the original decision body or official was one (1) or more of the following:
 - 1. Arbitrary or capricious.
 - 2. Failed to ensure consistency with ordinance standards.
 - 3. Made an error, such as relying on false or inaccurate information.
 - 4. Constituted an abuse of discretion.
 - 5. Was based upon erroneous interpretation of the Zoning Ordinance or zoning law.

SECTION 2705. INTERPRETATION OF ORDINANCE

The Zoning Board of Appeals (ZBA) shall hear and decide upon request to.

- a. **Interpret Provisions.** Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request the ZBA shall insure that its interpretation is consistent with the intent and purpose of the Ordinance and the article in which the language in question is contained.
- b. **Determine Zoning District Boundaries.** Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.

SECTION 2706. VARIANCES

The Zoning Board of Appeals (ZBA) shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall have made a finding of fact based upon the evidence as presented to it in each specific case as specified below.

- a. **Area or Dimensional Variance.** The ZBA may grant an area or dimensional variance only upon a finding that practical difficulties exist. An area or dimensional variance is a variance from any dimensional standard or requirement of this ordinance, such as, but not limited to, a deviation from lot width, lot size, density, building and sign height, building and sign bulk, building and sign setback, and other standards and requirements. A finding of practical difficulties shall require demonstration by the applicant of all of the following.
 - 1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other "non-use" matters that will unreasonably prevent the owner from using the property for a permitted purpose or will be unnecessarily burdensome. The variance will do substantial justice to the applicant, as well as to other property owners.
 - 2. A lesser variance than that requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - 3. The need for the variance is due to unique circumstances or conditions peculiar to the property and not generally applicable in the area or to other properties in the same zoning district such as exceptional narrowness, shallowness, shape, topography or area.
 - 4. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessor; this may or may not be considered depending upon whether the practical difficulty would have existed regardless of the action.
 - 5. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
 - 6. The granting of the variance will not materially impair the intent and purpose of this Ordinance.
- b. **Use Variance.** The ZBA may grant a use variance only upon a finding that an unnecessary hardship exists that prevents use of the property as currently zoned. A use variance is a

variance that permits a use that is otherwise not provided for in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following.

1. The applicant has demonstrated that the site can not reasonably be used for any of the uses allowed within the current zoning district designation. The ZBA may require submission of documentation from real estate or market experts, or a certified appraiser, to substantiate this finding.
2. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return. In those situations where the difficulty is shared by others, the ZBA may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.
3. The problem and resulting need for the variance has not been self-created by any action of the applicant or the applicant's immediate predecessor.
4. The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.
5. The use variance will not alter the essential character of the neighborhood nor be of detriment to adjacent properties.

SECTION 2707. PROCESS

- a. Matters coming before the Zoning Board of Appeals (ZBA) shall be decided no later than thirty (30) days after the hearing on such matter is closed.
- b. The decision of the ZBA shall be final upon the earlier of:
 1. Issuance of a written decision signed by the Chairperson of the ZBA.
 2. Approval of the minutes of the meeting at which the decision was made.
- c. In its decisions, the ZBA shall state a finding of facts underlying its decisions.
- d. **Public Hearing.** The ZBA shall fix a reasonable time for the hearing of the appeal, and shall be within sixty (60) days of the receipt of the notice of appeal. Written notice of the public hearing shall be made as follows:
 1. The notice shall do all of the following.
 - (a) Describe the nature of the request.
 - (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. Individual addresses of properties are not required to be listed for an amendment to

- the zoning ordinance, or the zoning map that affects eleven (11) or more properties or an interpretation by the ZBA.
- (c) State when and where the request will be considered.
 - (d) Indicate when and where written comments will be received concerning the request.
2. The notice shall be published and delivered not less than fifteen (15) days before the date of the public hearing as follows.
- (a) Notice of the request shall be published in a newspaper of general circulation in the City. This shall be the only notice required for an amendment to the zoning ordinance, or the zoning map that affects eleven (11) or more properties or an interpretation by the ZBA.
 - (b) Where approval is being sought under this ordinance for an individual property or a rezoning affecting ten (10) or fewer properties, notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - (c) In addition to paragraph (2) above, notice shall be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- e. **Area or Dimensional Variance Votes.** A concurring vote of a majority of the members of the ZBA shall be required to reverse an order, requirements, decisions, or determination of an administrative official or body, or to decide in favor of the applicant, a matter upon which the ZBA is required to pass under this Ordinance.
- f. **Use Variance Votes.** A concurring vote of two-thirds (2/3) of the members of the ZBA shall be necessary to grant a variance from uses of land permitted in this Ordinance.
- g. Decisions of the ZBA may be appealed to the appropriate court on the record and for that reason the ZBA shall cause a record to be made of its proceedings.

