

**Zoning Ordinance
City of Omer
Arenac County, Michigan**

Ordinance No. 85

TITLE

An ordinance enacted under Act 207, Public Acts of 1921, as amended, governing the incorporated portions of the City of Omer to regulate the location and use of buildings, structures and land for specified uses; and to regulate and limit the height and bulk of buildings and other structures; to determine and regulate the size of yards and open spaces; to regulate the density of population; and for said purposes to divide the City into districts of specified uses, provide for changes in the regulations, restrictions and boundaries of such districts; define certain terms used herein; provide for enforcement and the imposing of penalties for the violation of this Ordinance.

PREAMBLE

The purposes of this Ordinance shall be to promote and protect the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City of Omer by protecting and conserving the character, social and economic stability of the residential, commercial and other use areas; by securing the most appropriate use of land and density of population; and by providing adequate and reasonable access and facilitating adequate and economical provisions or transportation, water, sewers, education, recreation and other public requirements; now therefore:

THE CITY OF OMER, MICHIGAN, HEREIN AFTER KNOWN AS CITY, HEREBY ORDAINS:

ARTICLE 1 – LANGUAGE

The following rules of construction apply to the context of this Ordinance:

- A. The particular shall control the general.
- B. The word "shall" is always mandatory. The word "may" is permissive.
- C. A "building" or "structure" includes any part thereof.
- D. The word "person" includes an individual, corporation, partnership housekeeping

unit.

(for Apartment House, see Dwelling, Multiple Family.)

ARTICLE 2 – DEFINITIONS

Accessory Use, or Accessory: A use which is clearly incidental to, customarily found in connection with, and located on the same lot, as the principal use to which it is related. Accessory shall have the same meaning as accessory use.

Alteration: Any change, addition or modification in construction or type of occupancy, or 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".

Apartment: A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit. (For Apartment House, see Dwelling, Multiple Family.)

Application: means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the **Applicant**.

Billboard: Any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public, but not including bulletin boards used to identify public or quasi-public uses.

Boarding or Rooming House: A boarding or rooming house shall be construed to mean any dwelling wherein rooms are occupied as a home or household unit and are leased or rented without any attempt to provide therein cooking or kitchen accommodations for occupants.

Building: Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for a shelter or enclosure of persons, animals, chattels, or property of any kind, including tents, awnings on vehicles situated on private property, and used or intended to be used for such purposes.

Building Area: The space remaining after the minimum open space and parking requirements of this Ordinance have been met.

Building Height: The vertical distance measured from the established grade to the highest point on 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.

Building Line: A line formed by the exterior surface of the building opposite the front lot line, and for the purposes of this Ordinance, a minimum building line is the same as a front setback line.

Clerk: means the City of Omer Clerk or his/her designee.

Commercial Marijuana Facility, Marihuana Facility or Facility: An enterprise at a specific location at which a permit holder is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Commercial Vehicle: Any motor vehicle which is used for the transportation of passengers for hire or which is constructed or used for the transportation of goods, wares, or merchandise, or which is designed and used for drawing other vehicles.

Commission: Shall mean the City of Omer Planning Commission.

Convalescent or Nursing Home: A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

Council: Shall mean the Omer City Council.

Department: means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Marihuana Facility.

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.

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

Driveway: Any area or portion of a premises, lot, parcel or yard used or proposed to be used to provide a means of ingress, access and circulation of vehicles and traffic to, from and between any public or private street or road, principal building, use or structure, loading space, or parking lots or spaces.

Dwelling: A place of residence, an abode, a place of continued living.

Dwelling – One Family: An attached or detached dwelling building designed and intended for occupancy by one family.

Dwelling – Two Family: A detached building designed and intended for occupancy by two separate families separated there from by a common party wall with separate cooking and toilet facilities.

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

Earth Berm Obscuring: An earthen mound of definite height, location and appearance, designed to serve as an obscuring device in carrying out the requirements of this Ordinance.

Easement: A quantity of land set aside, over which a liberty, privilege or advantage is granted by the owner to the public, a corporation, a particular person or persons or part of the public for specific use and purpose.

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

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants 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.

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

Family: A single individual or a number of individuals domiciled together whose relationship is of a continuing nontransient, domestic character and who are cooking and living together as a single nonprofit housekeeping unit.

Farm: The parcel on which the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income is conducted.

Fence: A structure of definite height and location which may or may not serve as an obscuring screen.

Filling: The depositing or dumping of any matter on, or into the ground, except deposits resulting from common household gardening and general farm care.

Floor Area, Residential: For the purposes 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 center line of walls separating two buildings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed or unenclosed porches.

Floor Area, Usable (for the purposes of computing parking): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from the 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.

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 occupant of the building to which it is an 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.

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

Grower: as that term is defined in the MMFLA.

Home Occupation: A gainful occupation or profession customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Hotel: A building or part of a building with a common entrance in which the dwelling units or rooming units are used primarily for transient occupancy and which one or more of the following services are offered: maid service, furnishing of linen, phone, secretarial, or desk service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

Junk Yard: An open area where waste, used or secondhand materials are bought or 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 any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk.

Kennel, Commercial: Any lot or premises on which three (3) or more dogs, cats or other household pets are either permanently or temporarily boarded or bred and raised for remuneration.

License: means a current and valid License for a Commercial Marihuana Facility issued by the State of Michigan.

Licensee: means a Person or entity holding a current and valid Michigan License for a Commercial Marihuana Facility.

Lot: A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings together with 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. A lot may or may not be specifically designated as such on public records.

Lot, Corner: A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) street is less than one hundred and thirty-five (135) degrees. A lot abutting upon, if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees.

Lot, Interior: Any lot other than a corner lot.

Lot, Through: Any interior lot having frontage on two more-or-less parallel streets.

Lot, Zoning: A single tract of land, which at the time of filing for a building permit or zoning 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 record as filed with the County Register of Deeds, but may include one or more lots of record.

A zoning lot line shall serve as a lot line for the purposes of establishing building setbacks within the respective zoning districts.

Lot Area: The total horizontal area within the lot lines of the lot. For the purposes of this Ordinance, the front property line shall be at the edge of the street or street right-of-way, not the center line.

Lot Coverage: The part or percent of the lot occupied by buildings 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 Lines: The lines bounding a lot as defined herein.

1. **Front Lot Line:** In the case of an interior lot, is that line separating the lot from the street. In the case of a through lot or a corner lot, is that line separating the lot from the street that is designated as the front street in the request for a building permit.

2. **Rear Lot Line:** That lot line opposite that 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 line and wholly within the lot.

3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots shall be known as an interior side lot line.

Lot of Record: A parcel of land, the dimensions of which are shown upon a document or map on file with the County Register of Deeds.

Lot Width: The horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.

Major Thoroughfare: An arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond.

Manufactured Home: Any structure used as or intended for sleeping or other living quarters and being manufactured in sections off-site and then transported to the building site where the sections are then assembled on and attached to a permanent foundation.

Marihuana or Marijuana: means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106. For the purposes of this Ordinance, the spellings are interchangeable.

Marihuana-infused product: means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

Medical Marihuana: means that term as defined in MCL 333.26423.

Master Plan: The comprehensive community plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the City, including any unit or part of such plan, and any amendment to such plan. Such plan may be adopted by either the Planning Commission or the City Council.

Mobile Home: The term "mobile home" shall be construed to include any structure used as or intended for sleeping or other living quarters and having no foundation other than wheels, blocks, skids, jacks, saw horses, or skirtings, or any other structure used as or intended for sleeping or other living quarters which is, has been, or reasonably may be equipped with wheels or other devices for transporting the structure or structures from place to place, whether by motor power or other means. The term "mobile home" shall include house car or trailer.

Mobile Home Park: Any plot of ground upon which two or more mobile homes or travel trailers, occupied for dwelling or sleeping purposes, are located.

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.

Municipality: The City of Omer, Michigan.

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

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

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 affect a human being, or the generation of any excessive or concentrated movement of people or things, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) objectionable flowage, (l) noise of congregation of people, particularly at night, (m) passenger traffic, and (n) invasion of traffic onto adjoining properties.

Off-Street Parking Lot: An area 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 Space: An area of land that remains primarily undeveloped and in its natural state.

Open Storage, Motor Vehicle: The outdoor standing or placement of motor vehicles including truck trailers for more than three (3) days, including new or used motor vehicles on display for lease or sale.

Open Storage, Nonresidential: The outdoor storage or placement of any material which is man-made, assembled, fabricated or treated in any manner and which is used directly in the fabrication of a product manufactured on the premises.

Paraphernalia: means drug paraphernalia as defined in section 7451 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7451, that is or may be used in association with Marihuana.

Parking: The parking of an automobile for short duration, and possessing the element of a vehicle in use, being temporarily parked until it is shortly to be again put into service. The terms temporarily or shortly, for the purpose of this definition, shall mean and be measured by hours or at most a day or two.

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 parking of permitted vehicles.

Patient: means a "registered qualifying patient" or a "visiting qualifying patient" as those terms are defined by MCL 333.26421, et seq.

Permit: means a current and valid permit for a Commercial Marihuana Facility issued under the City of Omer Ordinance Authorizing and Permitting Commercial Marihuana Facilities, City of Omer Ordinance No. 18-01, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

Permit Holder: means the Person that holds a current and valid Commercial Marihuana Permit issued under this Ordinance.

Permitted Premises: means the particular building or buildings within which the Permit Holder will be authorized to conduct the Facility's activities pursuant to the Permit.

Permitted Property: means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.

Person: means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

Pet: A domesticated animal kept, other than for commercial use, as a companion, for protection, show or play.

Planned Unit Development: A specific parcel of land or several contiguous parcels of land, under single ownership and control for which a comprehensive physical plan has been developed establishing a functional use area or areas, density patterns where applicable, fixed system of street, marginal access drives where required, service drives, provisions for public utilities, drainage and other essential services all of which shall be subject to review and approval by the Planning Commission and Zoning Administrator and which will be developed in full accordance with the approved plan.

Primary Caregiver: means a Person qualified under MCL 333.26423(g), and the rules promulgated there under by the Michigan Department of Community Health, R 333.101, et seq., including, but not limited to possession of a valid, unexpired registry identification card, to assist with a Patient's medical use of Marihuana, and authorized under the Michigan Medical Marihuana Act ("MMMA") to operate as a Primary Caregiver.

Primary Caregiver Operation: means a location where a Primary Caregiver can lawfully operate as permitted by the MMMA and this Ordinance. A Primary Caregiver Operation is not a Commercial Marihuana Facility.

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

Processor: as that term is defined in the MMFLA.

Provisioning Center: as that term is defined in the MMFLA.

