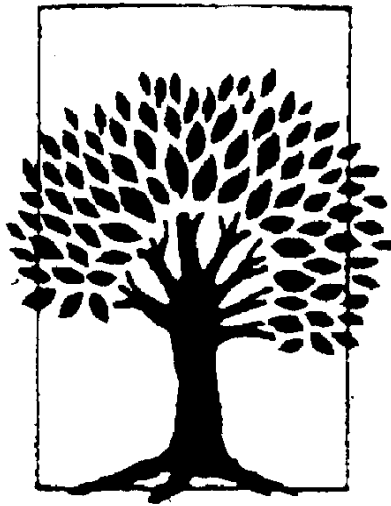


CITY OF BUCHANAN MICHIGAN

COMPREHENSIVE ZONING ORDINANCE AMENDMENT



Ordinance Number 154 as amended by Ordinance Number 359.08/03
Adopted on September 8, 2003

ZONING ORDINANCE OF THE CITY OF BUCHANAN

Berrien County, Michigan

Ordinance Number 159 as amended by Ordinance 359.08/03

Current as of Adoption of Ordinance Number 359.08/03

September 8, 2003

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ORDINANCE NUMBER 159

as amended by Ordinance 359.08/03 adopted September 8, 2003

ZONING ORDINANCE OF THE CITY OF BUCHANAN

An Ordinance to establish zoning districts and land use regulations governing the City of Buchanan, Berrien County, Michigan; to provide for regulations governing nonconforming uses and structures; to provide for a Zoning Board of Appeals and its duties and powers; to provide for the administration of this Ordinance including the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and, to provide for conflicts with other ordinances or regulations.

ARTICLE I

PREAMBLE AND ENACTMENT

WHEREAS, Act 207, P.A. 1921, P.A. of 1909, and Act 638, P.A. 1978, empowers this Municipality to enact, establish, administer and enforce a Zoning Ordinance, and

WHEREAS, the legislative body of the City of Buchanan deems it necessary, for the purpose of promoting the public health, safety, and general welfare of the City to enact such an Ordinance, and

WHEREAS, the legislative body pursuant to the provisions of Act 285, P.A. 1931 as amended, has appointed and created a City Plan Commission by Ordinance Number 93 to recommend the boundaries of the various districts and appropriate regulations to be enforced therein, and

WHEREAS, the City Plan Commission has divided the municipality into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets, to secure safety from fire, panic and other potential dangers; promote health, safety and the general welfare; provide adequate light and air; prevent overcrowding of land; avoid undue concentrations of population; facilitate adequate provision for transportation, water, sewerage disposal, schools, parks and other public improvements, and

WHEREAS, the City Plan Commission has given full and reasonable consideration to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS, the City Plan Commission has given due public notice of hearing related to the comprehensive amendment and has held such public hearings as required by law, and

WHEREAS, the City Plan Commission has submitted its report to City Commission, and

WHEREAS, all requirements of Act 207, P.A. 1921, as amended and Act 28, P.A. 1931, as amended, with regard to the preparation of this Zoning Ordinance and subsequent action of the City Commission have been met

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN, AS FOLLOWS:

ARTICLE II

TITLE

Section 1.01 - Title.

This Ordinance shall be known as the “**Zoning Ordinance of the City of Buchanan**,” and will be referred to herein as this Ordinance.

ARTICLE III

DEFINITIONS AND USE OF TERMS

Section 3.01 - Definitions.

For the purpose of this Ordinance, certain terms, phrases and words shall, whenever used in this Ordinance, have the meaning assigned in this Section. Terms not herein defined shall have the meaning customarily assigned to them.

Accessory Building or Structure. A supplemental building or structure on the same lot with, and where the use is of a nature which is customarily incidental and subordinate to, the principal use or structure; but not including residential or other living quarters.

Accessory Use. A use naturally and normally incidental to, subordinate to, and devoted exclusively to, the main use of the land or building.

Adult Entertainment. Adult entertainment shall mean any adult book store, adult motion picture theater, adult mini-motion picture theater, massage parlor or commercial establishment which for a fee (See Article XXVI, Section 26.04) or incidentally to another service, presents material or exhibition distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below for observation by patrons occupying the premise.

Specified sexual activities 1) the human genitals in a state of sexual stimulation or arousal, 2) acts of human masturbation, sexual intercourse or sodomy, and 3) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified anatomical areas less than completely opaquely covered: 1) genital or pubic region, 2) buttock, 3) female breast below a point immediately above the top of the areola, 4) human male genitals in a discernible turgid state, even if completely and opaquely covered.

Massage any commercial establishment which for a fee provides for the manipulation, or rubbing of body parts excepting manipulation of body parts for remedial purposes performed by state licensed practitioners with the minimal qualifications of a physical therapist.

Adult Foster Care Facility. A dwelling or establishment in which is provided supervision, assistance, protection, or personal care, in addition to room and board, to an adult, not to include a licensed home for the aged, a licensed nursing home, or a licensed mental hospital.

Adult Foster Care Resident. An adult who resides in a adult foster care facility and receives supervision assistance, protection, or personal care, in addition to room and board.

Amusement Enterprise. Any building or structure used for one or more of the following uses; billiards, pool, bowling, shooting gallery, roller rink, dance hall, and mechanical or electronic games, plus any similar uses as determined by the Plan Commission.

Auxiliary Building. A building which is incidental to another use or structure on the same lot (See accessory building or structure).

Bed and Breakfast Operation. A use which is subordinate to the principal use of the building as a single family dwelling in which a separate room for sleeping and breakfast are provided in return for payment.

Building. A structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

Building Area. The maximum projected area of a building and its accessory buildings, excluding steps, open porches, terraces and cornices.

Building Coverage. The area on a zoning lot that is occupied by buildings and structures, including accessory buildings.

Building Height. The vertical distance measured from the average level of the highest point and the lowest point of the building site covered by the building to: (1) if the roof is flat, the highest point; (2) if a gable, hip, gambrel or mansard roof, the average height measured between the eave and the highest point of the roof; (3) where no roof beams exist, or there are structures partly or wholly above the roof, the highest point of the building.

Building, Principal. The building which contains the principal building use of the parcel of property on which it is situated. In a residential district a dwelling is the principal building on a parcel of property.

Building Width. The minimum width of a building used for residential purposes shall be thirty (30) feet measured perpendicular at the foundation line running not less than thirty-three (33) percent of the length of the longest wall.

Building Inspector. The person charged with the responsibility of administration of the Michigan Construction Code for the City of Buchanan, including the issuance of a building permit for construction regulated by the Construction Code.

City. The City of Buchanan, Berrien City, Michigan

City of Buchanan. See definition City.

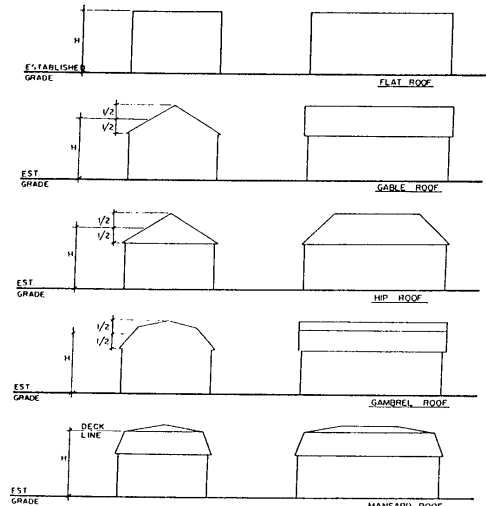
City Clerk. The Clerk of the City of Buchanan, Berrien County, Michigan.

City of Buchanan Compiled Ordinances. The compilation and/or codification of all Ordinances approved by the City Commission as maintained by the City Clerk.

City Manager. The individual selected by the City Commission to fulfil the duties of City Manager as set forth in the City of Buchanan City Charter.

City Plan Commission. The City Plan Commission of the City of Buchanan, Berrien County, Michigan.

Certificate of Occupancy. A certificate issued by the City Building Official or Inspector pursuant to the Michigan



MEASUREMENT OF BUILDING HEIGHT FOR VARIOUS TYPES OF ROOF CONSTRUCTION

Building Code authorizing an occupancy and/or use of land and/or a building or structure pursuant to the Michigan Building Code and the terms of this Ordinance.

Child Care. The provision of child care as regulated by the Michigan Department of Family Independence Services. The licensed care of twelve or less, children shall be exempt for the terms of this ordinance and is allowable in any residential dwelling unit as provided by current Michigan law or as hereafter amended. Where allowed by the terms of this ordinance, licensed care of more than twelve children this ordinance shall require a special use permit pursuant to Article XX.

Code Enforcement Officer. The person charged with the enforcement of this Ordinance or his designee designated by the City Manager as provided in Article XXVI, Section 26.02.

Commercial Vehicles and Commercial Equipment. For the terms of this ordinance and specifically, Section 19.03, the following definitions shall apply:

Bus shall mean a motor vehicle with mode of power except a trailer designed to carry, more than twelve (12) persons.

Commercial vehicle shall include buses, mobile structure trailers, pole trailers, semi-trailers, stepvans, trailers, trucks and truck-tractors as defined herein.

Commercial equipment shall mean any construction equipment or large equipment used primarily in the course of conducting a trade or business, including, but not limited to, bulldozers, front-end loaders, backhoes, power shovels, and other heavy construction equipment, or trailers designed for the transportation of such equipment.

Mobile structure trailer shall mean a trailer that a roof and walls and is at least ten (10) feet wide and which may be used off-road for commercial purposes.

Pole trailer shall mean a vehicle without mode of power designed to be drawn by another vehicle and attached to towing vehicle by means of a reach-pole, or by being boomed or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes or structural members capable generally of staying themselves as beams between the supporting connections.

Semi-trailer shall mean a trailer other than a pole trailer constructed that a substantial part of its weight rests upon or is carried by another motor vehicle.

Trailer shall mean a vehicle other than a utility trailer with or without mode of power designed for carrying persons or property and for being drawn by another motor vehicle.

Utility trailer shall mean a vehicle designed to be towed by a motor vehicle in order to carry property including, but not limited to, snowmobiles, boats, motorcycles and other recreational equipment used periodically for travel, recreational or vacation purposes.

Truck shall mean a motor vehicle in excess of one-ton capacity with mode of power except a trailer designed primarily for the transportation of property or special purpose equipment.

Truck-tractor shall mean a truck designed primarily for drawing another motor vehicle and not so constructed as to carry other than a part of the weight of vehicle and of the load so drawn.

Commission. The City Commission of the City of Buchanan, Berrien County, Michigan.

Common Open Space. A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended) or an area of water, or a combination of land and water within an area for Planned Unit Development and designed and intended for the use and enjoyment of residents or occupants of the Planned Unit Development. Common open space may contain such contemporary structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the Planned Unit Development but shall not include areas reserved for the exclusive use or benefit of any individual tenant or owner, including dedicated streets, public right-of-ways, vehicle drives, parking areas, loading and storage areas, and areas reserved for non residential related uses.

Condominium Act. The Michigan Condominium Act, P.A. 58 of 1978, as amended.

Construction Code. See Michigan Construction Code.