SECTION 2708. ORDERS, VALIDITY AND LIMITATIONS

- a. No order of the Zoning Board of Appeals (ZBA) permitting the erection or alteration of buildings shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to a completion in accordance with the terms of such permit.
- b. No order of the ZBA permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however, that if the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.

ARTICLE 28

ORDINANCE AMENDMENTS AND CONDITIONAL REZONING AGREEMENTS

SECTION 2800. INITIATION OF AMENDMENTS

The City Council may, from time to time, amend, modify, supplement, or revise the zoning district boundaries shown on the Official Zoning Map or the provisions of this Ordinance. Amendments to the provisions of this Ordinance may be initiated by the City Council, the Planning Commission, the Zoning Board of Appeals, the Zoning Administrator or by petition of one or more residents or land owners. Amendments to the Official Zoning Map may be initiated by the City Council, the Planning Commission, or by the owner or owners of the subject site. All proposed amendments to the provisions of this Ordinance or the Official Zoning Map shall be referred to the Planning Commission for public hearing and recommendation to the City Council prior to action by the City Council.

SECTION 2801. APPLICATION PROCEDURE

An amendment to this Ordinance or the Official Zoning Map, except those initiated by the City, shall be initiated by submission of a completed application form and fee. The following information shall accompany the application form:

- a. A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
- b. The name and address of the owner of the subject site, and a statement of the applicant's interest in the subject site if not the owner in fee simple title.
- c. The existing and proposed zoning district designation of the subject property.
- d. The land use classification for the subject site as illustrated on the City's Master Plan.
- e. In the case of an amendment to this Ordinance, other than an amendment to the Official Zoning Map, a general description of the proposed amendment and rationale for the change shall accompany the application form.
- f. A written description of how the requested rezoning meets the amendment criteria of this Article.

SECTION 2802. AMENDMENT PROCEDURE; PUBLIC HEARING AND NOTICE

- a. **Public Hearing.** Upon initiation of an amendment, a work session and public hearing to consider the proposed amendment shall be scheduled before the Planning Commission. If

an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, written notice of the public hearing shall be made as follows:

1. The notice shall do all of the following.
 - (a) Describe the nature of the request.
 - (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. Individual addresses of properties are not required to be listed for an amendment to the zoning ordinance, or the zoning map that affects eleven (11) or more properties.
 - (c) State when and where the request will be considered.
 - (d) Indicate when and where written comments will be received concerning the request.
 2. The notice shall be published and delivered not less than fifteen (15) days before the date of the public hearing as follows.
 - (a) Notice of the request shall be published in a newspaper of general circulation in the City. This shall be the only notice required for an amendment to the zoning ordinance, or the zoning map that affects eleven (11) or more properties.
 - (b) Where approval is being sought under this ordinance for an individual property or a rezoning affecting ten (10) or fewer properties, notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - (c) In addition to paragraph (2) above, notice shall be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 3. If eleven (11) or more properties are proposed for rezoning, or if an amendment is proposed to the text of the ordinance, the City shall give a notice of the proposed rezoning in the same manner as required under section 31.02 A., except for the individual property notices required by subsection (b)(2), and (b)(3) and except that no individual addresses of properties are required to be listed under section (a)(2).
- b. **Planning Commission Findings and Recommendation.** Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the City Council. The Planning Commission shall consider the criteria listed in *Section 2804 Criteria for Amendment of the Official Zoning Map* for a requested amendment to the Official Zoning Map, and the criteria listed in *Section 2805 Criteria for Amendment to the Zoning Ordinance Text* for requested amendments to the standards and regulations in the text.

- c. **City Council Findings and Action.** Following receipt of the findings and recommendation of the Planning Commission, the City Council shall act on the proposed amendment. In the case of an amendment to the text of this Ordinance, the City Council may modify or revise the proposed amendment recommended by the Planning Commission prior to enactment. In the case of an amendment to the Official Zoning Map, the City Council shall approve or deny the amendment, based on its consideration of the criteria in *Section 2804 Criteria for Amendment of the Official Zoning Map* or *Section 2805 Criteria for Amendment to the Zoning Ordinance Text* as applicable.