Public Utility: A person, firm, corporation, municipal department, board or commission duly authorized to furnish, under governmental regulation, to the public: gas, electricity, sewage disposal, communications, transportation or water.

Recreational Equipment: Any travel trailers, campers, folding tent trailer, utility trailer, boat, boat trailer, float or raft, including transportation equipment and off road vehicles, manufactured motorized home, manufactured motor bus, all designed to be used as a temporary dwelling for travel, recreation and vacation use or periodic and occasional recreation or vacation use.

Registry Identification Card: means the document issued to a Patient or a Primary Caregiver and defined under MCL 333.26423(i).

Room: For the purposes 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 one hundred (100) 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.

Rubbish: The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper products, rags, chemicals or any similar or related combinations thereof.

Safety Compliance Facility: as that term is defined in the MMFLA.

Screen: For the purposed of this Ordinance, shall mean to conceal from view or make difficult to see clearly.

Secure Transporter: as that term is defined in the MMFLA.

Setback: The distance required to obtain minimum front, side or rear yard open space provisions of the Ordinance.

Sign: A lettered board, or other notice or token, advertising an individual, firm, profession business or other thing and visible to the general public.

Sign, Accessory: A sign that is related to the principal use of the premises.

Sign, Non-accessory: A sign which is not related to the principal use of the premises.

Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is not floor above, then the ceiling next above. A basement shall not be counted as a story.

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

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

Structural Alteration: Any change in the supporting members of a building or structures, such as bearing walls or partitions, columns, beams or girders, or any change in the width or number of exits, or any substantial change in the roof.

Temporary Use or Building: A use or building permitted by the Planning Commission to exist during a specified period of time, or for a special event.

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

Variance: A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Ordinance would cause undue hardship to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case. A variance is not an exception.

Wall, Obscuring: A structure built of architectural materials to a definite height and location for the purpose of serving as an obscuring device in carrying out the requirements of this Ordinance.

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:

1. **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.

2. **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 on the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

3. **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.

ARTICLE 3 – ZONING DISTRICTS & MAP

For the purposes of this Ordinance, the City is hereby divided into the following use districts:

R-1	Residential Single-Family District
R-2	Residential Multiple-Family District
R-3	Residential Mobile Home District
C	Commercial District
I	Industrial District
PD	Planned Development District

Section 300 – District Boundaries:

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

Section 301 – 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:

1. Boundaries indicated as approximately following the center lines of streets shall be construed as following the center of same. Boundaries following railroad tracks shall be construed to follow the middle of said tracks. Boundaries following streams of water shall be construed to follow the center line of same. It is intended, where shown on the Zoning Map, that district boundaries extend to the center of any public right-of-way.
2. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map. Where physical or natural features existing on the ground are at variance with those on the Zoning Map, the Planning Commission shall interpret the district boundaries. It is intended, where shown on the map, that such district boundaries extend to the center of any public right-of-way.

Section 302 – Text Interpretation:

Where uncertainty exists with respect to use or uses permitted in any district, or under any other condition or conditions set forth in this Ordinance, the following rule shall apply:

Uses not specifically permitted in a use district shall not be permitted uses of land and shall be prohibited in that district.

Section 303 – Zoning of Annexed Areas:

Whenever any area is annexed to the City, the following rule shall apply:

Land zoned prior to any annexation to the City shall be zoned to a like or most nearly similar use district upon annexation, provided such zoning is in harmony with the City's adopted Master Plan.

Section 304 – Zoning of Vacated Areas:

Wherever any street or other public way within the City shall be vacated, such street or other public way or portion thereof, shall automatically be classified in the same use district as the property to which it attaches.

Section 305 – District Requirements:

All buildings and uses in any district shall be subject to the following applicable provisions: those set forth for the use in its particular district; and those set forth in Article 13 – Schedule of Regulations, in Article 14 – General Provisions, and in Article 15 – General Exceptions.

ARTICLE 4 – R-1 RESIDENTIAL SINGLE-FAMILY DISTRICT

Section 400 – Intent:

The R-1 Residential Districts are designed to provide for an environment of predominantly moderate density, one-family detached dwellings along with other special uses permitted subject to special conditions.

Section 401 – Principal Uses Permitted:

In the R-1 Residential Districts, 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:

1. For private, one-family dwellings of not less than three (3) rooms plus one completed bathroom.
2. Publicly owned and operated parks, parkways, and recreational facilities.
3. Home occupations.
4. Accessory buildings, structures and uses, customarily incident to any of the above permitted uses.

Section 402 – Special Uses Permitted Subject to Special Conditions:

The following special uses shall be permitted subject to the conditions hereinafter imposed for each use and subject to further approval by the Planning Commission in accordance with the public hearing requirements set forth in Section 1707 of this Ordinance.

1. Churches and other facilities normally incidental thereto subject to the following conditions:
 - a. Buildings of greater than the maximum height allowed in Article 13 – Schedule of Regulations may be allowed provided that the 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.
 - b. All access to the site shall be in accordance with Section 1411.
 - c. All off-street parking shall be screened in accordance with Section 1405.
2. Public, parochial and other private intermediate or secondary schools offering courses in general education, and not operated for profit, and not including dormitories. Access to the site shall be in accordance with Section 1411.
3. Utility and public service buildings and uses without storage yards, when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity and when the architecture is in keeping with the surrounding area.
4. Private pools as an accessory use within the rear yard or a non-required interior side yard.
5. Railroad right-of-way, but not including terminal freight facilities, transfer and storage tracts, or marshalling yards.

Section 403 – Required Conditions:

The following conditions where applicable shall apply to all uses permitted under this Article.

1. All single-family detached dwelling structures shall comply with the following standards:
 - a. All dwelling units shall conform to all State codes and ordinances.
 - b. All dwelling units shall be permanently attached to an approved foundation.
 - c. All dwelling units shall be provided with exterior finish materials and roof designs that will not detract from the surrounding area.
 - d. All dwelling units shall be provided with an exterior building wall configuration which represents an average width-to-depth ratio which does not exceed three (3) to (1) and in no instance shall such width be less than twenty-four (24) feet.

The Zoning Administrator, in reviewing any such proposed dwelling unit with respect to Items c and d above, shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential areas and the City-at-large.

2. Except where otherwise regulated in this Article, see Article 13--Schedule of Regulations limiting height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unit density permitted, building setbacks, and development options.

3. Home Occupations, as permitted under this Article shall:

- a. Be conducted wholly and entirely within the principal dwelling and shall not occupy more than twenty-five (25) percent of the ground floor area of the principal dwelling.
- b. Be conducted only by the inhabitants thereof and have only one additional person employed in connection with the home occupation.
- c. No article or service shall be sold or offered for sale except such as may be produced or provided by the inhabitants thereof.
- d. Be no equipment or machinery used in connection with a home occupation which is industrial in nature.
- e. Not change the character of the residential appearance and orientation of the dwelling as a residential use.
- f. Not require internal or external alterations or construction other than that which may be required to meet local or State safety or construction code standards.
- h. No home occupation shall be carried on to an extent that will require parking in excess of that required for a residential building by this Ordinance.
- i. Signs for home occupation use shall be non-illuminated and not exceed twelve (12) square feet in size.
- j. Not include clinics, hospitals, tourist homes, kennels, or any other similar use which does not meet the above requirements.
- k. Shall be approved by the Planning Commission. Once established, shall not deviate from the above required conditions. Upon filing of a complaint by a neighbor or by the City itself, no home occupation shall be continued when the same is found objectionable or in violation of the above conditions by the Planning Commission due to noise, electrical interference, dust, smoke, odor, vibration, traffic congestion, reduction in the quality of the living environment of the dwelling or the neighborhood or other causes for which a reasonable complaint is brought.

4. See Articles 13, 14 & 15 regarding regulations, provisions and exceptions that apply to R-1, Residential Single-Family Districts.

ARTICLE 5 – R-1A, RESIDENTIAL-AGRICULTURAL DISTRICT

Section 500 – Intent:

The R-1A Residential-Agricultural Districts are designed to provide for an environment of predominantly low to moderate density, one-family detached dwellings along with other special uses permitted subject to special conditions as specified in Section 402.

Section 501 – Principal Uses Permitted:

In the R-1A Residential-Agricultural Districts, no building or land shall be used and no building shall be erected except for one or more of the following uses unless otherwise provided in this Ordinance:

1. For private, one-family dwellings of not less than three (3) rooms plus one completed bathroom.
2. Farms, all being subject to applicable health and sanitary regulations and provided that no farms shall be operated as piggeries, or for the disposal of garbage, junk, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals or fowl except where raised on the premises for the use and consumption by persons residing on the premises.

All provisions of Article 4, including Sections 402 and 403, shall apply to R-1A Districts, with the exception that any present agricultural use may be continued, or may be changed to comply with the provisions of the R-1 Districts.

Section 502 – Special Uses Permitted Subject to Special Conditions

1. Commercial Marihuana Growers: Classes A, B & C.

Section 503 – Required Conditions in addition to Section 403:

1. Commercial Marihuana Growers shall be subject to the following conditions and standards:
 - a. Only the entity named on the permit may grow at a Commercial Marihuana Facility.
 - b. Light cast by light fixtures inside any building used for marijuana cultivation or production shall not be visible outside the building from dusk to dawn the following day.
 - c. All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.

d. The permit holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.

ARTICLE 6 – R-2, RESIDENTIAL MULTI-FAMILY DISTRICT

Section 600 – Intent:

The R-2 Residential Districts are designed to provide for an environment of predominantly moderate to high density, two-family or multi-family dwellings, including cluster arrangements, along with other special uses permitted subject to special conditions as specified in Section 402.

Section 601 – Principal Uses Permitted:

In the R-2 Residential Multi-Family Districts, 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:

1. All uses permitted in R-1 Residential Single-Family Districts.
2. Each private dwelling shall contain not less than two (2) rooms and a completed bathroom.
3. Two-family dwellings.
4. Multiple-family dwellings.
5. Cluster arrangement dwellings.
6. Publicly owned and operated parks, parkways, and recreational facilities.
7. Home occupations.
8. Accessory buildings, structures and uses, customarily incident to any of the above permitted uses.

Section 602 – Special Uses Permitted Subject to Special Conditions

All special uses permitted in R-1 Residential Single-Family Districts, as specified in Section 402, are also permitted in R-2 Residential Multiple-Family Districts.

Section 603 – Required Conditions

The following conditions where applicable shall apply to all uses permitted under this Article.

1. All multiple-family dwelling structures shall comply with the following standards:
 - a. All dwelling units shall conform to all State codes and ordinances.
 - b. All dwelling units shall be permanently attached to an approved foundation.
 - c. All dwelling units shall be provided with exterior finish materials and roof designs that will not detract from the surrounding area.