Convalescent and Nursing Care. The provision of daily or 24-hour custodial care, either with or without the provision of medical services for any persons, regardless of age in any State of Michigan licensed facility.

Density - Planned Unit Development. The relationship of the total number of dwelling units contained in the Planned Unit Development to the Gross Acreage of the Planned Unit Development; dwelling units per gross acre.

Development Plan - Planned Unit Development. The application and any site, facade, or other engineering drawings including a property survey map and drawing necessary for submission, review and approval of a Planned Unit Development in accord with Article XV.

District. A portion of the territory of the City of Buchanan within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

Downtown Development Authority. The body appointed by the City Commission pursuant to The Downtown Development Authority Act, P.A. 197 of 1975, as amended and assigned certain powers to review facade development and redevelopment plans pursuant to the terms of this Ordinance.

Dwelling. Any building or portion thereof designed or used exclusively for a residence or sleeping place or one or more persons.

Dwelling, Single-Family. A building having accommodations for, and occupied exclusively by, one-family, complying with the following standards:

1. It complies with the minimum square footage requirements of this Ordinance for the zoning district in which it is located.
2. It has minimum front building width dimension measured at the foundation line of thirty (30) feet, measured perpendicular at the foundation line running not less than thirty-three (33) percent of the length of the longest wall, and complies in all respects with the Michigan Construction Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Construction Code adopted by the City, then and in that event such federal or state standard or regulation shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan Construction Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable Michigan Construction Code for single-family dwellings. In the event that the dwelling is a mobile home, defined herein, such dwellings shall be installed pursuant to the manufacturers setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan

Mobile Home Commission and shall have a perimeter wall as required above.

4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Berrien County Health Department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closed areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwellings or 120 square feet, whichever shall be less.
7. The dwelling unit shall contain a garage or covered parking as required by this Ordinance.
8. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being located on either the rear or side of the building, containing steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires installation of steps. Compatibility of design and appearance shall be determined by the Zoning Administrator based upon the review of the plans submitted for construction a particular dwelling. This determination is subject to appeal by an aggrieved party to the Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this definition of “dwelling” as well as the character, design, and appearance of the majority of residential dwelling located outside of mobile home parks within 1,200 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the City. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.
9. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
10. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
11. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the City pertaining to such parks.
12. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan Michigan Construction Code provisions and requirements.
13. All construction shall conform with health, safety, and welfare specifications of the adopted Michigan Construction Code for emergency egress, rescue windows and smoke detectors.

Dwelling, Two-Family. A building containing not more than two separate dwelling units designed for residential use

and conforming in all other respects to the standards set forth for single family dwellings.

Dwelling, Multiple-Family. A building containing three or more dwelling units designed for residential use and are conforming in all other respects to the standards set forth for single family dwellings.

Dwelling, Senior Multiple Family. Multiple dwelling units, rental apartments and other forms of residential dwelling units of not over three bedrooms per dwelling unit where all occupants of the units are 55 years or older and the developer/owner of said development has elected to operate said development pursuant to Department of Housing and Development Regulations designed for senior housing with age restrictions as provided by law.

Dwelling Unit. One or more rooms, including a kitchen or kitchenette and sanitary facilities, in a building, designed as a unit for occupancy by not more than one family.

Essential Services. The construction, alteration or maintenance by public utilities or government agencies of gas, electrical, steam, or water transmissions of distribution systems, and communications, collection, supply or disposal systems. These include equipment such as poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals (and signs) hydrants, and other similar equipment. Buildings and transmission facilities which do not provide direct service to local distribution systems are not included.

Event. See Festival.

Family. An individual or two or more persons, that are related by blood, marriage or domestic partnership, or a group of not more than five persons (excluding servants and care providers) who are not related by blood, marriage or domestic partnership, living together as a single housekeeping unit in a dwelling unit. This excludes individual persons or groups of persons living in dormitories or religious homes.

Facade Plan. A sketch or other illustration showing the exterior surface of a building including all architectural features, surface materials and color or colors of all surface materials submitted pursuant to the requirements of Article XXII, Section 22.07.

Fence. An artificially-constructed barrier of any material or combination of materials erected to enclose or screen areas of land for protection, confinement or providing a visual barrier.

Festival, Event, Gatherings. A festival, event or gathering is any fair, festival, or gathering of individuals or similar organized or unorganized activity where patrons watch or participate in entertainment, including but not limited to, music, shows, concerts, revivals, circuses, carnivals, art shows, antique fairs, street dances, and sporting events not related with a scheduled school athletic event.

Flooding. A general and temporary condition causing partial or complete inundation of normal dry-land area from either: 1) an overflow of inland waters or 2) unusual and rapid accumulation of run-off of surface waters from any source.

Flood Hazard Area, Boundary Map Land lying in the floodplain in any community that is subject to a one (1) percent or greater chance of flooding in any given year as defined as an area of special flood hazard designated Zone A on the Flood Insurance Rate Map issued for the City by the Federal Emergency Management Administration.

Floodplain. Any land area susceptible to being inundated from water from any source (See flooding).

Floor Area, Off Street Parking and Loading Requirements. For the purposes of applying the requirements for off-street parking and loading. "Floor Area" means the gross floor area used by tenants or for the service to the public, including

but not limited to, areas occupied by fixtures and indoor display equipment. It does not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, shop windows, offices incidental to the management or maintenance of stores or buildings, toilet or rest rooms, utilities, dressing rooms or fitting or alternation rooms.

A major fraction of additional floor area shall require one additional parking or loading spaces, except when otherwise stated.

Gross Acreage - Planned Unit Development. All land area occupied by the Planned Unit Development and except any portion of land located within a public right-of-way.

Group Home. Is a dwelling unit or other structure designed to house a business intending to provide supervise care for (1) or more children or adults on a 24-hour basis, except as exempted by current Michigan law or hereafter amended, that being adult foster care facilities which provide services for less than six (6) total residents.

Home Occupation. Home Occupations are those uses of land in residential districts possessing essentially incompatible characteristics with the uses normally attributable to residential zoning districts however, possessing characteristics of use, location, and qualities which require individual review and discretion in order to grant reasonable use of said property while avoiding incompatibility with the character of the surrounding area, public services and facilities, and adjacent use of land. A home occupation may be approved in a residential district pursuant to the provisions of Article XVIII, Section 18.09 when such use is conducted entirely within an enclosed dwelling, and where the use is clearly incidental and secondary to residential occupancy and does not change the character of the principal residential use. Specifically excluded is the storage and display of merchandise not produced by such home occupation, any activity involving any building alterations, window display, construction features, equipment, machinery or outdoor storage and display, any item of which is visible from off the lot on which located. Also, excluded are those occupations which generate offensive odors and excessive traffic on residential streets, as determined by the Plan Commission.

Household Pets. Household pets include any pets not specifically prohibited by the terms of this Ordinance and any other City ordinance. Household pets do not include horses, donkeys, pigs (of any type), rabbits, chickens, goats or other farm animals or livestock, including miniature farm animals of any type. For the terms of this ordinance, more than four dogs, cats or other household pets shall constitute a commercial kennel, or where such pets are boarded for compensation or offered for sale.

Junk Yard. See Recycling Facility.

Land Division. The act of creating a lot or parcel of land defined by a metes and bounds description pursuant to the provisions of the Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) or the act of creating a condominium plat pursuant to the provisions of the Condominium Act, P.A., 58 of 1978, as amended, for the purpose of recording same with the Register of Deeds of Berrien County. (See: Land Division Act and Condominium Act.). For the purpose of this Ordinance any and all Land Division and Condominium plats will be considered a Planned Unit Development and submitted for approval according to the procedure of Article XV.

Land Division Act. The Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) and any ordinance adopted by the City of Buchanan in furtherance of City duties required of said act.

Landowner or Applicant - Planned Unit Development. The legal or beneficiary owner or owners of the land proposed to be included in a Planned Unit Development or the holder of an option or contract to purchase the land subject to the proposed Planned Unit Development.

Lodging House. See Bed and Breakfast operation.

Lot. A parcel of land of at least sufficient size to meet the minimum requirements hereof for use, coverage and area,

and providing such yards and other open spaces as are herein required. Such parcel shall have frontage on an improved public street and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record; or
- (3) Any combination of (1) or (2) above.

Lot (or Parcel) of Record. The recorded legal description of any lot or parcel of land in the office of the Register of Deeds of Berrien County, State of Michigan, or as a part of an unrecorded plat, development plan, condominium, subdivision, or by metes and bounds.

MEDQ. See Michigan Department of Environmental Quality.

Michigan Department of Environmental Quality(MDEQ). The Department of the State of Michigan assigned to implement environmental regulations approved by the Michigan legislature and signed into law by the Governor of the State of Michigan. For the terms of this ordinance the Michigan Department of Environmental Quality shall refer to the current department or successor thereto assigned current or amended regulatory responsibility.

Michigan Construction Code. The Michigan Construction Code, as administer by the City of Buchanan.

Mobile Home. A structure, transportable in one or more section, which is built on a chassis and designed to be used as a dwelling without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile Home Park. A parcel of land under the control of a person upon which contains three (3) or more mobile homes developed in accord with the specification constrained in or promulgated pursuant to P.A. 96 of 1987, as amended and approved by the Michigan Mobile Home Park Commission pursuant to procedures set forth in P.A. 96 of 1987, as amended; that being the Mobile Home Commission Act.

Manufactured Housing Unit or Prefabricated Dwelling. A prefabricated structure designed for permanent occupancy as a single or two-family dwelling and transported to the site on a flat bed or other type truck or trailer for erection on a permanent foundation, either in sections or modular units that have been prefabricated at the factory, complete with the plumbing and electrical facilities for connection to outside systems and meeting all requirements of "Part 4 Building Code,"being a part of the Michigan Construction Code, promulgated pursuant to Act 230 of, Public Acts of 1972, as amended, and which is certified and identified in accordance with "Part 2, Premanufactured Units," also being part of said construction code.

Nonconforming Use. The use of a building, structure, lot or parcel of land conflicting with the provisions of this Ordinance at the time of its enactment.

Nuisance - Public. An activity harmful to the public health, creates an interference in a way of travel, affects public morals or prevents the public from the peaceful use of their land and public streets.

Nuisance - Private. An activity which either is harmful or interferes with to the property rights or health of persons either owners or occupants of the land.

Ordinance. See Zoning Ordinance

Plan Commission. See City Plan Commission.

Plat. The required drawing required, and prepared in accordance with the specification of either the Land Division Act or Condominium Act signed by a Michigan Registered Surveyor which is approved by the City Plan Commission and/or City Commission to be filed with the Register of Deeds of Berrien County for the conveyance of real property.

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

Recycling Facility. An open area of land and any accessory buildings or structures thereon which are used primarily for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials including vehicles, machinery, and equipment not in operable conditions or parts thereof, and other metal, paper, rugs, rubber tires, bottles (plastic or glass) and yard waste such as grass clipping, leaves, brush and tree limbs. See Junk Yard.

Restaurant. A business located in a building where, in consideration of the payment of money, meals are habitually prepared, sold, and served to persons for consumption on or off the premises; having suitable kitchen facilities connected therewith containing conveniences for cooking an assortment of foods which may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food.