SECTION 2803. REQUIRED AMENDMENTS TO COMPLY WITH A COURT DECREE

Any amendment for the purpose of complying with a decree of a court of competent jurisdiction shall be adopted by the City Council and published, without necessity of a public hearing or referral hereof to any other board or agency.

SECTION 2804. CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP

In considering any petition for an amendment to the Official Zoning Map, the Planning Commission and City Council shall consider the following criteria in making its findings, recommendations and decision:

- a. Consistency with the goals, policies, and future land use map of the City of Au Gres Master Plan. If conditions upon which the Master Plan was developed (such as market factors, demographics, infrastructure, traffic and environmental issues) have changed significantly since the Master Plan was adopted, as determined by the City, the Planning Commission and Council shall consider the consistency with recent development trends in the area.
- b. Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses permitted in the proposed zoning district.
- c. Evidence the applicant cannot receive a reasonable return on investment through developing the property with at least one (1) of the uses permitted under the current zoning.
- d. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- e. The capacity of the City's infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare".
- f. The apparent demand for the types of uses permitted in the requested zoning district in relation to the amount of land currently zoned and available to accommodate the demand.

- g. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
- h. Other factors deemed appropriate by the Planning Commission and City Council.

SECTION 2805. CRITERIA FOR AMENDMENT TO THE ZONING ORDINANCE TEXT

The Planning Commission and City Council shall consider the following criteria to determine the appropriateness of amending the text, standards and regulations of the Zoning Ordinance.

- a. Documentation has been provided from City Staff, or the Zoning Board of Appeals indicating problems and conflicts in implementation of specific sections of the Ordinance.
- b. Reference materials, planning and zoning publication, information gained at seminars or experiences of other communities that demonstrate improved techniques to deal with certain zoning issues, or that the City's standards are outdated.
- c. The City Attorney recommends an amendment to respond to significant case law.
- d. The amendment would promote implementation of the goals and objectives of the City's Master Plan.
- e. Other factors deemed appropriate by the Planning Commission and City Council.

SECTION 2806. RESTRICTIONS ON RESUBMITTAL OF A REZONING REQUEST

An application for an amendment to the Official Zoning Map (i.e. a rezoning request) that has been denied shall not be reconsidered for one (1) year, unless the applicant demonstrates that conditions have changed.

SECTION 2807. CONDITIONAL REZONING

An applicant for a rezoning may voluntarily offer a zoning agreement along with an application for rezoning. An election to file a rezoning with a zoning agreement shall be pursuant to the City and Village Zoning Act, as amended, and this Article. The conditions set forth in the zoning agreement must be voluntary and equally or more restrictive than the regulations that would otherwise apply under the proposed zoning district. The zoning agreement shall be a written agreement that is approved and executed by the applicant and the City and recorded with the Arenac County Register of Deeds. When necessary, the zoning agreement shall also include and incorporate, by reference, a site plan. This plan shall not replace the requirement for a site plan as outlined in Article 29. The zoning agreement must be voluntarily offered by the applicant and the City shall not have the authority to require a petitioner for rezoning to offer such agreement and shall not have the authority to require

modification to a zoning agreement without the consent of the petitioner; provided, the City shall not enter into a zoning agreement that is not found acceptable to the City Council.

- a. **Scope of Agreement.** The zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features. The zoning agreement may not authorize uses or developments of greater intensity, or density or which are not permitted in the proposed zoning district; nor may a zoning agreement permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district. The zoning agreement may include conditions related to the use and development of the property that are necessary to:
 1. Serve the intended use of the property such as extension of or improvements to roadways, utilities or other infrastructure serving the site;
 2. Minimize the impact of the development on surrounding properties; and
 3. Preserve natural features and open space.

- b. **Content of Agreement.** In addition to any limitations on use or development of the site, preservation of site features or improvements described in A above, the zoning agreement shall also include the following:
 1. Acknowledgement that the zoning agreement was proposed voluntarily by the applicant and that the City relied upon the agreement and may not grant the rezoning but for the terms spelled out in the zoning agreement.
 2. Acknowledgement that the zoning agreement and its terms and conditions are authorized by all applicable State and Federal law and constitution, and that the zoning agreement is valid and was entered into on a voluntary basis.
 3. Agreement and understanding that the property shall not be developed or used in any manner that is not consistent with the zoning agreement.
 4. Agreement and understanding that the approval of the rezoning and the zoning agreement shall be binding upon and inure to the benefit of the property owner and the City, and also their respective heirs, successors, assigns, receivers or transferees.
 5. Agreement and understanding that, if a rezoning with a zoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.
 6. Agreement and understanding that no part of the zoning agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the proposed zoning district.
 7. Any other provisions as are agreed upon by the parties.