- d. All dwelling units shall be provided with an exterior building wall configuration which represents an average width-to-depth ratio which does not exceed three-to-one (3:1) and in no instance shall such width be less than twenty-four (24) feet.
- e. The minimum distance of any main or accessory building from any lot line or street shall be at least fifty (50) feet for all two (2) story structures.
- f. Service roads, driveways, parking areas and open spaces shall be located and interrelated so as to minimize any adverse effects upon adjacent property, such as channeling excessive traffic onto local residential streets, and adequate or effective buffering of parking and service areas.
- g. All buildings or building groupings shall be located so as to properly relate to one another and to uses or buildings on adjacent properties.
- h. All buildings or building groupings shall be located so as to properly promote the circulation of traffic in and around the premises including that of fire and medical emergency equipment.

The Zoning Administrator, in reviewing any such proposed dwelling unit with respect to Items c and d above, shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential areas and the City-at-large.

2. Except where otherwise regulated in this Article, see Article 13–Schedule of Regulations limiting height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unit density permitted, and building setbacks, and development options.

3. Home Occupations, as permitted, shall comply with the terms set forth in Section 403.

4. See Articles 13, 14 & 15 regarding regulations, provisions and exceptions that shall apply to R-2, Residential, Multiple Family Districts.

ARTICLE 7 – R-3 RESIDENTIAL MOBILE HOME DISTRICT

Section 700 – Intent:

The R-3 Residential Mobile Home District is intended to provide satisfactory living conditions where certain minimum standards are maintained in an area of high density dwellings subject to special uses permitted subject to special conditions.

For purposes of this Ordinance and, except as hereinafter provided, it shall be unlawful for any person, persons, firm or corporation to keep or maintain any mobile home occupied for human habitation on any lot, piece, or parcel of ground, except in a licensed mobile home park.

Section 701 – Principal Uses Permitted:

In the R-3 Residential Mobile Home District, no building or land shall be used and no building shall be erected or installed except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. For single-family mobile homes.
2. One (1) office building used exclusively for conducting the business operations of the park, or if the building is a two bedroom mobile home with one bedroom set aside solely for conducting the business operations of the park, the park owner or manager may reside therein.
3. Accessory buildings for laundry facilities and auxiliary storage space for residents of the mobile home park.
4. Common buildings for use by residents of the mobile home park for recreation, civic or social activities that are organized by the mobile home park management.
5. Home occupations.

Section 702 – Special Uses Permitted Subject to Special Conditions:

The following special uses shall be permitted subject to the conditions hereinafter imposed for each use and subject to further approval by the Planning Commission in accordance with the public hearing requirements set forth in Section 1707 of this Ordinance.

1. Utility and public service buildings and uses without storage yards, when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity and where the architecture is in keeping with the surrounding area.
2. Private pools as an accessory use within the rear yard.
3. Railroad right-of-way, but not including terminal freight facilities, transfer and storage tracts, or marshalling yards.

Section 703 – Required Conditions:

The following conditions, where applicable, shall apply to all uses permitted under this Article:

1. All mobile home parks shall comply with the applicable requirements of the Public Acts, the rules of the State Mobile Home Commission, and the provisions of this Ordinance.
2. Mobile home parks shall not be permitted on parcels of less than ten (10) acres, except that sites as small as five (5) acres are permitted where such sites represent a physical expansion of an adjacent existing mobile home park.
3. All mobile home park septic and/or sewer systems shall comply with Department of Public Health regulations.
4. Mobile home parks shall not be permitted on parcels of land that have frontage on the Rifle River.
5. Mobile home parks must be located on land accessed by a major thoroughfare.
6. All drives and streets within the park shall be hard-surfaced.
7. Where a mobile home park lies adjacent to an existing nonresidential district, a twenty (20) foot wide greenbelt planting screen shall be provided.
8. Mobile home parks shall be appropriately landscaped throughout with a variety of trees and shrubs and be submitted as part of the site plan.
9. Off-street parking shall be provided within the park as set forth in Section 1405 and Section 1406 of this Ordinance.

10. A mobile home park shall provide an area for the storage of residents' recreational vehicles as set forth in Section 1404 of this Ordinance.
11. No mobile home shall have less than 840 square feet of floor space and cannot be more than ten years old.
12. There shall be a minimum depth of thirty (30) feet for every front yard of a mobile home lot.
13. There shall be a minimum width of ten (10) feet for each side yard of a mobile home lot and a total width of both side yards of not less than twenty (20) feet
14. There shall be a minimum rear yard of twenty (20) feet, provided that accessory buildings which are detached from the main building may be located within four (4) feet from the rear lot line.
15. No accessory buildings are permitted in front or side yards.
16. All mobile home pads shall be constructed of reinforced concrete and shall not be less in length and width than the mobile home placed upon it. Mobile home pads shall further comply with Rule 943, Act 419 of the Public Acts of 1976, as amended.
17. Each mobile home shall be anchored to its pad in accordance with Rules 605 through 609 of Act 96 of the Public Acts of 1987, as amended.
18. Each mobile home shall have exterior skirting in accordance with Rule 604 of Act 96 of the Public Acts of 1987, as amended.
19. All preliminary site plans shall be presented in accordance with Act 96 of the Public Acts of 1987, as amended, and in accordance with Section 1302 of this Ordinance.
20. No construction shall begin until approval of the preliminary site plan has been given by the Michigan Mobile Home Commission and by the City Zoning Administrator.
21. Construction plans shall be approved by the Michigan Mobile Home Commission and the City Zoning Administrator.
22. Home occupations, as permitted, shall comply with the terms set forth in Section 403.
23. See Articles 13, 14 & 15 regarding regulations, provisions and exceptions that apply to R-3 Residential Mobile Home Districts.

ARTICLE 8 – C-COMMERCIAL DISTRICTS

Section 800 – Intent:

The Commercial District is designated to accommodate buildings for such business uses as offices, banks, restaurants and retail stores which provide goods and/or services to residents of the City and the general public. In general, development of retail establishments will be encouraged in areas of the City adjacent to U.S. 23 and along major thoroughfares in order to promote convenient shopping and the stability of retail development with a continuous retail frontage that limits non-retail uses, which tend to break up such continuity. Light industrial uses may also be permitted in this district as Special Uses subject to special conditions under Section 903 of this Ordinance.

Section 801 – Principal Uses Permitted:

In the Commercial 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.

Any generally recognized retail business or professional service which would not be obnoxious or detrimental to the neighborhood or area, such as:

- a. Restaurant or tavern
- b. Barber shop
- c. Bank
- d. Grocery, meat or drug stores
- e. Professional office or showroom of a tradesman
- f. Hardware store
- g. Motel or building used as a bed & breakfast
- h. Medical office or clinic
- i. Child day care center
- j. Automotive service station
- k. Governmental office
- l. Other uses similar to the above

Section 802 – Special Uses Permitted Subject to Special Conditions:

The following special uses shall be permitted subject to the conditions hereinafter imposed for each use, providing that the nature of that business is not obnoxious or disruptive in nature, and subject to further approval by the Planning Commission in accordance with the public hearing requirements set forth in Section 1707 of this Ordinance.

1. Churches and other facilities normally incidental thereto subject to the following conditions:
 - a. Buildings of greater than the maximum height allowed in Article 13 of this Ordinance may be allowed provided that the 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.
 - b. All access to the site shall be in accordance with Section 1411.
 - c. All off-street parking shall be screened in accordance with Section 1405.
2. Public, parochial and other private intermediate, secondary or technical schools offering courses in general or career education, and not including dormitories. Access to the site shall be in accordance with Section 1411.
3. Utility and public service buildings and uses, when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity and when the architecture is in keeping with the surrounding area.
4. Seasonal retail establishments, such as fruit markets, flea markets or Christmas tree stands. These businesses may provide one temporary structure for use as a central office area for use by the owner, manager, or security/safety officer for on-site management and protection of the grounds. This structure shall not be as a residential dwelling. Any structure or materials pertaining to the business shall be removed at the end of the season. The owner shall

comply with all public health standards and provide adequate washing facilities for on-site vendors.

5. Buildings for warehouse or storage purposes for private or general public use.
6. Railroad right-of-way, but not including terminal freight facilities, transfer and storage tracts, or marshalling yards.
7. Retail stores which provide adult entertainment-related products, such as books, magazines and/or movies which are predominately pornographic in nature. Any objectionable product displays or graphic advertisements shall not be set up for open viewing by passers-by or by vehicular traffic.
8. Establishments providing live adult entertainment, such as nude dancing, topless wait staff, or massage parlors. Any objectionable advertisements or graphics shall not be set up for open viewing by passers-by or by vehicular traffic.
9. Outdoor recreational facilities or activities, such as a miniature or putt golfing range, campground, go-cart track, wave pool/water slide or related outdoor activity. The central activity of this type of business shall be at least 150 feet from the nearest residential property line. In addition, any such business shall not be located in the central retail portion of the business district along U.S. 23.
10. Indoor recreational facilities, such as a bowling alley or skating rink. These buildings shall be located at least 100 feet from the nearest residence and provide adequate off-street parking. In addition, any such business shall not be located in the central retail portion of the business district along U.S. 23.
11. Commercial Marihuana Growers: Classes A, B & C.
12. Commercial Marihuana Processors
13. Commercial Marihuana Provisioning Centers
14. Commercial Marihuana Safety Compliance Facilities
15. Commercial Marihuana Secure Transporters

Section 803 – Required Conditions:

The following conditions where applicable shall apply to all uses permitted under this Article:

1. The maximum height of buildings or structures shall be two & one-half (2 ½) stories.
2. All commercial lots shall have a minimum lot area of 7,500 square feet and a minimum width of sixty (60) feet and all buildings shall have a ground floor area of not less than nine hundred (900) square feet.
3. No rear or side yard is required for buildings in a commercial district except for those lots adjacent to a residential use district, in which case the requirement of the adjacent residential district shall apply.
4. Exterior signs or displays shall not inhibit pedestrian traffic or block the view of vehicular traffic.
5. All lighting shall be shielded from adjacent residential districts.
6. Residential occupancy shall be permitted in commercial buildings of at least two (2) stories in height, however no dwelling unit shall occupy the floor at grade level and no business shall be located on the same floor as that used for a residential use.

7. Outdoor business activities, such as the outdoor display of products or sidewalk cafes, shall be located entirely on private land and shall be neat in appearance and set up in a safe and orderly fashion. Any objectionable products shall not be openly displayed.

8. See Articles 13, 14 & 15 regarding regulations, provisions and exceptions that shall apply to C-Commercial Districts including those concerning off-street parking requirements.