Retail Commercial Establishment. A store, market or shop in which commodities are sold or offered for sale in small or large quantities to the retail trade. Grocery and general stores, meat markets, public garages and automobile services stations are included in this classification.

School. A principal use building or buildings and all ancillary buildings and structures either public, parochial or private owned; either licensed, certified or designated by a state educational agency or other national school accrediting organization for the purposes of providing education of children, or adults, principally, but not exclusively, through the kindergarten to 12th grade, including elementary, middle and high schools. A day care center providing pre-school education programs, buildings or structures used for non-licensed, non-certified or home-schooling purposes are specifically excluded from this definition. Buildings used for higher educational purposes, technical training, career training or any other educational or other education assistance services, regardless of the curricula, programs, training, counseling, personal assistance or other services provided are specifically excluded.

Signs and Billboards. Signs are regulated by the City of Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Structure. Any production or piece of work artificially built up or composed of parts joined together in some definite manner; any construction including dwellings, garages, buildings, signboards and fences, except public utility communication towers and electrical transmission lines, underground gas distribution lines, and equipment and facilities supporting the same and/or incidental thereto.

Site Plan. A sketch or other illustration containing information that is needed for the submission, review and approval of a zoning matter where a site plan is required pursuant to the requirements of Article XXII, Section 22.02.

Storage, Residential Out-door. Any land used for, or occupied for, the purpose of storing recreational vehicles boats, trailers, recreational equipment, material, trash receptacles and other personal property commonly used by homeowners but not licensed vehicles used for daily transportation and parked in a clearly defined driveway or other parking area, accessory structures, lawn furniture, child playground equipment, lawn ornaments and other similar personal property normal and typically used as part of the daily occupancy of a residential dwelling unit.

Subdivision. For the purposes of this Ordinance the term subdivision included any act which is taken to record the division of a lot or parcel of land pursuant to the provisions of the Michigan Land Division Act or Condominium Act.

Unit, Condominium. The descriptor for a lot or specific unit for occupancy in a condominium plat designed to be conveyed under single ownership and having a individual property tax code identification number (in a land division (subdivision) plat a lot is equivalent to a condominium unit).

Utility Transition Facilities. For the terms of this Ordinance, any service that requires location of any facility, transmission line or other building or structure within City of Buchanan right-of-way or other private property not otherwise regulate by other ordinance or provided for by City Commission approval of a franchise agreement are declared hereby declared to be nonessential services.

Yard. An open space lying between a building (or group of buildings) on the same lot and the nearest lot line. It is unoccupied and unobstructed from the ground upward, except as otherwise permitted herein.

- (1) Yard, Front. An open space between the front line of a building and the front lot line.
- (2) Yard, Rear. An open space between the rear line of a building and the rear lot line.
- (3) Yard, Side. An open space lying between the nearest line of the principal building and a side lot line, extending from the required front yard setback line to the rear yard setback line.

Zoning Board of Appeals. The Board of Zoning Appeals as established by Article XXIV of this Ordinance.

Zoning Administrator. The person charged with administration of this Ordinance or designee as provided in Article XXVI, Section 26.01.

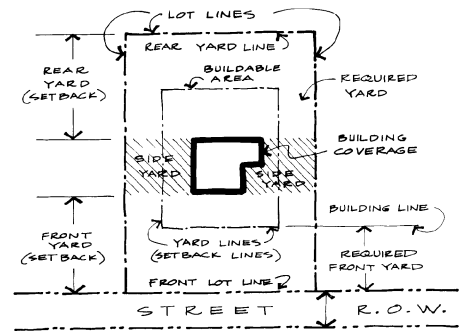
Zoning Compliance Permit. A written statement issued by the Zoning Administer or designee addressing compliance with the terms of this Ordinance whether issued as an individual permit or as part of the issuance of a building permit pursuant to the Michigan Construction Code, as administered by the City.

Zoning Lot. One or more individual legally described and recorded lots or parcels of property under single ownership that in combination, house the principal permitted buildings and all other accessory use structures for the intended use of the zoning lot.

Zoning Ordinance. The Zoning Ordinance of the City of Buchanan, Berrien County, Michigan.

Section 3.2 - Terms Used in This Ordinance. For the purposes of this Ordinance, certain terms are used herein. The following rules shall govern the interpretation of such words when not-inconsistent with their context:

- (1) All words used in the present tense include the future tense, the singular number includes the rural, and the plural number includes the singular;
- (2) All words must and shall are mandatory, and the word may is permissive;
- (3) All words used or occupied include the words intended, designed, or arranged to be used or occupied.



ARTICLE IV

ZONING DISTRICTS AND MAPS

Section 4.01 - Division of City Into Zoning Districts. For the purpose of regulating and restricting the location of trades and industries and the location of buildings, designated for specific uses, and also for the purpose of regulating and restricting the volume, height and area of buildings hereafter erected or altered, the following classes of districts are hereby created within the City of Buchanan, Berrien County, Michigan:

R-1A	Single-Family Residential District
R-1B	Single-Family Residential District
R-2	Two-Family Residential District
R-3	Multi-Family Residential District
R-4	Multi-Family Senior Residential District
C-1	Neighborhood Commercial District
C-2	Commercial District
C-3	Central Business District
I-1	Light Industrial District
I-2	Heavy Industrial District
CD	Cluster Residential (overlay) Development District
PUD	Planned Unit Development District
FP	Floodplain (overlay) District

Section 4.02 - Official Zoning Map. The location and boundaries of the districts established by this Ordinance are shown on the "Official Zoning Map" which together with all explanatory material thereon, is hereby adopted by reference, and declared to be part of this Ordinance.

The "Official Zoning Map" shall be identified by the signature of the Mayor attested to by the City Clerk under the words: *"This is to certify that this is the Official Zoning Map referred to in Section 4.02 of Ordinance ____, as amended, of the City of Buchanan, Berrien County, Michigan."*

Section 4.03 - Boundaries of Zoning Districts. Unless otherwise provided in this Ordinance, the boundaries of Zoning Districts shall be interpreted as following along section lines, or lines of customary subdivision of such section; or the right-of-way line of highways, streets, alleys or property lines on record at the office of the Register of Deeds of Berrien County as of the date of enactment of this Ordinance.

Section 4.04 - Changes to the Zoning Map. If, in accordance with the provisions of this Ordinance, amendments are made changing the district boundaries or other matter portrayed by the Official Zoning Map, such changes must be made in the Official Zoning Map, together with an entry made thereon as follows: *"On this ____ day of _____ 2003, by official action of the City Commission (Ordinance Number _____), the following changes were made in the Official Zoning Map: (a brief description of the nature of the change must be inserted)"* which entry must be signed by the Mayor and attested to by the City Clerk and must be made promptly after such amendment has been approved by the City Commission.

No changes of any nature may be made in the Official Zoning Map or matter shown thereon except in conformity with the procedure set forth in this Ordinance. Any unauthorized changes of whatever kind, by any person or persons, will be considered a violation

of this Ordinance and punishable as provided in this Ordinance.

Section 4.05 - Official Map Final Authority. The Official Zoning Map is the final authority as the current status of the land and water areas, buildings and other structures of the City, regardless of the existence of purported copies of the Official Zoning Map which may from time to time be published.

Section 4.06 - Interpretation of District Boundaries. If uncertainty as to the boundary of any districts shown on the Zoning Map, the Zoning Board of Appeals shall determine the location of such boundaries according to the rules for interpretation of district boundaries established in this Ordinance.

Section 4.07 - Annexed Lands. Any land annexed to or consolidated which the City will be classified as R-1A until reclassified by an amendment to this Ordinance, unless annexed into the City pursuant to P.A. 171 of 1958, as amended, providing for the transfer of the current zoning classification.

ARTICLE V

R-1A & R-1B SINGLE-FAMILY RESIDENTIAL DISTRICTS

Section 5.01 - Intent. The Single-Family Residential District is established as a district in which the principal use of the land is for single family dwellings. The District includes the R-1A subdistrict representing a minimum six thousand six hundred (6,600) square foot minimum lot size and the R-1B subdistrict a five-thousand (4,500) square foot minimum lot size. Lot size, setback and coverage requirements are addressed in Section 5.09 and 5.10.

Section 5.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Single-family dwellings and accessory uses including Adult Foster Care Facilities (see Article XXI, Section 21.03).
- B. Any essential service as defined in this Ordinance.

Section 5.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XX.

- A. Home occupations as a special use pursuant to Article XVIII, Section 18.09.
- B. Child Care as part of a home occupation.
- C. Bed and breakfast operations in compliance with Article XVIII, Section 18.02.
- D. Parks, schools, Churches and City or other government agency building.
- E. Utility transmission facilities not deemed essential services.

Section 5.04 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with Article XVII, Section 17.14.

Section 5.05 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 5.06 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIX, Section 19.04.

Section 5.07 - Visual Screening Requirements. An adequate visual blockage screen between any outdoor storage area in the side or rear yards shall be required. This visual blockage shall be no less than six (6) feet in height in compliance with the standards set forth in Article XVIII, Section 18.06.

Section 5.08 - Building Height Regulations. No residential building or structure shall exceed two and one-half (2½) stories nor exceed thirty-five (35) feet in height.

Section 5.09 - R-1A Yard, Setback and Lot Area Regulations. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and frontage requirements:

- A. Front Yard: There shall be a front yard of no less than twenty-five (25) feet.
- B. Side Yard: There shall be one (1) side yard which shall be not less than six (6) feet with the setback dimension of both side yards totaling not less than fifteen (15) feet.

Side Yard Street Frontage Setback: The side yard shall be not less than fifteen (15) feet.
- C. Rear Yard: There shall be a rear yard of no less than twenty-five (25) feet for residential use.
- D. Lot Area: The minimum lot area shall be six thousand six hundred (6,600) square feet.
- E. Lot Frontage and Depth: The minimum frontage shall be sixty (60) feet and the minimum lot depth one hundred ten (110) feet, respectively.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed forty-five (45) percent.

Section 5.10 - R-1B Yard, Setback and Lot Area Regulations. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and frontage requirements:

- A. Front Yard: There shall be a front yard of no less than twenty (20) feet. See Section 17.11 for reduction in the set back to match setback of adjoining properties.
- B. Side Yard: There shall be one (1) side yard which shall not be less than three (3) feet.

Side Yard Street Frontage Setback: The side yard shall be not less than ten (10) feet.
- C. Rear Yard: There shall be a rear yard of no less than ten (10) feet for residential use.
- C. Lot Area: The minimum lot area shall be four thousand five hundred (4,500) square feet.
- D. Lot Frontage and Depth: The minimum frontage shall be forty five (45) feet and the minimum lot depth one hundred (100) feet, respectively
- E. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed fifty (50) percent.

Section 5.11 - Area of Dwelling. Every single-family dwelling shall have a floor area of not less than one thousand (1,000) square feet. Each dwelling unit in this district shall have a minimum of two-thirds of the required minimum floor area on the ground level (i.e., 750 sq. ft.). Each dwelling unit in this district shall also have a front building dimension of not less than thirty (30) feet measured at the foundation. The minimum front building dimension shall be maintained not less than thirty-three (33) percent of the length of the longest building side wall.