- c. **Future Rezoning.** Nothing in the zoning agreement, nor any statement or other provision, shall prohibit the City from later rezoning all or any portion of the property that

is the subject of the zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the City and Village Zoning Act.

- d. **Compliance with Agreement.** Provided that all development and use of the property in question is in compliance with the zoning agreement, a use or development authorized thereunder may continue indefinitely, provided that all terms of the zoning agreement continue to be adhered to. Failure to comply with the zoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance, and further use of the property may be subject to legal remedies available to the City.

ARTICLE 29

ADMINISTRATION AND ENFORCEMENT

SECTION 2900. ENFORCEMENT

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator, or by such deputies of his department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance. The Zoning Administrator shall be appointed by the City Council for such term and subject to such conditions and at such rate of compensation as said Council shall determine. In the exercise of duties, the Zoning Administrator shall have the right to enter private premises, as provided by law.

SECTION 2901. DUTIES OF ZONING ADMINISTRATOR AND BUILDING OFFICIAL

- a. **Zoning Administrator Duties.** The Zoning Administrator shall have the authority to enforce the terms of this Ordinance, issue zoning compliance and other permits as stipulated herein, to ensure approved plans and permits are carried out in accordance with their approvals, and to make inspections of buildings or premises as necessary. The Zoning Administrator shall also document all non-conforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of *ARTICLE 20 NONCONFORMITIES*.
- b. **Building Official Duties.** The Building Official shall have the authority to issue building and construction permits and certificates of occupancy to applicants, assist the Zoning Administrator in enforcing requirements that relate to State Building Code and construction elements, and to make inspections of buildings or premises as necessary.
- c. **General Requirements:** The following general requirements apply to both positions:
 1. Issuance of a permit shall not be refused when an application is in compliance with the requirements of this Ordinance or other applicable codes.
 2. The Building Official and Zoning Administrator do not have the authority to amend the requirements of this ordinance unless discretion is granted within the terms of a particular section.

SECTION 2902. PLOT PLAN

The Building Official may require that all applications for building permits be accompanied by plans and specifications including two (2) copies of a plot plan, drawn to scale, showing the following:

- a. The actual shape, location, and dimensions of the lot.

- b. The shape size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
- c. The existing and intended use of the lot and of all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate.
- d. Such other information concerning the lot or adjoining lots as may be essential to determining whether the provisions of this Ordinance are being observed.

SECTION 2903. PERMITS

The following shall apply in the issuance of any building permit:

- a. **Permits Not to be Issued.** No building permit shall be issued for the erection, alteration, or use of any building or structure as part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.
- b. **Permits for New Use of Land.** No vacant land shall be used and no existing use of land shall be changed to another type of use unless a certificate of zoning compliance is obtained for the new or different use.
- c. **Permits for New Use of Building.** No building or structure, or part thereof, shall be changed to or occupied by a different use unless a certificate of occupancy is first obtained for the new or different use.
- d. **Permits Required.** No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the State Building Code, Housing Law of Michigan, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.
- e. **Inspection:** The Building Official shall be notified by the person, firm, or corporation obtaining the building permit when the foundations are completed and the Building Official shall inspect same within three (3) days after notification. If in conformance with the provisions of this Ordinance, the Building Official shall endorse each fact upon the building permit.

SECTION 2904. CERTIFICATE OF OCCUPANCY

No land, building or part thereof, shall be occupied by or for any use for which a building permit is required by this Ordinance unless and until a certificate of occupancy shall have been issued for such new use by the Building Official. The following shall apply in the issuance of any certificate:

- a. **Certificates Not to be Issued.** No certificate of occupancy pursuant to the State Building Code shall be issued for any building, structure or part thereof or for the use of any land, which is not in accordance with all the provisions of this Ordinance.
- b. **Certificates Required.** No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- c. **Certificates Including Zoning.** Certificates of occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Ordinance.
- d. **Certificates for Existing Buildings.** Certificates of occupancy may be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance. Certificates of occupancy may be issued for business buildings existing at the effective date of this Ordinance which change occupancy and which do not provide sufficient parking as required in this Ordinance, provided there is no decrease in the number of spaces existing at the effective date of this Ordinance.
- e. **Temporary Certificates.** Nothing in this Ordinance shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance.
- f. **Records of Certificates.** A record of all certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the property involved.
- g. **Certificates for Residential Accessory Buildings.** Buildings accessory to residential dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- h. **Applications for Certificates.** Application for certificates of occupancy shall be made in writing to the Building Official on forms furnished by the City and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof or the use of land is in accordance with the provisions of this Ordinance. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period.