9. Any Commercial Marihuana Facility uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by Michigan law may not be permitted by The City of Omer. In the event that a court with jurisdiction declares some or all of this article invalid, then The City of Omer shall suspend the acceptance of applications for special land use permits pending the resolutions of the legal issue in question.

10. At the time of application for the special land use permit, the marijuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et, seq.; and all other applicable rules promulgated by the state of Michigan.

11. Commercial Marihuana Facilities shall at all times maintain a security system that meets Michigan law requirements, and shall also include the following:

a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises;

b. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;

c. A locking safe permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Facility overnight;

d. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Permitted Premises; and

e. All security recordings and documentation shall be preserved for at least 30 days by the Permit Holder and made available to any law enforcement upon request for inspection.

12. The amount of Marihuana on the Permitted Property of a Commercial Marihuana Facility and under the control of a Permit Holder, owner or operator of the Facility shall not exceed the amount allowed by The State of Michigan.

13. The Marihuana and marihuana infused products offered for sale or distribution by a Commercial Marijuana Facility within the City of Omer must be packaged and labeled in accordance with Michigan law.

14. The sale, consumption or use of alcohol or tobacco products on the Permitted Property and Permitted Premises of a Commercial Marijuana Facility is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Property and Permitted Premises of a Commercial Marihuana Facility is prohibited.

15. All activities of Commercial Medical Facilities, including without limitation, distribution, growth, cultivation, processing or the sale or transfer of Marihuana, and all other related activity permitted under the Permit Holder's License or Permit must occur indoors.

16. Commercial Marijuana Facilities, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may NOT be permitted as a home occupation or accessory use nor may they include accessory uses, except as otherwise provided in this ordinance.

17. No person operating a Commercial Marijuana Facility shall provide or otherwise make available Marijuana to any person who is not legally authorized to receive Marijuana under Michigan law.

18. Commercial Marijuana Growers, Processors, Provisioning Centers and Safety Compliance Facilities shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the Permitted Premises as follows:

a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

b. The filtration system shall be maintained in working order and shall be in use.

c. The filters shall be changed a minimum of once every 365 days.

d. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

e. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

19. Commercial Marijuana Growers shall be subject to the following conditions and standards:

a. Only the entity named on the permit may grow at a Commercial Marijuana Facility.

b. Light cast by light fixtures inside any building used for marijuana cultivation or production shall not be visible outside the building from dusk to dawn the following day.

c. All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marijuana are located.

d. The permit holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.

20. Commercial Marihuana Provisioning Centers shall be subject to the following conditions and standards:

- a. No Provisioning Center shall operate between the hours of 8:00 p.m. and 8:00 a.m.
- b. No Commercial Marihuana Provisioning Center shall be located within Two hundred fifty (250) feet from any real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, with the minimum distance between uses measured horizontally between the nearest property lines.
- c. All activities of a Commercial Marihuana Provisioning Center, including all transfers of marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up or drive-through window.
- d. The exterior appearance of a Commercial Marihuana Provisioning Center shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

21. Commercial Marihuana Secure Transporters shall be subject to the following conditions and standards:

- a. Vehicles used for the transport of marijuana must be stored indoors when not in use.
- b. No vehicle may be used for the ongoing or continuous storage of marijuana, but may only be used incidental to, and in furtherance of, the transportation of marijuana.
- c. The Facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the Permitted Premises.
- d. Marihuana shall be transported in a secure manner designed to prevent the loss of the Marihuana.
- e. Marihuana shall be transported only by persons who are otherwise authorized to possess Marihuana by the laws of The State of Michigan.
- f. Marihuana shall be transported in a manner consistent with the MMFLA and all other applicable Michigan laws, rules and regulations, as amended.

ARTICLE 9 – I-INDUSTRIAL DISTRICT

Section 900 – Intent:

The I-Industrial District is designed to accommodate manufacturing, assembling, packaging, warehousing and fabrication activities of finished or semi-finished products whose external physical effects may be felt to some degree by surrounding districts. Until such time as the City is able to provide a city-wide sewer system, any industrial businesses will be allowed on a limited or restricted basis.

Businesses that are industrial in nature must comply with the general goals of the City to:

1. Provide sufficient space in appropriate locations for the business in question.
2. Protect abutting residential districts.
3. Promote industrial development which is free from danger of fire, toxic matter and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
4. Protect the natural resources of the City and surrounding area.

Section 901 – Principal Uses Permitted:

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:

1. Warehouse and wholesale establishments and corresponding trucking facilities.
2. Facilities for the manufacture, treatment or packaging of such products as food items, cosmetics, toiletries and hardware.
3. Facilities for the manufacture, assembly or treatment of merchandise previously prepared from such raw materials as cloth, feathers, glass, leather, wood, stone, wax, sheet metal and paper.
4. Facilities for the manufacture or assembly of electrical appliances or instruments.
5. Other similar uses that are no more objectionable in character to the above uses.

Section 902 – Special Uses Permitted Subject to Special Conditions

The following uses may be permitted subject to the conditions hereinafter imposed for each use and subject to approval by the Planning Commission in accordance with the public hearing requirements set forth in Section 1707.

1. Private or commercial airport for small engine air craft including service and hangar areas.
2. Hospitals and nursing homes.
3. Trade or industrial schools including dormitories.
4. Utility and public service buildings and uses, when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity and when the architecture is in keeping with the surrounding area.
5. Railroad right-of-way, including terminal freight facilities, transfer and storage tracts, or marshalling yards.
6. Commercial Marihuana Growers: Classes A, B & C.

Section 903 – Required Conditions:

The following conditions where applicable shall apply to all uses permitted under this Article:

1. The outdoor storage of goods or materials shall not extend to a greater height than the height of the obscuring screen or fence. This restriction shall include trucks and cranes, the booms of which shall be stored in a horizontal position.
2. No industry shall be located closer than 200 feet to any residence if objectionable by reason of undue amounts of smoke, dust, noise or odor.
3. No side yard shall be required for buildings in this district, except for those lots directly adjacent to a residential use district, in which case the requirement of the adjacent residential district shall apply.
4. All buildings or building groupings on an industrial site shall be located so as to properly promote the circulation of traffic in and around the premises including that of fire and medical emergency equipment.
5. See Articles 13, 14 & 15 regarding regulations, provisions and exceptions that shall apply to I-Industrial Districts including those concerning off-street parking requirements.
6. Commercial Marihuana Growers shall be subject to the following conditions and standards:
 - f. Only the entity named on the permit may grow at a Commercial Marihuana Facility.
 - g. Light cast by light fixtures inside any building used for marijuana cultivation or production shall not be visible outside the building from dusk to dawn the following day.
 - h. All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
 - i. The permit holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.

ARTICLE 10 – PD, PLANNED DEVELOPMENT DISTRICT

Section 1000 – Intent:

The Planned Development District is designed to provide for an environment of mixed but compatible uses, usually including a recreational facility which is integrated with a combination of moderate density single-family and multi-family dwellings on a single parcel of land. An example of a planned development would be a golf course and accompanying club house surrounded by various types or groupings of homes. By recognizing a planned development as a single unit, the individual zoning or rezoning of each component of the planned development is not necessary.

All planned developments must comply with the general goals of the City to:

1. Provide sufficient open space in appropriate locations for the development in question.
2. Protect abutting residential districts.
3. Promote a development which is free from danger of fire and other hazards, and from offensive noise, smoke, odor and other objectionable influences.
4. Protect the natural resources of the City and surrounding area.

Section 1001 – Principal Uses Permitted:

In the Planned Development District, all proposed development projects will be considered as a special use and be subject to approval as set forth in Section 1002.

Section 1002 – Special Uses Permitted Subject to Special Conditions:

A specific parcel of land or several contiguous parcels of land, under single ownership and control for which a comprehensive physical plan has been developed establishing a functional use area or areas, density patterns, open spaces, a fixed system of streets, marginal access drives where required, service drives, provisions for public utilities, drainage and other essential services all of which shall be subject to review and approval by the Planning Commission and Zoning Administrator in accordance with the public hearing requirements set forth in Section 1707 of this Ordinance, and which will be developed in full accordance with the approved plan.

In the Planned Development 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:

1. Indoor recreational facility and single and/or multi-family dwellings.
2. Outdoor recreational facility and single and/or multi-family dwellings.
3. Shopping plaza and single and/or multi-family dwellings.
4. Any similar combination of uses that include private detached dwellings.
5. Accessory buildings, structures and uses, customarily incident to any of the above uses.
6. Any similar development that is no more objectionable in character to the above uses.
7. Utility and public service buildings and uses without storage yards, when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity and when the architecture is in keeping with the surrounding area.
8. Private pools as an accessory use within the development.
9. Home occupations.
10. Railroad right-of-way, but not including terminal freight facilities, transfer and storage tracts, or marshalling yards.

Section 1003 – Required Conditions:

1. All commercial business shall comply with the provisions of Article 8.
2. All single-family dwellings shall comply with the provisions of Article 4.
3. All multiple-family dwellings shall comply with the provisions of Article 6.

4. All buildings or building groupings on the development site shall be located so as to properly promote the circulation of traffic in and around the premises including that of fire and medical emergency equipment.
5. Home occupations, as permitted, shall comply with the terms set forth in Section 403.
6. See Articles 13, 14 & 15 regarding regulations, provisions and exceptions that shall apply to planned developments.

ARTICLE 11 (RESERVED)

ARTICLE 12 (RESERVED)

ARTICLE 13 - SCHEDULE OF REGULATIONS

Section 1301 - Standards Limiting Height & Bulk of Buildings & Area of Lots by Land Uses:

1. Corner lots in any R District shall be platted with not less than ninety-five (95) feet of frontage.
2. The side yard abutting upon a street shall not be less than ten (10) feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting a street shall not be less than the required front yard of that district.
3. On a lot or parcel or combination thereof, where a multiple-dwelling is proposed, the total number of rooms (not including kitchen, dining and sanitary facilities) shall not be more than the area of the land, in square feet, divided by 1,300 and all public utilities must be available. All units shall have at least one (1) living room and one (1) bedroom, except that not more than ten percent (10%) of the units may be of an efficiency apartment type.
For all multiple-dwelling structures, the maximum overall horizontal length of any one building or group of buildings attached together over any portion of a common party wall, or other architectural feature which attaches buildings together, shall not exceed 180 feet measured through the centerline of the building(s).
4. Every lot on which a multiple-dwelling structure is erected shall be provided with a side yard on each side of such lot. Each side yard shall be increased by one (1) foot for each ten (10) feet or part thereof by which the multiple dwelling length exceeds forty (40) feet in overall dimension along the adjoining lot line.
5. The minimum front and rear yards shall be no less than thirty-five (35) feet.
6. Off-street parking may be permitted in the front yard, except that no parking shall be permitted in any front yard closer than ten (10) feet to a street right-of-way line.
7. Off-street parking shall be permitted in the interior side or rear yard.
8. No side yards are required along the interior side lot lines, except as otherwise specified in the Building Code in force for the County of Arenac. In an exterior side yard a setback equal to the front yard setback shall apply. Where such buildings are adjacent to a residential district, a side yard setback equal to the setback of the adjacent residential home or the minimum front yard setback requirements of the adjacent residential district, whichever is the lesser, shall be provided.
9. Except as otherwise permitted in Section 1407 of the Ordinance, loading/unloading space shall be provided in the rear yard. Where an alley exists or is provided at the rear of the

buildings, the rear building setback and loading requirements may be computed from the center of such alley.