ARTICLE VI

R-2 TWO-FAMILY RESIDENTIAL DISTRICT

Section 6.01 - Intent. The Two-Family Residential District is established as the district in which the principal use of land is for single family dwellings but in which two-family dwellings are permitted.

Section 6.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Single-family and two-family dwellings and accessory uses including Adult Foster Care Facilities (see Article XXI, Section 21.02).
- B. Any essential service as defined in this Ordinance.

Section 6.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XX.

- A. Home occupations as a special use pursuant to Article XVIII, Section 18.09..
- B. Bed and breakfast operations in compliance with Article XVIII, Section 18.02.
- C. Child Care, Convalescent, nursing care as part of a home occupation.
- D. Parks, schools, Churches and City or other government agency building.
- E. Utility transmission facilities not deemed essential services.

Section 6.04 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with Article XVII, Section 17.14.

Section 6.05 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 6.06 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIX, Section 19.04.

Section 6.07 - Visual Screening Requirements. An adequate visual blockage screen between any outdoor storage area in the side or rear yards shall be required. This visual blockage shall be no less than six (6) feet in height in compliance with the standards set forth in Article XVIII, Section 18.06.

Section 6.08 - Building Height Regulations. No residential building or structure shall exceed two and one-half (2½) stories nor exceed forty (40) feet in height.

Section 6.09 - Yard, Setback and Lot Area Regulations. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and frontage requirements:

- A. Front Yard: There shall be a front yard of no less than twenty-five (25) feet.
- B. Side Yard: There shall be one (1) side yard which shall not be less than six (6) feet with the setback dimension of both side yards totaling not less than fifteen (15) feet.

Side Yard Street Frontage Setback: The side yard shall be not less than fifteen (15) feet.
- C. Rear Yard: There shall be a rear yard of no less than twenty-five (25) feet for residential use.
- D. Lot Area: The minimum lot area shall be six thousand six hundred (6,600) square feet. For a two-family dwelling unit and three thousand three (3,300) square feet of land area.
- E. Lot Frontage and Depth: The minimum frontage shall be sixty (60) feet and the minimum lot depth one hundred ten (110) feet, respectively.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed forty-five (45) percent.

Section 6.07 - Area of Dwelling. Every single-family dwelling shall have a floor area of not less than one thousand (1,000) square feet. Every single-family and two-family dwelling unit in this district shall have a minimum of two-thirds of the required minimum floor area on the ground level (i.e., 750 sq. ft.). Each dwelling unit in this district shall also have a front building dimension of not less than thirty (30) feet measured at the foundation. The minimum front building dimension shall be maintained not less than thirty-three (33) percent of the length of the longest building side wall.

ARTICLE VII

R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

Section 7.01 - Intent. The Multi-Family Residential District is established as a district in which the principal use of the land is for two-family and multi-family dwellings but which single-family dwellings are permitted.

Section 7.02 - Uses Permitted by Right. Land, buildings or structures in this Zoning District may be used for the following purposes only:

- A. Single-family, two-family and multi-family dwellings and accessory uses including Adult Foster Care Facilities (see Article XXI, Section 21.03).
- B. Any essential service as defined in this Ordinance.

Section 7.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XX.

- A. Home occupations as a special use pursuant to Article XVIII, Section 18.09.
- B. Bed and breakfast operations in compliance with Article XVIII, Section 18.02.
- C. Child Care, Convalescent, nursing care as part of a home occupation.
- D. Parks, schools, Churches and City or other government agency building.
- E. Utility transmission facilities not deemed essential services.

Section 7.04 - Accessory Buildings and Structures . Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with Article XVIII, Section 17.14.

Section 7.05 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 7.06 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIX, Section 19.04.

Section 7.07 - Visual Screening Requirements. Every lot or parcel of land that abuts a lot or parcel of land zoned R-1A, R-1B or R-2, must provide an adequate visual blockage screen between the R-1A, R-1B or R-2 residential lot or parcel of land. This visual blockage shall be no less than six (6) feet in height, in accordance with Article XVIII, Section 18.05 in compliance with the standards set forth in Article XVIII, Section 18.06.

Section 7.08 - Building Height Regulations. No residential building or structure shall exceed two and one-half (2½) stories or exceed forty (40) feet in height.

Section 7.09 - Yard, Setback and Lot Area Regulations. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and frontage requirements:

- A. Front Yard: There shall be a front yard of no less than twenty-five (25) feet.
- B. Side Yard: There shall be one (1) side yard which shall not be less than six (6) feet with the setback dimension of both side yards totaling not less than twenty (20) feet. In the event the yard abuts an R-1A, R-1B or R-2 residential zoning lot, a minimum side yard setback of twenty-five (25) feet are required.

Side Yard Street Frontage Setback: The side yard shall be not less than twenty (20) feet.
- C. Rear Yard: There shall be a rear yard of no less than twenty (20) feet for residential use. In the event the yard abuts an R-1A, R-1B or R-2 residential zoning lot, a minimum rear yard setback of twenty-five (25) feet is required.
- D. Lot Area: The minimum lot area shall be ten thousand (10,000) square feet for a single-family or two-family structure. The minimum lot size shall increase by one-thousand (1,000) square feet for each dwelling unit in excess of two.
- E. Lot Frontage and Depth: The minimum frontage shall be eighty (80) feet and the minimum lot depth one hundred ten (110) feet, respectively
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed forty-five (45) percent.

Section 7.10 - Area of Dwelling. Every single-family dwelling shall have a floor area of not less than one thousand (1,000) square feet and every two-family or any multi-family dwelling unit located in the Multi-Family Residential District shall have a minimum floor area of not less than seven hundred and fifty (750) square feet. Every single-family of two-family dwelling unit in this district shall have a minimum of two-thirds of the required minimum floor area on the ground level (i.e., 750 sq. ft.). Each dwelling unit in this district shall also have a front building dimension of not less than thirty (30) feet measured at the foundation. The minimum front building dimension shall be maintained not less than thirty-three (33) percent of the length of the longest building side wall.

ARTICLE VIII

R-4 MULTI-FAMILY SENIOR RESIDENTIAL DISTRICT

Section 8.01 - Intent. The Multi-Family Residential District is established in recognition of the preferences of senior citizen housing in the State of Michigan.

Section 8.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Single-family, two-family and multi-family dwellings and accessory uses including Group Homes and Adult Foster Care Facilities (see Article XXI, Section 21.03).
- B. Any essential service as defined in this Ordinance.

Section 8.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XX.

- A. Home occupations as a special use pursuant to Article XX, VIII< Section 18.09..
- B. Bed and breakfast operations in compliance with Article XXIII, Section 18.02.
- C. Child care, convalescent, nursing care as part of a home occupation.
- D. Parks, schools, Churches and City or other government agency building.
- E. Group homes and adult foster care facilities (having more than six (6) residents) pursuant to Article XXI, Section 21.03).
- F. Utility transmission facilities not deemed essential services.

Section 8.04 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with Article XVII, Section 17.14.

Section 8.05 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 8.06 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIX, Section 19.04.

Section 8.07 - Visual Screening Requirements. An adequate visual blockage screen between any outdoor storage area in the side or rear yards shall be required. This visual blockage shall be no less than six (6) feet in height in compliance with the standards set forth in Article XVIII, Section 18.06.

Section 8.08 - Building Height Regulations. No residential building or structure shall exceed two and one half (2½) stories

nor exceed forty (40) feet in height.

Section 8.09 - Yard, Setback and Lot Area Regulations. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and frontage requirements:

- A. Front Yard: There shall be a front yard of no less than twenty-five (25) feet.
- B. Side Yard: There shall be one (1) side yard which shall not be less than five (5) feet with the setback dimension of both side yards totaling not less than twenty (20) feet. In the event the yard abuts an R-1A, R-1B or R-2 residential zoning lot, a minimum side yard setback of twenty-five (25) feet is required.

Side Yard Street Frontage Setback: The side yard shall be not less than twenty (20) feet.

- C. Rear Yard: There shall be a rear yard of no less than twenty (20) feet for residential use. In the event the yard abuts an R-1A, R-1B or R-2 residential zoning lot, a minimum rear yard setback of twenty-five (25) feet is required.
- D. Lot Area: The minimum lot area shall be ten thousand (10,000) square feet for a single-family or two-family structure. The minimum lot size shall increase by one-thousand square feet for each dwelling unit in excess of two.
- E. Lot Frontage and Depth: The minimum frontage shall be eighty (80) feet and the minimum lot depth one hundred ten (110) feet, respectively
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed forty-five (45) percent.

Section 8.10 - Area of Dwelling. Every single-family dwelling shall have a floor area of not less than one thousand (1,000) square feet and every two-family or multi-family dwelling unit in the Multi-Family Residential District shall have a minimum floor area of not less than seven hundred and fifty (750) square feet. Every single-family or two-family dwelling unit in this district shall have a minimum of two-thirds of the required minimum floor area on the ground level (i.e., 750 sq. ft.). Each dwelling unit in this district shall also have a front building dimension of not less than thirty (30) feet measured at the foundation. The minimum front building dimension shall be maintained not less than thirty-three (33) percent of the length of the longest building side wall.

ARTICLE IX

C - 1 NEIGHBORHOOD COMMERCIAL DISTRICT

Section 9.01 - Intent. The Neighborhood Commercial District is established as a district in which the principal use of land is to provide for the retailing of commodities classed as “convenience goods,” such as groceries and drugs, and the furnishing of certain personal services such as beauty shops, barber shops, and pickup stations for laundry and dry cleaning.

Section 9.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Retail, personal service and related commercial establishments; restaurants; professional service and other offices; assembly halls of schools, churches and other organizations; financial institutions, including automated teller machines; group homes, including nursing, child and adult foster care facilities not elsewhere regulated; florist and greenhouse commercial businesses; funeral homes; furniture stores; city and other government buildings; lodging facilities - bed & breakfast operations; lodges, fraternal, labor and social organizations, and accessory uses as regulated hereafter.
- B. Residential dwelling units not located on the first floor.
- C. Any essential service as defined by this Ordinance.

Section 9.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XVIII, Section 18.09.

- A. Other uses when determined to be similar and compatible with the intent of the zoning district by the Plan Commission.
- B. Utility transmission facilities not deemed essential services.

Section 9.04 - Uses Excluded. No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Plan Commission shall be located or operated in this district.

Section 9.05 - Accessory Buildings and Structures . Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district.

Section 9.06 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 9.07 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIX, Section 19.04.

Section 9.08 - Visual Screening Requirements. Every commercial lot or parcel of land that abuts a lot or parcel of land zoned for residential purposes must provide an adequate visual blockage screen between the commercial and residential lot or parcel of land. This visual blockage shall be no less than six (6) feet in height, in compliance with the standards set forth in Article XVIII,

Section 18.06.

Section 9.09 - Building Height Regulations. No commercial building or other buildings or structures shall exceed two and one-half (2½) stories nor exceed forty (40) feet in height.