SECTION 2905. FINAL INSPECTION

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Building Official immediately upon the completion of the work authorized by such permit, for a final inspection.

SECTION 2906. FEES

Applicants for permits required by this Ordinance shall pay to the City, at the time of application for such permit, applicable fees. Fees are set by City Council and contained in the City's fee schedule that is updated periodically by resolution of City Council.

SECTION 2907. VIOLATIONS

- a. Any violation of any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or the City Council issued in pursuance of this Ordinance shall be a municipal civil infraction. A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Ordinance and any omission or failure to act where the act is required by this Ordinance.
- b. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided in this Article, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act 236 of the Public Acts of 1961, as amended, and other applicable laws.
- c. The Zoning Administrator, Building Official, and Police Officers of the City, are the City officials authorized to issue municipal civil infraction citations and municipal civil infraction notices for violations of this Ordinance.

SECTION 2908. PUBLIC NUISANCE PER SE

In addition to all other remedies, including the penalties provided in this Section of this Ordinance, the City may commence and prosecute appropriate actions or proceedings in a court of competent jurisdiction, to retain or prevent any noncompliance with or violation of any of the provisions in this Ordinance, or to correct, remedy or abate such non-compliance or violation. Buildings erected, altered, razed or converted, or uses carried on in violation of any provisions of this Ordinance or in violation of any regulations made under the authority of the Michigan Zoning Enabling Act (Public Act 110 of 2006), are hereby declared to be a nuisance per se, and the court shall order such nuisance abated.

SECTION 2909. RIGHTS AND REMEDIES ARE CUMULATIVE

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

SECTION 2910. FORBEARANCE NOT CONDONED

Forbearance in enforcement of this Ordinance shall not be deemed condonation of any violation thereof.

SECTION 2911. FINES, SANCTIONS

The owner of any building, structure or premises of part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable for the fines and sanctions herein provided.

SECTION 2912. EACH DAY A SEPARATE OFFENSE

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

SECTION 2913. DECLARATION OF A ZONING MORATORIUM

Notwithstanding any other provision of this zoning ordinance, the city council may, by resolution, declare a moratorium on the issuance of any permit under this ordinance, the processing of any permit application hereunder, the processing of any rezoning request, the processing of any site plan review, special land use request, or the processing of any other application made under this zoning ordinance. Such a moratorium may be declared by the city council only under the following conditions:

- a. The City Council finds, based on facts appearing in the public record before it, that such a moratorium is necessary to protect the public health, safety and welfare and that no other action short of imposing such a moratorium can adequately protect the public health, safety and welfare.
- b. The moratorium is for a limited period of time, not to exceed six (6) months, but may be extended for no more than one (1) additional six (6) month period upon a new and separate finding of the facts required by a. above.
- c. The moratorium is limited in its scope and area of application so as to only affect those matters and that area necessary to protect the public health, safety and welfare.
- d. The resolution declaring the moratorium shall be published in a newspaper of general circulation within the City.
- e. The resolution declaring the moratorium shall specify the effective date of such moratorium which may be the date of publication or another date following such publication.

- f. The resolution declaring the moratorium shall be adopted by a vote of no fewer than five (5) members of the City Council.

SECTION 2914. PUBLIC HEARINGS

Notwithstanding any other requirements in this Ordinance to the contrary, notices for all public hearings shall be given as follows:

- a. The notice shall:
 - 1. Describe the nature of the request.
 - 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - 3. State when and where the request will be considered.
 - 4. Indicate when and where written comments will be received concerning the request.
- b. Except as required in c. and d., below, notices for all public hearings shall be given as follows:
 - 1. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing
 - 2. Notice of the hearing shall be published in a newspaper of general circulation
 - 3. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - 4. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- c. Newspaper publication as required in b. above shall be the only notice required for an amendment to the Zoning Ordinance or the zoning map that affects eleven (11) or more properties.
- d. Zoning Board of Appeals
 - 1. For ordinance interpretations and appeals of administrative decisions by the Zoning Board of Appeals notice shall be only to the applicant and by newspaper publication, as required in b.2. above.
 - 2. If the interpretation or appeal of an administrative decision involves a specific property, notice shall be given to the person bringing the appeal and as required in b.1.-3., above.

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