10. In any Industrial District no off-street parking shall be permitted in the front yard except that up to five (5) visitor and disabled parking spaces may be placed in the front yard between the front of the building and minimum required front yard setback line of the district.

Section 1302 - Site Plan Review (All Districts):

Site plans when required, shall be submitted for review and approval by the Zoning Administrator.

1. A site plan shall be submitted for the approval of:
 - a. Any use or development for which a site plan is required by any provision of this Ordinance.
 - b. Any development, and any principal permitted use.
2. Every site plan submitted shall be in accordance with the requirements of this Ordinance and the following information shall be included on the plan.
 - a. The dimensions of all lot and property lines showing the relationship of the subject property to abutting properties.
 - b. The location of all existing structures and proposed structures on the subject property and all existing structures within fifteen (15) feet of the subject property.
 - c. The location of all existing and proposed drives, parking areas, right-of-way widths or abutting streets and alleys.
 - d. Location, dimensions and details of proposed utility lines, wells, septic systems, and storm drainage.
 - e. Name, address, and telephone number of the person owning the site or seeking approval.
 - f. Location, dimensions and details of proposed planting, greenbelts and landscaped areas.
 - g. Location, dimensions, and drawing of existing and proposed signs.
3. In the process of reviewing the site plan, the following shall be considered:
 - a. The location of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.
 - b. The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure.
 - (1) Safety and convenience of both vehicles and pedestrian traffic both within the site and in relation to access streets.
 - (2) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
 - c. The Planning Commission may further require landscaping, fences, walls and berms to protect adjoining properties and enhance the environment of the community in accordance with Sections 1304, 1408 and 1410, and that all exterior lighting complies with the terms of Section 1409 of this ordinance.
 - d. Whether the project or use would be objectionable to nearby properties.

4. The approval of any site plan shall expire one (1) year after the date of approval, unless actual construction and development have been commenced in accordance with said site plan prior thereto. If such construction and development is commenced within said time, then such approval shall continue for a period of two (2) years from the date thereof; provided, however, that should a lapse of more than nine (9) months in continuous substantial construction and development occur, said approval shall expire. Extension may be requested of the Planning Commission due to extenuating circumstances. Fees for review of site plans shall be collected at the time of submittal in accordance with the fee schedule established by the City by separate resolution. In those instances where conditions have changed, the fee for review of expired plans or new plans shall be the same as for the initial submittal. Construction or development at the site after approval of a site plan different than that approved shall constitute a nuisance per se and shall be a violation of the terms of this ordinance in all respects.

Section 1303 - Corner Clearance:

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

Section 1304 - Walls and Earth Berms:

1. There shall be provided and maintained between any non-residential and residential district an obscuring wall or landscaped earth berm a minimum of five (5) feet in height.
2. Required walls or earth berms shall be located up to 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.

Section 1305 - Construction Existing Water Systems:

No building, dwelling unit, or structure within the City shall be constructed after the effective date of this provision which is connected to any well, water source, or other private water system other than the City's water system unless there is no City water line abutting the property on which such building, dwelling unit, or structure is being constructed. For purposes of this section, "Abutting" shall mean: located on public or private property adjacent to the property upon which construction is to occur and no more than fifty (50) feet from such property line.

It shall be unlawful to construct, reconstruct, repair, alter, or in any way remodel any private well, water source, or other private water system on any property within the City which abuts any water line of the City's water system.

ARTICLE 14 GENERAL PROVISIONS

Section 1400 - 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 impose more stringent requirements than are imposed or required by this Ordinance then the provisions of that law or ordinance shall govern.

Section 1401 - 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 of any building, structure or land, or part thereof except in conformity with the provisions of this Ordinance. Any use that is not specifically permitted in a given district shall be a prohibited use within that district.

Section 1402 - Nonconforming Lots, Nonconforming Structures & Nonconforming Uses of Structures and Land

1. Intent:

It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their survival.

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

It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure and/or land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

Nothing in this Ordinance shall be deemed to require a change in the plans, construction or designed use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

2. Nonconforming Building or Use:

a. The lawful use of premises existing at the time of the adoption of this Ordinance may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout any buildings by application to the Zoning Administrator for permission to do so. No nonconforming use shall be extended, however, if structural alterations or changes are necessary. There may be a change of tenancy, ownership, or management of any existing nonconforming use or structure.

- b. If a nonconforming use of land, a building or structure, is discontinued or abandoned, or said use has ceased, or has been changed to a use permitted in a district in which it is located, it shall be deemed to have been discontinued, and not again be devoted to a nonconforming use. The period of time for the ceasing, discontinuance, or abandonment to have occurred for this provision to apply shall be one (1) year.
- c. The nonconforming use of any parcel of land, building or structure shall not be changed to any other nonconforming use.
- d. Nothing in this Ordinance shall prevent such repairs or improvements of a nonconforming use or building or structure existing on the date of enactment of this Ordinance as may be necessary to secure continued advantageous use thereof during its natural life, provided such repair or improvement includes no enlargement or change of use thereof and, provided, further, that the owner first obtain a permit for same from the Zoning Administrator.
- e. Any owner of property who has a nonconforming use as of the effective date of this Ordinance, shall notify the Zoning Administrator of such use, in writing, within sixty (60) days of the effective date of this Ordinance. Failure to notify the Zoning Administrator as required shall be deemed to be an abandonment of any nonconforming use.
- f. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance, except that reconstruction on the existing foundation or footings shall be permitted, provided reconstruction is commenced within six (6) months from date of such damage. This time period may be extended through appeal to the Zoning Board of Appeals.
- g. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

3. Uses under Exception Provisions Not Nonconforming Uses:

Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

Section 1403 - Accessory Uses:

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

1. Accessory Buildings:

- 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 front yard or in any required exterior side yard.
- c. No accessory building shall occupy more than twenty-five percent (25%) of any required rear yard, plus twenty percent (20%) of any non-required rear yard provided that in a residential district, the accessory building shall not exceed the ground floor area of a main residence.
- d. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than three (3) feet to any interior side lot or rear lot line.

e. In no instance shall an accessory building be located within an easement or dedicated right-of-way. In those instances where the rear lot line abuts a street right-of-way, the accessory building shall be no closer to this line than the required front yard setback in the district in which the property is located.

f. No detached accessory building in any district shall exceed 2 ½ stories or thirty-five (35) feet in height.

g. When an accessory building is intended for a use other than dog houses, the parking or storage of private motor vehicles, tools or recreation equipment, the accessory use shall be subject to review and approval of the Zoning Administrator. When an accessory building is used as a garage for the parking of private motor vehicles, it shall not exceed eight hundred (800) square feet in gross floor area.

2. Accessory Structures:

a. Accessory structures, except where otherwise permitted and regulated in this Ordinance, shall be located in the rear yard and shall meet the setback requirements of an accessory building.

b. Flag poles may be located within any required front or exterior side yard but shall be located no closer to public right-of-way than one-half (1/2) the distance between the right-of-way and the principal building.

c. Ground mounted private communication antennas shall be located in the rear yard, except when such antennas will not be highly visible from a street when so placed in a non-required interior side yard.

No private communications antenna shall exceed the height limitations of the district in which it is located and shall be so placed that a horizontal distance at least equal to the vertical height of the antenna shall be provided between the antenna and the nearest property line. Except, in those instances where an antenna extending upward from the ground is also securely attached elsewhere to a building, the required distance to the nearest property line may be measured from the building attachment to the top of the antenna. All such antenna may be attached to a pole, a tower or to a rooftop of a principal or accessory building, provided all applicable structural and electrical code requirements are met.

No antenna shall be linked physically or electronically, to a receiver which is not located on the same zoning lot as the antenna. Wiring between a ground mounted antenna and a receiver shall be placed at least four (4) inches beneath the ground within rigid conduit.

In residential districts, no roof, pole or tower mounted antenna shall exceed a dimension of three feet by three feet (3'x 3') or a diameter of three (3) feet and shall not project more than three (3) feet above the roof on which it is located, or the maximum height of the district, whichever is less.

Ground mounted antenna shall not exceed a dimension of eight feet by eight feet (8'x 8') for a diameter of eight (8) feet in nonresidential districts, no roof, pole or tower mounted antenna shall exceed a dimension of eight feet by eight feet (8'x 8') or, a diameter of eight (8) feet. Ground mounted antenna shall not exceed a dimension of twelve feet by twelve feet (12'x 12') or, a diameter of twelve (12) feet.

d. Solar energy panels when located on the ground shall observe all applicable requirements pertaining to an accessory building. When roof mounted they shall be mounted either flat against the roof surface or, shall not project more than three (3) feet outward from the roof

measured from the surface of the roof where so affixed to the furthest outward projection of the panel.

Section 1404 - Recreational Vehicles/Equipment Parking and Storage:

The off-street parking or storage of any motor home or recreation equipment in any residential district shall be subject to the following conditions:

1. Except where otherwise permitted in this Ordinance, the off-street parking of recreation vehicles or equipment for periods exceeding twenty-four (24) hours on lands not approved shall be expressly prohibited. Any recreational vehicle or equipment so parked or stored shall not be connected to sanitary facilities or water and shall not be occupied as a permanent dwelling.
2. Recreational equipment may be parked anywhere on a residential premise not to exceed seventy-two (72) hours during loading or unloading.
3. Any recreational equipment less than six (6) feet in height above the ground may be stored in any required side or rear yard. In addition to the general six (6) foot height permitted, minor portions of such equipment not exceeding three (3) square feet in vertical cross-section as viewed perpendicular to the adjacent lot line may be permitted to exceed six (6) feet in height.
4. Recreational equipment exceeding six (6) feet in height may be stored in any rear yard or in any non-required interior side yard subject to the applicable conditions of the section regarding Accessory Buildings, with respect to height, yard coverage and setbacks.
5. Recreational equipment parked or stored on residential premises shall be kept in good repair and carry a current license plate and/or registration.
6. The outdoor storage of recreational equipment on any residential lot or parcel shall be limited to only that equipment owned by, licensed or registered to, the occupant of the residential lot or parcel on which the equipment is stored.
7. In the case of a multiple-family dwelling, a complex of multiple-family dwellings or mobile home parks, the City shall require a screened area, in addition to off-street parking spaces, be provided on the site for the parking and storage of recreational vehicles.
8. A person shall not park, nor a vehicle's registered owner permit to be parked, any commercial vehicle weighing in excess of five thousand (5,000) pounds on any residentially zoned property in the City for any purpose or length of time other than for expeditious loading and delivery or pick up and unloading of materials, goods, or merchandise, or for the purpose of carrying on a principal use permitted on the property on which the vehicle is parked, as otherwise provided in this Ordinance.