Section 9.10 - Yard, Setback and Lot Area Requirements. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and setback requirements:

- A. Front Yard: There is no requirement for a front yard. In the event the zoning lot abuts a residentially zoned lot, a minimum twenty-five (25) a foot front yard setback is required.
- B. Side Yard: There is no requirement for a side yard. In the event the zoning lot abuts a residentially zoned lot, a minimum thirty (30) a foot side yard setback is required.
- C. Rear Yard: There shall be a rear yard of no less than ten (10) feet in depth. In the event the zoning lot abuts a residentially zoned lot, a minimum a twenty-five (25) a rear yard setback is required.
- D. Lot Area: The minimum lot area shall be seven thousand (7,000) square feet.
- E. Lot Frontage and Depth: The minimum frontage shall be seventy (70) feet wide and the minimum lot depth one hundred (100) feet, respectively.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed sixty-five (65) percent.

ARTICLE X

C - 2 COMMERCIAL DISTRICT

Section 10.01 - Intent. The Commercial District is established as a district in which the principal use of land is to provide for the retailing of commodities classed as “convenience goods,” such as handled in super markets and drug stores, limited types of “durable goods,” such as household furnishings and hardware, variety stores, and the furnishing of services such as gasoline stations, apparel shops and financial institutions. The district should be located on or near arterial streets and should be within convenient driving distance of adjacent neighborhoods.

Section 10.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Any and all retail, personal service and related commercial establishments; restaurants; professional service and any and all office uses including research and laboratory and testing facilities; auto sales and repair, financial institutions, including automated teller machines; florist and greenhouse commercial businesses; funeral homes; furniture stores; city and other government buildings; lodging facilities, including hotels and motels; lodges, fraternal, labor and social organizations; theaters and amusement enterprises as defined in this ordinance; and accessory uses as regulated hereafter.
- B. Any essential service as defined by this Ordinance.

Section 10.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XVIII, Section 18.09.

- A. Any festivals and/or events including, fairs, outdoor dances, temporary displays, circuses and other similar activities including the provision of food and beverages for consumption on premises provided such food operations and facilities meet the requirements of the Berrien County Health Department that are conducted by private businesses or not-for-profit organizations on private (or public property with permission granted by the City Commission) designed to be temporary in nature, that being less than fourteen (14) days in duration.
- B. Other uses when determined to be similar and compatible with the intent of the zoning district by the Plan Commission.
- C. Utility transmission facilities not deemed essential services.

Section 10.04 - Uses Excluded. No residential living units located on the first floor, or any type nor junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Plan Commission shall be located or operated in this district.

Section 10.05 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district.

Section 10.06 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 10.07 - Parking Requirements. Off-street parking shall be provided in conformance with Article XVIII, Section 18.04.

Section 10.08 - Visual Screening Requirements. Every commercial lot or parcel of land that abuts a lot or parcel of land zoned for residential purposes must provide an adequate visual blockage screen between the commercial and residential lot or parcel of land. This visual blockage shall be no less than six (6) feet in height in compliance with the standards set forth in Article XVIII, Section 18.06.

Section 10.09 - Building Height Regulations. No commercial building or other buildings or structure shall exceed three (3) stories nor exceed forty (40) feet in height.

Section 10.10 - Yard, Setback and Lot Area Requirements. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and setback requirements:

- A. Front Yard: There shall be a front yard of no less than twenty-five (25) feet in depth. In the event the Zoning lot abuts a residentially zoned lot, a minimum thirty (30) foot front yard setback is required.
- B. Side Yard: There is no requirement for a side yard. In the event the zoning lot abuts a residentially zoned lot, a minimum thirty (30) foot side yard setback is required.
- C. Rear Yard: There shall be a rear yard of no less than twenty-five (25) feet in depth. In the event the zoning lot abuts a residentially zoned lot, a minimum thirty (30) foot rear yard setback is required.
- D. Lot Area: The minimum lot area shall be ten thousand five hundred (10,000) square feet.
- E. Lot Frontage and Depth: The minimum frontage shall be fifty (50) feet wide and the minimum depth one hundred twenty-five (125) feet, respectively.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed sixty-five (65) percent.

ARTICLE X I

C - 3 CENTRAL BUSINESS DISTRICT

Section 11.01 - Intent. The Central Business District is established as a district in which the principal use of land is to provide retailing, parking, personal and business services of all kinds satisfying the needs of residents of the entire community and the outlying trade area.

Section 11.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Any and all retail, personal service and related commercial establishments; restaurants; professional service and any and all office uses including research and laboratory and testing facilities; financial institutions, including automated teller machines; group homes; florist and greenhouse commercial businesses; funeral homes; furniture stores; city and other government buildings; lodging facilities including hotels and motels; lodges; fraternal, labor and social organizations; theaters and amusement enterprises as defined in this ordinance (except new or uses vehicle sales and/or repair); and accessory uses as regulated hereafter.
- B. Residential dwelling units not located on the first floor.
- C. Any essential service as defined by this Ordinance.

Section 11.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XVIII, Section 18.09.

- A. Any festivals and/or events including, fairs, outdoor dances, temporary displays, circuses and other similar activities including the provision of food and beverages for consumption on premises provided such food operations and facilities meet the requirements of the Berrien County Health Department that are conducted by private businesses or not-for-profit organizations on private (or public property with permission granted by the City Commission) designed to be temporary in nature, that being less than fourteen (14) days in duration.
- B. Other uses when determined to be similar and compatible with the intent of the zoning district by the Plan Commission.
- C. Utility transmission facilities not deemed essential services.

Section 11.04 - Site and Facade Plan Required. Prior to the issuance of a building permit in the C-3 Central Business District for any new construction or for the remodeling of any existing building or structure which will involve the exterior facade or other exterior surface in any way, the Zoning Administrator shall cause the application including a site and a facade plan prepared pursuant to the provisions of Article XXII, Section 22.05 to be submitted to the Downtown Development Authority for review and determination with compliance with the published design and color standards for the Central Business District. The Downtown Development Authority shall notify the applicant concerning any features and colors inconsistent with the approved standards. Any proposed new construction or remodeling of any existing buildings found to be inconsistent with the standards for the district by the Downtown Development Authority shall be disqualified for any incentive offered by the City or Downtown Development Authority.

Section 11.05 - Uses Excluded. No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, including auto sales and repair establishments as determined by the Plan Commission shall be located or operated in this district.

Section 11.06 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district.

Section 11.07 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 11.08 - Parking Requirements. Parking shall be provided in conformance with Article XIX, Section 19.04.

Section 11.09 - Building Height Regulations. No commercial building or other buildings or structure shall exceed three (3) stories nor exceed forty (40) feet in height.

Section 11.10 - Yard, Setback and Lot Area Requirements. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and setback requirements:

- A. Front Yard: There is no requirement for a front yard. In the event the zoning lot abuts a residentially zoned lot, a minimum thirty (30) foot front yard setback is required.
- B. Side Yard: There is no requirement for a side yard. In the event the zoning lot abuts a residentially zoned lot, a minimum thirty (30) foot side yard setback is required.
- C. Rear Yard: There shall be a rear yard of no less than fifteen (15) feet in depth. In the event the zoning lot abuts a residentially zoned lot, a minimum thirty (30) foot rear yard setback is required.
- D. Lot Area: There is no minimum lot size requirement.
- E. Lot Frontage and Depth: There is no minimum lot frontage and depth requirement.
- F. Maximum Building Lot Coverage: There is no maximum lot coverage requirement.

ARTICLE XII

I-1 LIGHT INDUSTRIAL DISTRICT

Section 12.01 - Intent. The Light Industrial District is established as a district in which the principal use of land is for certain industries which do not emit noise, vibration, smoke, dust, odors, heat, glare, and other influences sufficient to constitute an adverse influence and detract from adjacent residential areas and commercial uses near or abutting the Light Industrial District.

Section 12.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Assembly of machine and other products from previously prepared parts, bottling of non-hazardous liquids, manufacture and processing of food products, warehousing, dry cleaning processing plants, assembly of automotive and any auto related equipment, commercial laundries, machine and fabrication shops, and storage of goods and materials; and accessory uses as regulated hereafter.
- B. Any essential service as defined by this Ordinance.

Section 12.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XX.

- A. The sale of any goods manufactured on premise, provided there shall be no outdoor display of goods and merchandise.
- B. Other uses when determined to be similar and compatible with the intent of the zoning district by the Plan Commission.
- C. Utility transmission facilities not deemed essential services.

Section 12.04 - Uses Excluded. No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, as determined by the Plan Commission shall be located or operated in this district.

Section 12.05 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district.

Section 12.06 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 12.07 - Parking Requirements. Off-street parking shall be provided in conformance with Article XIX, Section 19.04.

Section 12.08 - Visual Screening Requirements. Every lot or parcel of land that abuts a lot or parcel of land zoned for residential purposes must provide an adequate visual blockage screen between that commercial and residential lot or parcel of land. This visual blockage shall be no less than six (6) feet in height in compliance with the standards set forth in Article XVIII, Section

18.06.

Section 12.09 - Building Height Regulations. No commercial building or other buildings or structure shall exceed two and one-half (2½) stories nor exceed forty (40) feet in height.

Section 12.10 - Yard, Setback and Lot Area Requirements. No principal building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and setback requirements:

- A. Front Yard: There shall be a front yard of no less than ten (10) feet. In the event the zoning lot abuts a residentially zoned lot, a minimum forty-five (45) foot front yard setback is required.
- B. Side Yard: There is no requirement for a side yard. In the event the zoning lot abuts a residentially zoned lot, a minimum forty-five (45) foot side yard setback is required.
- C. Rear Yard: There shall be a rear yard of no less than twenty (20) feet in depth. In the event the zoning lot abuts a residentially zoned lot, a minimum forty-five (45) foot rear yard setback is required.
- D. Lot Area: The minimum lot area shall be seven thousand five hundred (7,500) square feet.
- E. Lot Frontage and Depth: The minimum frontage shall be sixty (60) feet wide and the minimum lot depth one hundred twenty-five (125) feet, respectively.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed eighty (80) percent.

ARTICLE XIII

I-2 HEAVY INDUSTRIAL DISTRICT

Section 13.01 - Intent. The Heavy Industrial District is established as a district in which the principal use of land is for heavy commercial and industrial establishments, which may create noise, vibration, smoke, dust, odors, heat, glare, and other influences which are not properly associated with or compatible with residential, commercial or Light Industrial districts.

Section 13.02 - Uses Permitted by Right. Land, buildings or structures in this zoning district may be used for the following purposes only:

- A. Any use permitted by right in the I-1 Light Industrial District.
- B. Any essential service as defined by this Ordinance.

Section 13.03 - Uses Permitted by Special Use Permit. The following uses are permitted in this district subject to obtaining a special use permit as provided in Article XX.

- A. Any use not permitted by right when permitted by the Plan Commission pursuant Article XX.
- B. Utility transmission facilities not deemed essential services.

Section 13.04 - Uses Excluded. No junk yard, recycling operation or business involving livestock, or business likely to create detrimental noise, odors, fumes, radiation or vibration, which can be detected by persons of normal auditory or olfactory capacity at the closest dwelling unit located on a residential zoned lot abutting the zoning lot on which the I-1 Light Industrial business is located, as determined by the Plan Commission shall be located or operated in this district.

Section 13.05 - Accessory Buildings and Structures. Accessory buildings customarily incidental to uses herein permitted may not be erected, altered or used in this district except in conformity with the yard and lot requirements of this district.