The owner of residentially zoned property shall not permit a commercial vehicle to remain on such property in violation of the provisions of this Ordinance.

In any proceeding for violation of this Ordinance, where a motor vehicle displays commercial license registration plates, such registration shall constitute prima facie presumption that it is a commercial vehicle at the time of any alleged violation.

In any proceeding for violation of the weight limitation provision of this Ordinance, the weight indicated on the vehicle's registration shall constitute a prima facie presumption of the weight of the vehicle at the time of any alleged violation.

Section 1405 - Off-Street Parking Requirements:

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces shall be provided as hereinafter prescribed. There shall be no on-street parking allowed in any district except for short term stops to load or unload vehicles.

1. Off-street parking spaces may be located within a rear yard or within a side yard which is in excess of the minimum side yard setback unless otherwise provided in this Ordinance. Off-street parking shall not be permitted within a front yard nor within a minimum side yard setback unless otherwise provided in this ordinance.

2. 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 the lots or parcels intended for use as parking by the applicant.

3. Required off-street parking for single and two-family dwellings may be provided in a stacking configuration in a driveway or garage or combination thereof. All residential parking shall be located on the premises it is intended to serve. Required off-street parking for all other uses shall consist of an unencumbered parking stall or strip, parking bay, vehicle maneuvering space or driveway, garage or combinations thereof.

4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.

5. 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.

6. 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.

7. The sale or storage of construction trailers, merchandise, motor vehicles or trailers for sale or rent, trucks, or the repair of vehicles is prohibited on off-street parking lots.

8. 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.

9. 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 (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

10. For the purpose of computing the number of parking spaces required, except as otherwise regulated herein, the definition of usable floor area shall govern. Whenever off-street parking requirements shall be determined of a square footage of usable floor area basis, planned commercial centers and free-standing retail commercial uses, other than grocery stores and restaurants, shall be computed on the basis of eighty (80) percent of the gross floor area being usable.

11. The numerical off-street parking requirements of this Section shall not apply to uses, existing or proposed in the C-2 District, except when excess on-site area is available to permit the placement of off-street parking spaces, that area shall be so used and the off-street parking layout standards of this Ordinance shall apply.

<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
A. Residential:	
(1) Residential, One-Family Two-Family	Two (2) for each dwelling
(2) Residential, Multiple-Family	Two (2) for each dwelling unit having two (2) or less bedrooms and three (3) for each dwelling unit having (3) or more bedrooms.
(3) Mobile Home Park	Two (2) for each mobile home site and one (1) for each employee of the mobile home park.
B. Institutional:	
(1) Churches as feet of	One (1) for four (4) seats or persons permitted to capacity regulated by local or state fire or building codes or eight (8) pews in the main unit of worship, whichever is greater.
(2) Hospitals Nursing & Convalescent Homes Homes for the Aged	Two (2) for each one (1) bed.
(3) Private Clubs or Halls	One (1) for each four (4) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes.
(4) Nursery School, Day Nurseries, or Child Care Centers	One (1) for each three hundred fifty (350) square feet of usable floor area plus one (1) space for each employee.
(5) Library, Museum, Post Office	One (1) for each one hundred fifty (150) square feet of usable floor area.
C. Business & Commercial:	

- (1) Planned Commercial or Shopping Center square feet of usable floor area for the first fifteen thousand (15,000) square feet. One (1) for each one hundred twenty-five (125) square feet of additional useable floor area. One (1) for each one hundred fifteen (115)
- (2) Automatic Auto Wash One (1) for each one (1) employee. In addition, reservoir parking spaces equal in number to (5) times the maximum car capacity of the autowash interior.
- (3) Auto Wash, Self Service Two (2) for each washing stall in addition to the stall.
- (4) Beauty Parlor, Barber Shop or barber chairs and one for each further chair. Two (2) for each of the first two (2) beauty
- (5) Bowling Alleys Four (4) for each one (1) bowling lane.
- (6) Establishment for Sale and Consumption on the Premises of Beverages, Food or Refreshments feet of usable floor area or one (1) for each two(2) persons allowed within the maximum occupancy load as established by local county or state fire codes, whichever is greater. One (1) for each seventy-five (75) square
- (7) Furniture & Appliance, Household Equipment, Repair Decorator, Electrician, or similar trade, and other similar uses One (1) for each eight hundred (800) square usable floor area.
- (8) Drive-in Restaurant floor area. One (1) for each thirty (30) square feet of usable
- (9) Gasoline Filling Station, one (1) for Self-Service Two (2) spaces for each fuel nozzle plus each employee.
- (10) Laundromats & Coin machines. Dry Cleaners One (1) for each two (2) wash or dry
- (11) Miniature Golf Courses Two (2) for each one (1) hole.
- (12) Motel, Hotel plus one (1) for each employee. One (1) for each one (1) occupancy unit

(13) Motor Vehicle Sales & feet of usable Service one (1) for each one (1) auto service stall in the service area. One (1) for each two hundred (200) square floor area of sales room and

(14) Motor Vehicle &/or Fuel one (1) Filling Station the fuel service station. Two (2) for each lubrication stall, rack or pit and for each vehicle used as part of the equipment of

(15) Retail Stores, except floor area. as specified herein One (1) for each 125 square feet of usable (125) square feet of usable floor area.

D. Offices:

(1) Banks floor area. One (1) for each 100 square feet of usable

(2) Business Offices or floor area. Professional offices, except as indicated in the following item feet of usable floor area. One (1) for each 200 square feet of usable

(3) Professional Office of Doctors, of usable Dentists and the like floor area in waiting rooms, and one (1) for each examining room, dental chair, office, laboratory, x-ray therapy room or similar use area. One (1) for each thirty-five (35) square feet

E. Industrial:

(1) Industrial or Research the largest Establishments & related accessory offices. Five (5) plus one (1) for every employee in working shift.

(2) Warehouses and Wholesale employee in the Establishments largest working shift. Five (5) plus one (1) for every one (1)

Section 1406 - Off- Street Parking Space Layout, Standards, Construction & Maintenance:

Whenever the off-street parking requirements in Section 1405 require the building of an off-street parking facility, or whenever Vehicular Parking Districts are provided, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

1. No parking lot shall be constructed unless and until a permit is issued by the Zoning Administrator. Applications for a permit shall be submitted to the Administrator and shall be accompanied with two (2) sets of site plans for the parking lot showing that the provisions of this Section will be fully complied with.
2. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Degree	Total Width of One Tier		Total Width of
Two Tier Parking of Spaces	Maneuvering Lane Width	Parking Space Width	Parking Space Length
Pattern Plus Lane	Plus Lane		
0 (parallel) 20 feet	12 feet	8 feet	23 feet
30 to 53	28 feet	8 ft. 6 in.	20 feet 32 feet
54 to 74 6 in.	12 feet 52 feet	8 ft. 6 in.	20 feet 36 feet
75 to 90 40 feet	15 feet 58 feet 20 feet	9 feet	20 feet
	60 feet		

3. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall not be allowed.
4. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned or used for multiple-family residential use shall not be across land zoned for single family residential use. Further, ingress and egress to a parking lot lying in an area zoned for nonresidential use shall not be across land(s) zoned for residential use.
5. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern may permit two-way movement.
6. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
7. The off-street parking area of any non-residential use permitted in a residential district shall be provided with a continuous and obscuring wall or landscaped earth berm not less than five (5) feet in height measured from the surface of the parking area. This wall or berm shall be provided on all sides where the next zoning district is a residential district and shall contain materials as set forth in Section 1304 of this Ordinance.

When a landscape setback is required, between parking and any property line or street right-of-way, the area shall be kept free from refuse and debris and shall be landscaped in an aesthetically pleasing manner. All such landscaping and planting shall be maintained in a healthy, growing, condition, neat and orderly in appearance.

8. The entire parking area, including parking spaces and maneuvering lanes required under this Section, shall be provided with asphalt or concrete surfacing. The parking surface shall be surfaced within one (1) year of the date the permit is granted. Off-street parking areas shall be drained so as to dispose of all surface water accumulated to the parking area in such a way as to preclude drainage of water onto adjacent property or towards buildings.

9. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

Section 1407 - Off-Street Loading and Unloading:

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated rights-of-way, nor shall the same have a disruptive effect on the safe and efficient flow of pedestrian and vehicular traffic within the site.

No openings other than windows and pedestrian doors shall be provided in the front of any building in any non-residential district.

Section 1408 - Landscape Planting Screen and Landscape Plantings:

Whenever in this Ordinance a landscape planting screen or landscape plantings are required or permitted as an alternative to a screen wall or earth berm, it shall be planted in accordance with an approved planting plan. The failure to have such required plantings placed to completion shall be grounds for termination or revocation of zoning approval. All plants shall be properly planted so as to be in a healthy, growing condition at commencement of the established period.

I. REQUIRED PLANTING SCREENS:

A. Wherever in this Ordinance a landscape planting screen or landscape plantings are required, such landscape plantings shall be subject to the following conditions:

1. All plantings shall consist of permanent, living plant materials when planted to completion shall thereafter be maintained in an attractive and presentable condition free of weeds, refuse and debris and shall be continuously maintained in a sound, healthy and vigorous growing condition.
2. The proper type, spacing, height, placement and location of plant materials relative to the length and width of the screen so as to insure that the required horizontal and vertical obscuring effect of proposed uses will be achieved.
3. The choice and selection of plant materials so as to insure that in a mature state, including the root systems, will not interfere with public utilities and so that fruit or other debris, except leaves, will not constitute a nuisance within public rights-of-way or to abutting property owners.

B. Landscape planting screens, as required in this Ordinance or, when permitted as an alternative to a masonry screening wall or earth berm or, in conjunction with either, shall be laid out in conformance with the following.

1. Plant materials shall not be located within four (4) feet of a property line.
2. Where plant materials are placed in two or more rows, planting shall be staggered in rows.
 3. Evergreen trees shall not be less than five feet in height and shall be spaced apart no less than 15 feet on centers. When spread further apart additional screen plantings shall be used to achieve the desired screening effect intended by this section. When planted in informal groupings, they shall be spaced not more than five feet on centers.
 4. Large shrubs shall not be less than 30 inches in height. When planted in informal groupings, they shall be spaced not more than six feet on centers. When planted in single rows, they shall not be more than four feet on centers.
 5. Small shrubs shall not be less than 30 inches in spread. They shall be planted not more than 4 feet on centers.
 6. Large deciduous trees shall not be less than two and one-half inches in trunk caliper. For the purpose of this section, the caliper of the trunk shall be taken six inches over ground level for larger trees. When planted in informal groupings, they shall be planted not more than 30 feet on centers.
 7. Small deciduous trees shall not be less than two inches in trunk caliper. When planted in informal groupings, they shall be spaced not more than 15 feet on centers.

Suggested Plant Materials:

EVERGREEN TREES: Fir, Pine, Spruce, Hemlock, Douglas Fir.

NARROW EVERGREENS: Red Junipers, Red Cedar, Arborvitae.

LARGE DECIDUOUS TREES: Oaks, Hard Maples, Beech, Lindens, Ash, Ginkgo (male), Honey locust, Birch.

SMALL DECIDUOUS TREES: Flowering Dogwood, Hawthorn, Redbud, Magnolia Mountain Ash, Hornbeam, Russian Olive, Flowering Crabapple.

LARGE SHRUBS (Deciduous): Honeysuckle, Lilac, Border Privet, Sumac, Buckthorn, Pyracantha, Flowering Quince, Barberry, Forsythia, Cotoneaster, Dogwood.

SMALL SHRUBS (Deciduous): Compact Burning Bush, Regal Privet, Fragrant, Sumac, Japanese Quince, Potentilla.

SMALL SHRUBS (Evergreen): Spreading Yew, Low Spreading Junipers, Dwarf Mug Pine, Big Leaf Wintercreeper.

Trees Not Permitted:

Box Elder, Catalpa, Elms, Horse Chestnut if near pavement or sidewalk, Poplars, Willows, Cottonwood.

II. LANDSCAPE PLANTINGS:

Trees and landscape plantings used for cosmetic purposes and not as required screen plantings may be planted as desired throughout the site within the minimum requirements of this Ordinance.

Whenever any cosmetic planting areas are required planting screens approach a street or driveway intersection, the clear corner requirements of Section 1303 shall be observed. However, in all cases, care shall be taken relative to plant material, height and location so as not to create a traffic hazard.

Development which occurs in nonresidential Districts shall provide, in addition to any existing or proposed street rights-of-way, at least ten percent of the net site area (exclusive of buildings, off-street parking areas etc.) as landscaped open space. Pedestrian walkways, plaza, planters and other decorative elements may be included in such landscaped areas.

Section 1409 - Exterior Lighting:

1. All outdoor lighting in all Use Districts 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 away from all adjacent residential districts or adjacent residence.
2. Outdoor lighting poles or standards shall not exceed the maximum height limitation of the district in which they are located, except that no lighting pole or standard shall exceed twenty (20) feet in height when located on land adjacent to a residential district.
3. 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 streets or roads or adjacent property.
4. Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on adjacent streets or roads or adjacent property.

Section 1410 - Fences (Residential and Non-Residential):

1. Fences (residential) 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, whichever is greater. Nothing in this Section is intended to prohibit the placement of decorative shrubs or fencing which may be located within front or exterior side yards, so long as such plantings or fencing does not enclose the restricted lawn area. The restricted lawn area being the front or exterior side yard. In no case shall any such decorative shrubs or fence structure exceed four (4) feet in height.
 - b. Recorded lots having a lot area in excess of two (2) acres and a frontage of at least two hundred (200) feet, and acreage or parcels not included within the boundaries of a recorded plat, in all residential districts, are excluded from these regulations.

- c. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.
 - d. 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 their total area except that nothing in this subsection shall prevent the erection of fencing for tennis courts, backstops or the like.
2. Fences (nonresidential) shall be permitted in nonresidential districts provided:
- a. No such fence permitted herein shall serve as a screening device except where permitted in conjunction with other screening materials.
 - b. No fence shall extend into a front or exterior side yard.
 - c. No fence shall exceed eight (8) feet in height, except barbed wire placed along the top of a fence may project beyond the maximum height limitation of the fence, but no fence, including barbed wire, shall exceed an overall height of eleven (11) feet.
 - d. Nothing in this Section shall be interpreted to supersede the applicable requirements of Sections 1303 and 1304.

Section 1411 - Frontage on a Public Street:

No lot or parcel of land shall be used for any purpose permitted by this Ordinance unless said lot or parcel shall front directly upon a public street, unless otherwise provided for in this Ordinance.

Section 1412 – Building Grades:

Any building having required yard space shall be located at such elevation that a sloping grade shall be maintained to cause the flow of surface water away from the walls of the building. This grade shall slope away from the building at a rate of two percent (2%) [one (1) foot per fifty (50) feet of horizontal distance].

When a new building is to be constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the established level of existing buildings shall have priority in determining the level of the new building. The yard around the new building shall be graded to meet existing grades at the property line. Storm water runoff shall be channeled so that it shall not flow across other property, not cause runoff from adjacent properties to pool or pond on that property unless within an approved retention or detention pond.

ARTICLE 15 GENERAL EXCEPTIONS

Section 1500 - Area, Height & Use Exceptions:

The regulations in this Ordinance shall be subject to the following interpretations and exceptions:

Section 1501 - Essential Services:

Essential services serving the City shall be permitted as authorized and regulated by law and other ordinances of the City. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the City shall receive the review and approval, after public hearing, of the City Council. Such a review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the City.

Section 1502 - 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 1503 - Height Limit:

The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or commercial wireless transmission towers; provided, however, that the City Council may specify a height limit for any such structure when such structure requires authorization as a conditional use and provided further that the height of any such structure shall not be greater than the distance to the nearest property line.

Section 1504 - Lot Area:

Any lot existing and of record on the effective date of this Ordinance may be used for any principal use permitted in the district which such lot is located, other than conditional uses for which special lot area requirements are specified in this Ordinance, whether or not such lot complies with the lot area and width requirements of this Ordinance. Such use may be made provided that all requirements other than lot area and width prescribed in this Ordinance are complied with, and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit.

Section 1505 - Yard Regulations:

When yard regulations cannot reasonably be complied with or where application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified as determined the City Council.

Section 1506 – Porches:

An open, unenclosed and uncovered porch, deck, or paved terrace may project into a front yard or side yard so long as it does not exceed the required set back. Such structures when not attached to the main building shall, for the purposes of this Ordinance, be considered accessory uses and shall be subject to the conditions set forth in Section 1403 of this Ordinance.

Section 1507 - Projections into Yards:

Architectural features of the main building may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet.

Section 1508 - Access Through Yards:

Access drives and walkways may be placed in the required front or side yards so as to provide access to rear yards 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 purposes of this Ordinance, not be considered to be a structure and shall be permitted in any required yard.

ARTICLE 16 (RESERVED)

ARTICLE 17 - ADMINISTRATION AND ENFORCEMENT

Section 1700 – Enforcement:

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such persons appointed by the City Council.

Section 1701 - Duties of Zoning Administrator:

The Zoning Administrator shall have the power to grant zoning compliance permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or permits for any excavation or construction until he or she has inspected such plans in detail and found them to conform with this Ordinance.

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Section 1402.

Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his or her duties as Zoning Administrator.

The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant. The City shall not enforce any regulation not an Ordinance of the City.

Section 1702 - Plot Plan:

The Zoning Administrator shall require that all applications for permits and uses not covered in Section 1302 shall be accompanied by plans and specifications including plot plan information as hereinafter required. Applications shall be submitted in duplicate and contain:

1. The actual shape, location and dimensions of the lot, with the front line identified.
2. The shape, size, location and setbacks of all buildings or other structures to be erected, altered or moved and of any building or structure already on the lot.
3. 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.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
5. In those instances where more than one (1) use is proposed for a property or where lots or parcels are to be split or subdivided, the applicant shall submit copies of any private covenants, deed restrictions or agreements to the City to clarify the intended use of the property and its compliance with zoning ordinance provisions and must comply with the land division act.
6. Location and dimensions of all existing and proposed roads (including rights-of-way), driveways, sidewalks, parking areas, and exterior lighting.
7. Location of all existing and proposed utility lines, wells, septic systems and storm drainage.
8. Location, dimensions and details of proposed planting, greenbelts and landscaped areas.
9. Exterior drawings of proposed new buildings or existing buildings to which major additions are proposed.

Section 1703 - Zoning Permits:

The following shall apply in the issuance of any permit:

1. Permits Not To Be Issued.

No permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.

2. Permits for New Use of Land.

No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a permit is first obtained for the new or different use.

3. Permits for New Use of Buildings.

No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a permit is obtained for the new or different use.

4. Permits Required.

No building or structure, or part thereof, shall be hereafter erected or structurally altered or moved unless a building permit shall have first been issued for such work. All changes shall comply with the state building code legally in effect in the County of Arenac.

5. Deposit of Guarantee.

Any guarantee required under this Ordinance shall be deposited with the Clerk of the City prior to issuance of permits.

Section 1704 - Occupancy Certificates:

When required, no land, building, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

1. Certificates Not to be Issued.

No certificates of occupancy 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.

2. Certificates Required.

No building or structure, or part 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. Certificates of occupancy shall be required for any change in occupancy of any building, structure or land in all commercial, and industrial districts.

3. Certificates Including Zoning.

Certificates of occupancy as required by the Building Code legally in effect in the City for new buildings or structures, or any part 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.

4. Record of Certificate.

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 a proprietary or tenancy interest in the property involved.

5. Certificates for Dwelling Accessory Buildings.

Buildings or structures accessory to 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.

6. Application for Certificate.

Application for certificates of occupancy shall be made in writing to the Zoning Administrator on forms furnished by that Department, and such certificates shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, or any 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 thereof shall be notified of such refusal and cause thereof, within the aforesaid ten (10) day period.

7. Temporary Certificates.

Temporary certificates of occupancy for a building or structure may be issued for a period of time not to exceed six (6) months, provided such structure or building is in accord with all provisions of this Ordinance and other City codes and ordinances.

Section 1705 - 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 Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

Section 1706 – Fees:

Fees for site plan review, inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance may be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the City Council and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance. Publication costs for advertisement of public hearings and for mailing of notices as required under the provisions of this Ordinance shall be charged to the applicant in the amount of such actual costs.