Section 13.06 - Signs Permitted. Signs permitted in accordance with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances.

Section 13.07 - Parking Requirements. Off-street parking shall be provided in conformance with Article XI, Section 19.04.

Section 13.08 - Visual Screening Requirements. Every lot or parcel of land that abuts a lot or parcel of land zoned for residential purposes must provide an adequate visual blockage screen between that commercial and residential lot or parcel of land. This visual blockage shall be no less than six (6) feet in height, in compliance with the standards set forth in Article XVIII, Section 18.06.

Section 13.09 - Building Height Regulations. No commercial building or other buildings or structure shall exceed two and one-half (2½) stories or exceed forty (40) feet in height.

Section 13.10 - Yard, Setback and Lot Area Requirements. No principal building or structure, nor any enlargement thereof, shall

be hereafter erected except in conformance with the following yard and setback requirements:

- A. Front Yard: There shall be a front yard of no less than ten (10) feet. In the event the zoning lot abuts a residentially zoned lot, a minimum forty-five (45) foot front yard setback is required.
- B. Side Yard: There is no requirement for a side yard. In the event the zoning lot abuts a residentially zoned lot, a minimum forty-five (45) foot side yard setback is required.
- C. Rear Yard: There shall be a rear yard of no less than twenty (20) feet in depth. In the event the zoning lot abuts a residentially zoned lot, a minimum forty-five (45) foot rear yard setback is required.
- D. Lot Area: The minimum lot area shall be twenty thousand (20,000) square feet.
- E. Lot Frontage and Depth: The minimum frontage shall be one hundred (100) feet wide and the minimum lot depth two hundred (200) feet, respectively.
- F. Maximum Building Lot Coverage: The maximum lot coverage shall not exceed eighty (80) percent.

ARTICLE XIV

CD CLUSTER RESIDENTIAL DEVELOPMENT DISTRICT (OPEN SPACE PRESERVATION)

Section 14.01 - Intent. The Cluster Residential Development (overlay) District is the an alternative development process from the traditional zoning regulations governing residential development as required by Section 4f of the City and Village Zoning Act, P.A. 207 of 1921, as amended. Specifically, the Article provides the option for a developer or land owner to develop the same number of dwelling units as authorized by the underlying zoning district regulation on eighty (80) percent, or less (at the discretion of the local municipality), of the property where such undeveloped portion of the property is dedicated as open space in perpetuity.

Section 14.02 - Open Space Defined. Open space for the terms of this Ordinance is defined as land other than streets, roads, driveways, parking areas, building lots, landscaped yard areas immediately surrounding building and structures and any other portion of the property not left in (or restored) with natural vegetative cover (or left for agricultural production uses) greater that twenty five (25) feet wide and running continuous and contiguous throughout the proposed cluster development, except for the crossing of streets, roads and walkways.

Section 14.03 - Relationship to Underlying Zoning Regulations. The Cluster Residential Development (overlay) District option for land development is allowable for use on any vacant and undeveloped parcel of land located within a R-1 A&B, R-2 R-3, and R-4 Residential Zoning District having minimum of two (2) acres of land area.

- A. **Uses Permitted by Right and Special Use Permit.** Any use permitted by right and any use permitted by special use permit allowable by the terms of the underlying zoning district in which the property is located shall be permitted within a cluster development provided any special use permit shall be issued in accordance with the terms of this Ordinance.
- B. **Applicable Gross Density.** The gross density of development of the subject property shall be determined by dividing the minimum lot size required by the underlying zoning district in which the property is located into the gross square feet of the property to be developed; arithmetically rounded to a whole number.
- C. **Setback, Lot Frontage and Building Height Provisions.** All cluster developments shall provide a front, rear and side yard setbacks around the perimeter of the property line equal to the minimum requirements of the underlying zoning district in which the property is located. The lot frontage of the cluster development shall (unless varied by the Zoning Board of Appeals) conform to the minium lot frontage requirement of the underlying zoning district in which the property is located. Building height requirements shall conform to the requirement of the underlying zoning district in which the property is located.
- D. **Public Water and Wastewater Requirements.** No cluster development shall be approved which does not provide on-site public water and wastewater service to all habitable buildings and structures.

Section 14.04 - Site Plan and Rezoning Approval Requirements. An application for the approval of a cluster development shall be accompanied with a site plan and any fee established by this Ordinance (See Article XXVI, Section 26.04) and shall be processed in accordance with Articles XXII and XXV. Approval of a cluster development is a rezoning of the subject property designating the property as an Cluster Development (overlay) District.

Section 14.05 - Plat of Subdivision or Condo Subdivision Plan (Exhibit C) Requirement. All cluster developments shall be recorded as a Plat of Subdivision pursuant to the Michigan Land Division Act, P.A. 87 of 1997, as amended (formally the Michigan Subdivision Control Act) or a Subdivision Plan (Exhibit C to the Master Deed) pursuant to the requirements of the Michigan Condominium Act, P.A. 58 of 1978, as amended.

Section 14.06 - Permanent Open Space Requirements. Permanent open space, for the terms of this Ordinance, shall mean permanently undeveloped by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land, in a form acceptable to the Plan Commission and City Commission. In acceptance of the plat/plan of subdivision, pursuant to the Michigan Land Division or Condominium Act, the Plan Commission and City Commission shall consider the form of management and maintenance of the open space and apply such conditions to the approval of the Plat of Subdivision or Plan of Subdivision to assure that such open space shall be properly managed and maintained in perpetuity and that the conservation easement, deed restrictions or condominium dedication shall be adequately monitored and enforced by the organization or entity holding title to the easement or property rights of the designated open space.

Section 14.07- Incentive Bonus Density for Increased Open Space. The Planning Commission may approve upon request by the developer and upon finding the proposed plan increases the amount of open space beyond twenty (20) percent of the total lot area, an increase in the number of units allowable by the terms of the underlying zoning district. The increase in the number of units shall not exceed fifty (50) percent of the gross density; the total number of units allowable by the terms of the underlying zoning district.

Section 14.08 - Variances Due to Unique Site Conditions. Upon finding by the Plan Commission that a particulate property proposed for development as a cluster development has significant natural features; specifically topography, plant and/or animal habitat, wetlands, or agricultural production uses, the Planning Commission may recommend the strict terms of this section of the Ordinance be waived by the Zoning Board of Appeals for the purpose of protecting and preserving the unique and significant natural features of the property.

Section 14.09 - Zoning Map Designation. Upon approval of a Cluster Development pursuant to this Article, the City Clerk shall indicate the subject property on the Official Zoning Map as a Cluster Development (overlay) District by designating the property "CD" and including the data of the rezoning approval in the record of Maps amendments.

ARTICLE XV

PUD PLANNED UNIT DEVELOPMENT DISTRICT

Section 15.01 - Purpose of Planned Unit Development. The use, area, height, bulk and placements regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building on one (1) lot. These requirements would in certain developments have results that would less serve the public health, safety, and welfare than if a controlled degree of flexibility were allowed. A development may be of such size as to justify permitting certain specifically defined departures from the regulations of the zoning district. Permitting these uses can in certain cases increase convenience, be comparable with the overall character of the district, and not be injurious to the adjoining properties, subject to limitations of the zoning district in which the property is located as set fort in Articles V through XIII.

Section 15.02 - Intent. A Planned Unit Development is intended to permit the following:

1. Variety and flexibility of land development for residential, commercial and industrial purposes and auxiliary use that are necessary to meet the changes in technology and demand and which will be consistent with the best interests of the City as a whole and that will encourage a creative approach in the development of land;
2. Utilization of sites that are characterized by special features of geography, topography, size or shape for their best potential.

Section 15.03 - Applicability to All Land Division and Condominium Plats. Any plat submitted for recording under the terms of the State of Michigan Land Division Act, P.A. 87 of 1997, as amended (formally Subdivision Control Act) or the Condominium Act. P.A. 58 of 1978, as amended shall be submitted and processed as a Planned Unit Development, pursuant to the terms of this Article and other applicable sections of this Ordinance.

Section 15.04 - Procedures for Submission of PUD Plans. These procedures are intended to state the requirements at each stage of the review process. However, each applicant shall have the opportunity to submit an application for approval of the Planned Unit Development at either the Preliminary PUD Development Plan stage or the Final PUD Development Plan stage, if the requirements are fulfilled according to this Ordinance.

Section 15.05 - Pre-Application Conference. Before submitting an application for a Planned Unit Development, an applicant at his option may confer with the City Plan Commission to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.

Section 15.06 - Contents and Submission of a Preliminary PUD Development Plan. Proceedings are commenced by application for approval of a Planned Unit Development, to the City of Buchanan with payment of the fee established by this Ordinance (See Article XXVI, Section 26.04) and submission of a completed application with a Preliminary PUD Development Plan prepared in accord with the following specifications:

1. A Preliminary PUD Development Plan should include maps and/or diagrams showing enough of the area surrounding the proposed Planned Unit Development to demonstrate the relationship of the Planned Unit Development to adjoining uses. The maps and/or diagrams which are part of the Preliminary Planned Unit Development maybe in general schematic form containing the following information:

- (A) The existing topographic character of the land with contours shown at intervals of not greater than five (5) foot intervals;
 - (B) Existing and proposed land uses and the approximate location of buildings and other accessory structures;
 - (C) The character, type, and number of dwelling units or other principal and accessory buildings proposed;
 - (D) The approximate location of major arterial and collector streets and provision for parking vehicles;
 - (E) The locations of all public uses, including schools, parks, playgrounds, common open spaces, etc.;
 - (F) the approximate location of existing utility systems;
 - (G) Such other information, maps and plans as the Plan Commission may request.
2. A complete "Application for Planned Unit Development" on a form provided by the City.
 3. A complete "Petition for Rezoning" form.

Section 15.07 - Approval of Preliminary PUD Development Plan. Procedures for the approval of a Preliminary PUD Development Plan are as follows:

1. **Public Hearing for Rezoning to PUD Zoning District.** Upon submission of a complete application for approval of a Preliminary PUD Development Plan, the Plan Commission shall, within a reasonable time period, schedule a public hearing on said application with private property and public notice provided as required for rezoning.
2. **Approval of Rezoning to PUD Zoning District.** Pursuant to the provision of this Ordinance concerning the rezoning of land, the Plan Commission shall conduct the required public hearing and submit to the City Commission a recommendation for the approval or denial of the rezoning of the property submitted by the applicant.
3. **Tentative Approval of Preliminary PUD Development Plan.** The Plan Commission shall, upon the completion of the public hearing and after rendering a decision concerning the rezoning of the property submitted by the applicant, consider a motion that the Preliminary PUD Development Plan:
 - A. be granted approval as submitted;
 - B. be granted tentative approval subject to specific conditions not included in the PUD Development Plan as submitted; or
 - C. be denied approval.
4. **Form of PUD Development Plan Approval or Denial Action.** The grant or denial of tentative approval shall be in the form of a written statement and shall include findings of fact and other factual findings which set forth the reasons for the approval or denial of the applicants request for approval of the PUD Development Plan.