Section 1707 - Public Hearings:

Whenever any Section of this Ordinance refers to this Article 17, Section 1707, notice of public hearings shall be given in accordance with Public Act 207 of 1921, as amended, as follows:

1. Hearing for Uses Permitted Subject to Special Conditions:

A. Notice that a request for a Use Permitted Subject to Special Conditions shall be published in a newspaper of general circulation in the County of Arenac and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the boundary of the property in question, and to occupants of all structures within 300 feet, except that the notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant for each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(1) Describe the nature of the use request of the Use Permitted Subject to Special Conditions.

(2) Indicate the property which is the subject of the use request

(3) State when and where the use request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(5) Indicate that a public hearing on the use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a Use Permitted Subject to Special Conditions.

B. At the initiative of the City, or upon the request of the applicant for the use authorization, or a property owner of the occupant or a structure located within 300 feet of the boundary of the property being considered for Use Permitted Subject to Special Conditions, a public hearing with notification as required for a notice of a request as provided in Item A above, shall be held before a decision on the use request which is based upon discretionary grounds, shall not be made unless notification of a public hearing on a use request is given as required in this section.

C. The Planning Commission may deny, approve, or approve with conditions requests for Uses Permitted Subject to Special Conditions. The decision shall be incorporated in a statement of

conclusions relative to the Uses Permitted Subject to Special Conditions under consideration. The decision shall specify the basis for the decision, and any conditions imposed.

D. In addition to the above requirements for any principal Use Permitted Subject to Special Conditions, the dwelling owners and residents of properties immediately adjacent to the parcel or lot on which such is proposed to be located shall be notified by certified mail of the date and time of a hearing. The cost of such notification shall be born by the applicant for the proposed use.

ARTICLE 18 ZONING BOARD OF APPEALS

Section 1800 – Creation & Membership:

There is hereby established a Zoning Board of Appeals which shall perform its duties and exercise its powers as provided in Section 5 of Act 207 of P.A. of 1921, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The Board shall consist of five (5) members and two (2) alternate members appointed by the City Council to serve as needed.

Each member of the Zoning Board of Appeals shall have been a resident of the City for at least one year. Members may be removed for cause by the City Council only after written charges and a public hearing. Members must abstain from participating in a matter that involves an immediate conflict of interest. Any vacancies shall be filled by Council as the need arises. The Board shall elect its own Chairman, Vice-Chairman, and Secretary. The compensation of the appointed members of the board shall be fixed by the City Council.

Section 1801 - Meetings:

All meetings of the Board shall be held at the call of the Chairman. The business which the Board may perform shall be conducted at a public meeting in compliance with Act 267, P.A. of 1976, as amended. The Board shall keep minutes of its proceedings and shall keep records of its hearings and other official action. Four (4) members of the Board shall constitute a quorum. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony of the parties involved and the production of books, papers, files and other evidence pertinent to the matters before it. Any party directly involved in the matter may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

Section 1802 - Appeal:

An appeal may be taken to the Zoning Board of Appeals within thirty (30) days by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Zoning Administrator and/or the Planning Commission, and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof. The Zoning Administrator and/or Planning Commission shall within fourteen (14) days transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all

proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals after notice of appeal has been filed with him or her that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

The Board shall within fourteen (14) days select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties. The Board shall render its decision within thirty (30) days from the date of the hearing.

Section 1803 - 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 Zoning Board of Appeals. At the time the notice for appeal is filed, said fee shall be paid to and be deposited in the general account of the City and if said fee is not paid, no action shall be taken by the Zoning Board of Appeals.

Section 1804 - Jurisdiction:

The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance, nor to permit any use in a district in which it is not permitted, but have power to act on those matters where this Ordinance provides for an administrative review, interpretation or exception and to authorize a variance as defined in this Section and laws of the State of Michigan. Said power includes:

A. Administrative Review:

To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.

B. Variances:

To authorize, upon an appeal, a variance from the strict application of the provisions of this Ordinance where, by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property provided such may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in accordance with the purpose of this Ordinance. In granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance.

C. Exceptions:

To hear and decide in accordance with the provisions of this Ordinance, requests for exceptions, for interpretations of the Zoning Map, and for decisions on special approval situations on which this Ordinance specifically authorized the Board to pass. Any exception shall be subject to such conditions as the Board may require to preserve and promote the character of the zoning district in question and otherwise promote the purpose of this Ordinance, including the following:

(1) Interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose as shown upon the Zoning Map fixing the use districts, accompanying and made part of this Ordinance, where street layout actually on the ground varies from street layout as shown on the Zoning Map.

(2) The erection and use of a building or use of premises for public utility purposes, provided the Board shall seek the review and recommendation of the Planning Commission prior to taking any action.

(3) The modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.

(4) Such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.

(5) Temporary buildings and uses, for periods not to exceed one (1) year in undeveloped sections of the City and for periods not to exceed six (6) months in developed sections.

(6) Upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed twelve (12) months with the granting of a twelve (12) month extension being permissible for uses which do not require the erection an any capital improvement of a structural nature.

The Board of Appeals, in granting permits for the above temporary uses, shall do so under the following conditions:

A. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property in question. A grant of temporary use shall be in writing stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.

B. Setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City shall be made at the discretion of the Board of Appeals.

C. The use shall be in harmony with the general character of the district. No temporary use permit shall be granted without first giving notice to the owners of adjacent property of the time and place of a public hearing to be held as further provided in this Ordinance.

D. In consideration of all appeals and all proposed variations to this Ordinance, the Board shall, before making any variations from the Ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values

within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City. The concurring vote of two-thirds (2/3) of the members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision.

Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this Ordinance or the Zoning Map, such authority being reserved for the City Council in the manner provided by law.

Section 1805 – Orders:

In exercising the above powers, the Board may reverse, affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

Section 1806 – Notice:

The Board shall make no recommendation except in a specific case and after a public hearing conducted by the Board. It shall, either by general rule or in specific cases, determine the interested parties who, in the opinion of the Board, may be affected by any matter brought before it, which, in all cases, shall include those persons to whom any real property within 300 feet of the premises in question shall be assessed according to the latest assessment role of the City, and to the occupants of dwellings within said distance. Such notice may be delivered either personally or by mail addressed to said persons. If the tenant's name is not known, the term "occupant" may be used. The Board may require the applicant to give such notice to other interested parties as the Board may describe. A notice of the time and place of such hearing shall be published in an official newspaper of general circulation in the County of Arenac at least fifteen (15) days prior to such hearing. Such notice shall contain the address, if available, and location of the property for which the variation or other ruling by the Board is sought, as well as a brief description of the nature of the appeal.

Section 1807 – Miscellaneous:

No order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than twelve (12) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than twelve (12) months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

The reason(s) utilized as a basis for making any decision shall be stated in the minutes of the Board of Appeals.

If a variance, which is granted, is not utilized within twelve (12) months of its granting, the variance shall be considered null and void and an application must be refilled if it is desired at a future date. A variance which is legally utilized and maintained runs with the property and any subsequent owners who legally continue the variance under its original terms.

The Board of Appeals may require such conditions and the posting of necessary bonds or other financial guarantees acceptable to the City Council to control compliance with specified conditions.

Copies of the decision of the Board of Appeals shall be furnished to the City Council, the party filing the appeal, Planning Commission and Zoning Administrator.

ARTICLE 19 ZONING COMMISSION

The City Planning Commission is hereby designated as the Commission specified in Section 4 of Act 207 of P. A. of 1921, as amended.

ARTICLE 20 PLANNING COMMISSION APPROVAL

In cases where the Planning Commission is empowered to approve certain uses of a premises under the provisions of this Ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties who may, in its opinion, be affected thereby of the time and place of any hearing which may be held before it.

The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purposes of this Ordinance and of PA 168 of 1959, as amended.

Any approval given by the Planning Commission, under which premises are not used for work or is not started within twelve (12) months or when such use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

The Planning Commission shall not have the power to change the zoning classification of any property, nor to grant exceptions or variances from any terms or requirements of this Ordinance.

ARTICLE 21 - CHANGES AND AMENDMENTS

The City Council may from time to time on recommendation from the Planning Commission or on petition, amend, supplement or change the District Boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of P.A. of 1921, as amended.

ARTICLE 22 - REPEAL OF PRIOR ORDINANCE

The Zoning Ordinance, known as Ordinance No. 68, adopted by the City and any amendments thereto (including the Site Plan Ordinance and the Mobile Home Ordinance) is repealed. In addition, the House Trailer Ordinance, known as Ordinance No. 65, and Ordinance No. 7, The Keeping of Swine, all adopted by the City and any amendments thereto, are hereby, respectively, repealed. The repeals of the above ordinances and amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture of punishment incurred prior to the time enforced, prosecuted or inflicted.

ARTICLE 23 - INTERPRETATION

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by the Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.

ARTICLE 24 - VESTED RIGHT

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

ARTICLE 25 - ENFORCEMENT, PENALTIES & OTHER REMEDIES

Section 2500 – Violations:

Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) and the costs of prosecution, or in default of the payment thereof, any fine and costs may be assessed as a lien against the property at the discretion of the City

Council, or shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment at the discretion of the Court, together with the costs of such prosecution.

Section 2501 - Public Nuisance Per Se:

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

Section 2502 - Fines, Imprisonment:

The owner of any building, structure or premises or 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 to the fines and imprisonment herein provided.

Section 2503 - Each Day A Separate Offense:

A separate offense shall be deemed committed upon each day that a violation occurs or continues.

Section 2504 - Rights and Remedies Are Cumulative:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

ARTICLE 26 - SEVERANCE CLAUSE

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

ARTICLE 27 - EFFECTIVE DATE

This Ordinance is hereby declared necessary for the preservation of the peace, health, safety and welfare of the People of the City of Omer, Arenac County, Michigan.

1. Date of Planning Commission Public Hearing: November 1, 2001
2. Date of City Council Hearing and Adoption: January 28, 2002
3. Date Ordinance Shall Take Effect: January 28, 2002
4. Date of Publication: February 6, 2002

Robert Dewald,
Mayor

CERTIFICATE

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Omer at a meeting held on Monday, January 28, 2002, and that said meeting was conducted and public notice given pursuant to and in full compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, and was published as required by law.

Susan Hegenauer, City Clerk

CERTIFICATION

The undersigned Mayor and Clerk of the City of Omer hereby certify that these Zoning Ordinance Amendments were duly adopted by the Omer City Council at the meeting held on the 5th day of April, 2018 and was published in the Arenac County Independent on the 18th day of April, 2018. This Ordinance Amendment was made effective seven (7) days after said date of publication.

Clark Sanford, Mayor

Sue Oliver, Clerk