Section 15.08 - Status of Preliminary PUD Development Plan After Approval. Procedures for the notification of the applicant and status of the approval of a Preliminary PUD Development Plan are as follows:

1. **Notification of Applicant.** Within five days after the approval of the rezoning of the subject property and upon approval of the Preliminary PUD Development Plan by the Plan Commission, notice of approval of rezoning ordinance and approval of the Preliminary PUD Development Plan shall be mailed via first class postage to the applicant by the City Clerk or Zoning Administrator.
2. **Status of Preliminary PUD Development Plan.** Approval (or approval with conditions or denial) of a Preliminary PUD Development Plan shall not qualify as a Land Division Act plat or Condominium Act plat for the purposes of recording with the Berrien County Register of Deeds. A PUD Development Plan which has been given tentative approval as submitted or which has been given tentative approval subject to conditions that the applicant has agreed, shall not be modified or revoked or otherwise impaired by action of the City pending an application or applications for final approval without the express consent of the applicant; provided an application for final approval is filed, or in the case of staged development, provided applications are filed within the time or times specified in the action granting approval or tentative approval of the Preliminary PUD Development Plan by the Plan Commission.
3. **Abandonment of Preliminary PUD Development Plan by Applicant.** In the event that a Preliminary PUD Development Plan is given tentative approval and thereafter, but prior to final approval, the applicant shall choose to abandon said Preliminary PUD Development Plan or shall fail to submit an application or applications for final approval within the required time period, the approval or tentative approval shall be deemed revoked, and such action shall be noted in the record of the City Clerk. Upon abandonment, the Plan Commission may consider action recommending rezoning of the subject property from PUD Planned Unit Development to its prior zoning district classification.

Section 15.09 - Approval of Final PUD Development Plan. Procedures for the approval of a Final PUD Development Plan are as follows:

1. **Submission Deadline and Extension.** Within a reasonable time after the approval of the rezoning and Preliminary PUD Development Plan, but not more than six (6) months thereafter, the applicant shall file with the Plan Commission a Final PUD Development Plan containing in final detailed form the information required as herein after provided. At its discretion and for good cause, the Plan Commission may extend for six (6) months the period for filing the Final PUD Development Plan. Contents of the Final PUD Development Plan shall include a plat prepared in conformance with the specification required for recording a plat under the terms of the State of Michigan Land Division Act, P.A. 87 of 1997, as amended (formally Subdivision Control Act) or the Condominium Act. P.A. 58 of 1978, as amended, signed and sealed by a State of Michigan Registered Surveyor. Water and sewer system engineering drawings with accompanying State of Michigan Department of Public Health or State of Michigan Department of Environmental Quality system extension permits signed and sealed by a State of Michigan Licensed Professional Civil Engineer shall accompany the PUD Development Plan submission. Also to be submitted by the applicant for approval by the City Engineer are a storm water drainage system management plan and plans and specifications for all streets prepared in conformance with the City of Buchanan development standards, which from time-to-time are adopted by the City Commission prepared, signed and sealed by a State of Michigan Licensed Professional Civil Engineer. In addition, the Plan Commission may require such other maps and/or drawings as deemed necessary to render a decision concerning the approval of a Final PUD Development Plan.

2. **Optional Public Hearing.** The Plan Commission, at its discretion, may give notice and provide an opportunity for the public to comment on the proposed Final PUD Development Plan.
3. **Approval or Denial of Final PUD Development Plan.** The Plan Commission shall review the proposed Final PUD Development Plan, and shall approve the Final PUD Development Plan if it is in substantial compliance with the Preliminary PUD Development Plan and contains in final detailed form the information herein set forth.
4. **Application of Conditions and Restrictions.** Prior to the approval of any Final PUD Development Plan, the Plan Commission may recommend the adoption of such covenants, conditions, and restrictions upon the establishment, location, construction, maintenance, and operation of the Planned Unit Development as the Plan Commission deems necessary for the purposes of the public interest and to secure compliance with the criteria specified in this Ordinance.
5. **Status of Final Approval of PUD Development Plan.** After approval has been given, the use of land and the construction, modification or alteration of any building or structures within the Planned Unit Development will be governed by the approved Final PUD Development Plan rather than by any other provision of this Ordinance.
6. **Minor Changes to Final PUD Development Plan.** Any minor extensions, alternations, or modification of existing buildings or structures may be authorized by the Plan Commission if they are consistent with the purposes and intent of the Final PUD Development Plan.
7. **Major Change to Final PUD Development Plan.** Any major change to a Final PUD Development Plan, as determined by the Plan Commission, shall be made by the Plan Commission after processing an amendment to the Final PUD Development Plan pursuant to the approval process for both the Preliminary and Final PUD Development Plan approval.
8. **Rescinding / Abandonment of Final PUD Development Plan Approval.** In any case where construction has not yet begun on an approved Planned Unit Development within one (1) year after the date of Final Approval of a PUD Development Plan, or after a one (1) year extension thereof by the Plan Commission upon showing of cause or upon written notification by the applicant that the proposed Planned Unit development will not be constructed, the Plan Commission may rescind the Final PUD Development Plan approval and take such other action to rezone the subject property back to its original zoning district classification.

Section 15.10 - Standards and Criteria For Planned Unit Developments. The PUD Development Plan of the Planned Unit Development shall be consistent with the following standards for use of land, the use of, type and mass, design and location of buildings, the density, common open space and public facilities servicing the site:

1. **Variety of Building Types and Layout Design.** The PUD Development Plan may increase the density of the underlying zoning district classification by no more than twenty-five (25) percent where a variety of housing or building types are provided including clustered housing, buildings sharing common walls, etc. are incorporated in a unique design approved by the Plan Commission.
2. **Building Lot Coverage.** The building coverage ratio may be increased by twenty-five (25) percent by the Planning Commission in combination with any approval granted in paragraph one (1) above.
3. **Height Restrictions.** The PUD Development Plan must conform to the height requirements of the zoning district in which the subject property is located.

4. **Mixture of Uses Permitted.** A mixture of uses is permitted in any PUD Development Plan, amount and location subject to approval by the Plan Commission
5. **Perimeter Setback Requirement.** Where ever possible, the applicant shall provide perimeter setbacks to abutting properties at the same dimensions as required of the zoning district classification in which the property is located subject to approval of the Plan Commission which may require greater setback distances when in the opinion of the Plan Commission the proposed Planned Unit Development will have a detrimental effect on abutting land uses.
6. **Conveyance of Open Spaces and/or Common Elements.** Any area designated as open space or common elements (included limited common elements), shall be conveyed to an appropriate public body or private owners' association, as required by law.
7. **Off-Street Parking and Loading.** Off-street parking and loading shall be in conformance with the minimum specifications of Article XIX for the land uses proposed within the Planned Unit Development.
8. **Utilities.** The proposed PUD Development Plan shall provide for installation of public water, sanitary sewer and storm drainage meeting the standards of the City of Buchanan, as from time-to-time approved by the City Commission.
9. **Landscaping and Screening.** Landscaping and screening shall be in conformance with the minimum specifications of this ordinance as they pertain to the specific uses proposed within the Planned Unit Development. The Plan Commission may require additional landscaping and screening when in the opinion of the Plan Commission the proposed Planned Unit Development will have a detrimental effect on abutting land uses.
10. **Pedestrian Pathways and Sidewalks.** Pedestrian pathways and sidewalks shall be in conformance with the minimum specifications and development standards of the City, as from time-to-time approved by the City Commission, as they pertain to the specific uses proposed within the Planned Unit Development. The Plan Commission may require additional pathways and sidewalks when in the opinion of the Plan Commission the intensity of development requires additional pathways and sidewalks to safely move pedestrian traffic throughout the Planned Unit Development.
11. **Signs.** Signs in the Planned Unit Development District shall comply with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordincances.

ARTICLE XVI

FLOODPLAIN (OVERLAY) DISTRICT

Section 16.01 - Intent. It is the intent of this Article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the City of Buchanan, and to comply with the provisions of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of the program by the Federal Emergency Management Agency. The specific intent in establishing this overlay district is:

1. The protection of human life, health and property from the dangerous and damaging effects of flood conditions;
2. The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood-damaged public facilities and utilities, and the redevelopment of flood-damaged homes, neighborhoods, commercial and industrial areas;
3. The prevention of private and public economic loss and social disruption as a result of flood conditions;
4. The maintenance of stable development patterns not subject to the blighting influence of flood damage;
5. To ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and
6. To preserve the ability of floodplains to carry and discharge a 100-year (base) flood.

Section 16.02 - Delineation of Flood Hazard (Overlay) Zoning District.

1. **Boundary Designated on Zoning Map.** The flood hazard zone shall overlay existing zoning districts delineated on the *Official Zoning Map* of the City of Buchanan. The boundaries of the flood hazard zone shall coincide with the boundaries of the area of special flood hazard (Zone A), designated on the Flood Insurance Rate Map and Flood Hazard Boundary Map for the City of Buchanan published by the Federal Emergency Management Administration.
2. **Final Determination of Flood Hazard Boundary Line.** It shall be the responsibility of any property owner or any other person with a dispute as to the exact location of the flood hazard area zone boundary on a specific property to determine the exact location of the boundary through application for a determination of a flood hazard boundary with the Michigan Department of Environmental Quality.
3. **Suspension of City Action Until Final Determination Is Made.** The City shall suspend and hold in abeyance the processing of any application for zoning or building permit until a final determination is made by the Michigan Department of Environmental Quality and such documentation is filed with the Zoning Administrator.
4. **Application of Other Laws and Requirements.** In addition to other requirements of this Ordinance,

applicable to development in the underlying zoning district, compliance with the requirements of this Article shall be necessary for all developments occurring within the flood hazard area zone. Conflicts between the requirements of this Article and other requirements of this Ordinance or any other State or Federal law or regulation shall be resolved in favor of the most stringent requirements and the most stringent regulation shall apply.

Section 16.03 - MEDQ Permit Required Prior to Issuance of City Building Permit. Development, including the erection of structures of any type within a flood hazard area shall not occur except upon issuance of a building permit in accordance with the requirements of this Ordinance and the Michigan Construction Code and only upon presentation of a permit issued by the Michigan Department of Environmental Quality (MDEQ).

1. **Applicable Standards.** All construction shall meet the following standards:
 - A. The requirements of this Article;
 - B. The requirements of the underlying zoning districts and applicable general and special provision of this Ordinance; and
 - C. All applicable state and federal laws and regulations.
2. **Certificate of Compliance.** Compliance with the standards of this Section shall be certified by a Michigan Licensed Professional Civil Engineer. A copy said certification shall be furnished to the Zoning Administrator prior to the issuance of a building permit.
3. **Construction Standards.** Any new construction and any alteration to existing building, structures and infrastructure connections servicing any building and structure shall conform to the following standards:
 - A. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - B. Be constructed with materials and utility equipment resistant to flood damage;
 - C. Be constructed by methods and practices that minimize flood damage;
 - D. New and replacement water and sewer systems shall minimize or eliminate infiltration of flood waters into the system and on-site waste disposal systems shall be located to avoid impairment to the system due to flooding;
 - E. The flood carrying capacity of any water course or floodway shall be maintained unless such construction is permitted by the Michigan Department of Environmental Quality subject to adequate volume compensation as required by the Michigan Department of Environmental Quality.
 - F. The first habitable floor (including basements) is no less than one (1) foot higher than the based flood elevation as determined by the Michigan Department of Environment Quality.

Section 16.04 - Land Division Requirements. Land shall not be divided in any manner by any means creating lot or parcel which cannot be used in conformance with the requirements of this Article.

Section 16.05 - Disclaimer of Liability. The degree of flood protection required by this Ordinance is considered reasonable

for regulatory purposes and is based on engineering and scientific methods of study as administered by the Michigan Department of Environmental Quality. Flood heights may increase by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this Article shall not be considered a guarantee or warranty of the safety from flood damage.

This Ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This Ordinance does not create liability on the part of the City of Buchanan or any officer or employee thereof for any flood damage which results from reliance on this Ordinance or any administrative decision lawfully made thereunder.

ARTICLE XVII

GENERAL PROVISIONS

Section 17.01 - Scope of Regulations - Use of Land, Buildings and Structures. No building or land shall be used and no building shall be hereafter erected, structurally altered, or relocated except for one or more of the uses herein permitted within the district in which such building, structure, or land is located or for a use similar to and harmonious with such permitted uses, except as provided in Article XXIV, Section 24.03 of this Ordinance.

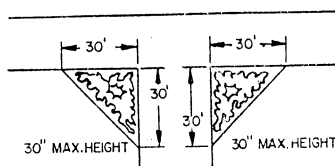
Section 17.02 - Property Division Requirements. No lot or other parcel of land located in the City of Buchanan shall be further partitioned or divided unless such partition or division is first approved, pursuant to provisions of the City of Buchanan Land Division and/or Subdivision Ordinance and Development Standards.

Section 17.03 - Prohibition of Private Roads. There shall be no private roads permitted in the City of Buchanan.

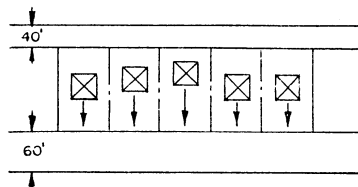
Section 17.04 - Height Exceptions. The height requirements of all zones, except the Industrial Districts may be exceeded by parapet walls not over four (4) feet in height, chimneys, roof mounted television and radio antennas (excluding cell towers and other communications towers), cupolas, spires or other ornamental projections, or water towers. In the industrial districts, chimneys, cooling and communication towers (when permitted pursuant to Section XVIII, Section 18.04) and other necessary appurtenances are permitted above the height limitations provided they are located the same distance as their height from any adjoining property line.

Section 17.05 - Each Principal Building Must Conform to District Requirements. Each principal building on a lot must conform to the requirements of the Ordinance which would be applicable of each were located on a separate lot in the same district.

Section 17.06 - Corner Lots. No obstruction to vision (other than an existing building, post, column, grade, or tree) exceeding thirty (30) inches in height shall be erected or maintained on any lot within the triangle formed by the street intersection and a line drawn between points along two streets lines thirty (30) feet from the intersection.

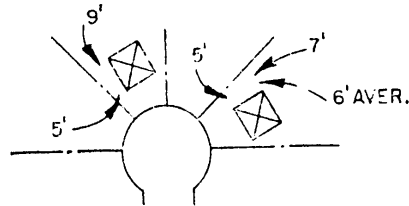


Section 17.07 - Though Lots. Where a through lot under single individual ownership extends from one street to another parallel or nearby parallel street or alley, the widest street shall be deemed the street upon which the property fronts. No principal building may be erected on the rear lot.



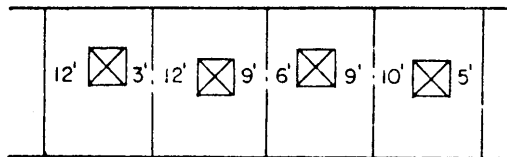
Section 17.08 - Side Yard Width may be Varied.

Where the side yard wall of a building is irregular or not parallel with the side lot line, the side yard may be varied. Its average width may not be less than the required width, nor may it be narrower at any point than five (5) feet.



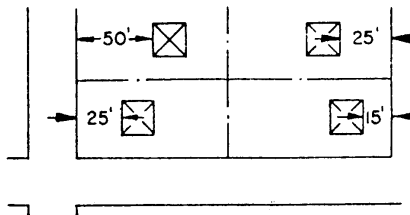
Section 17.09 - Width of One

Side yard may be reduced. The width of one side yard may be reduced to not less than three (3) feet, provided that the combined side yards of the lot are not less than the combined minimum required for the lot. Similarly, the distance between the proposed structure and another existing or proposed structure on an adjacent lot, may not be less than the minimum sum of the two side yards. A reduction of width may only be authorized by the Zoning Board of Appeals when warranted by the location of existing buildings, or when conducive to the desirable development of two or more lots.



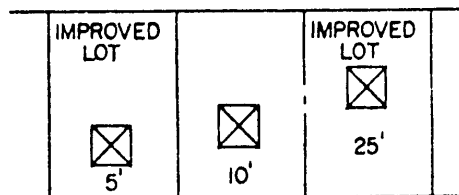
Section 17.10 - Side Yard of Corner Lot.

Where the yard of a corner lot abuts a front yard of a lot in a Residential District, the side yard of the corner lot shall be at least one-half the width of the front yard of the latter lot, but in no case less than fifteen (15) feet.



Section 17.11 - Front Yard Exception.

Where an unimproved lot (or a improved lot in the R-1B Single-Family residential District) is situated between two improved lots, each having a principal building within twenty-five (25) feet of the side lot line of the subject lot, the Zoning Administrator may approve a reduced front yard depth equal to that of the lesser front yard of the two adjoining lots. However, a front yard may not be reduced below ten (10) feet.



Section 17.12 - Minimum Public Street Access Required. No dwelling may be erected on any lot which does not meet the minimum frontage requirement of the zoning district on a public street. The Zoning Board of Appeals may grant a variance where a single lot has a minimum twenty (20) foot permanent unobstructed access easement or lot frontage connecting the lot with the street, and where such access way is not more than three hundred (300) lineal feet from the edge of the public street to the closest point of the building or structure.

Section 17.13 - Projections Into Yards. Unless otherwise specified below, projections into required yard are covered by the provisions of the Michigan Construction Code.

1. Cornices, canopies, eaves or other architectural features not required for structural support may project into a yard not more than three (3) inches per foot of yard width required but may not exceed a total of three (3) feet.
2. Fire escapes and balconies to fire exists may not project into a front yard.

Section 17.14 - Accessory Structure Regulations in Residential Districts.

1. **Unattached Accessory Structures.** Accessory structures not attached to a principal structure may be erected within one side yard or within the rear yard, in accordance with the following requirements:
 - A. **Maximum Height.** Not to exceed fifteen (15) feet.
 - B. **Rear Yard Coverage.** An unattached accessory structure may cover not more than forty (40) percent of the rear yard.
 - C. **Side Yard and Rear Yard Setback.** An accessory structure must be located at least five (5) feet from the side lot line and at least five (5) feet from the rear lot line.
 - D. **Side Yard Setback - Corner Lot.** Same as for principal buildings or structures as set forth in the zoning district.
 - E. **Distance from Principal Structure.** An accessory structure must be located at least ten (10) feet from every principal structure.
2. **Attached Accessory Structures.** An accessory structure attached to the principal building must comply with the yard requirements for the principal building set forth in the zoning district.

Section 17.15 - Travel Trailers. The occupancy of travel trailers for more than seven (7) days as a temporary dwelling is limited solely to areas designated as temporary camping areas by the City Manager.

Section 17.16 - Storage of Recreation Vehicles. An unoccupied recreational, travel trailer, boat, motor home, camping vehicle (including trailers) or any similar vehicle; any boat trailer or other similar recreational vehicle not licensed to operate on the public highways or trailer for such recreational vehicles, may be stored on a zoning lot so long as it is situated on the rear of such lots and at least three (3) feet from any other structures, side or rear property line.

Section 17.17 - Fences. All fences hereinafter constructed in the City of Buchanan shall conform to the following standards:

1. Construction of a fence shall require issuance of a zoning compliance permit issued by the Zoning Administrator, prior to construction or erection of the fence.

2. All fences shall be constructed to present a finished outside fence appearance to adjacent property and public streets and alleys, by either:
 - F. Symmetrical construction having identical inside and outside face appearance including main anchor posts and frame members.
 - G. Offset construction with main anchor posts and horizontal and vertical frame members visible on inside face only and vertical and horizontal face members or materials mounted on an outside surface of a frame and anchor post members.
4. Fences shall not exceed four (4) feet in height in the front yard, the area between the front property line and the front building line, and fences located in the side or rear yard behind the front building line of the principal structure shall not exceed six (6) feet in height.
5. Any form of electrified and/or barbed wire, or single strand wire fence or barrier is prohibited in all Residential Districts.
6. Barbed wire, barbwire or any form of single strand wire fence or barrier is prohibited in any Commercial or Industrial District except for the installation as cap wires on industrial grade cyclone type fence having a minimum height from ground level to six (6) feet.
7. No fence shall inhibit corner vision requirements of Article XVII, Section 17.06.
8. Any fence maintained in violation of this section shall be deemed a hazard to public health and welfare and shall constitute a violation of this Ordinance pursuant to Article XVI, Section 26.05.

Section 17.18 - Standards For All Exterior Lighting In all Districts. The construction or installation of all new lighting or the replacement, refurbishment or repair of all existing lighting in all zoning districts shall conform to the City of Buchanan Compiled Ordinances..

ARTICLE XVIII

SPECIAL PROVISIONS INCLUDING HOME OCCUPATIONS

Section 18.01 - Lots Without Municipal Utilities. Notwithstanding any other provision of this Ordinance, any lot not serviced by a public water and/or sanitary sewer system may not be less than eighty (80) feet wide at the street line and not less than twelve thousand (12,000) square feet in area per dwelling unit. Prior to the issuance of a building permit for construction of a dwelling unit on any lot not served by a public water and/or sanitary sewer system, a permit for the installation of a well and/or on-site sanitary sewer system issued by the Berrien County Health Department must be presented to the Zoning Administrator.

Section 18.02 - Bed & Breakfast Operations.

1. Bed and breakfast operation shall be subject to the following special provisions:
 - A. A residential structure shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this Ordinance and adequate living space must be preserved for manager or owner's quarters. A common room for guest relaxation is required in these facilities. Unless owner occupied, the manager must reside on and have more than a nominal equity interest in the premises.
 - B. Bathrooms must be furnished for guestrooms - One bathroom not to serve over four guestrooms.
 - C. No separate commercial cooking facilities as approved by the Michigan Department of Public Health other than the residential kitchen are required for bed and breakfast operation if only a continental breakfast is served.
 - D. One sign, in residential areas shall be permitted. Size, location and design must comply with the City Buchanan Sign Ordinance, Article 9B of the City of Buchanan Compiled Ordinances, and be authorized by Plan Commission pursuant to Article XX.
 - E. Inspection and approval by the Zoning Administrator are required prior to occupancy of bed and breakfast facilities. Berrien County Health Department approval is required if other than continental breakfast is planned requiring the use of a commercial kitchen or commercial kitchen equipment.
 - F. The letting of bed and breakfast rooms shall be limited to short term occupancy not to exceed thirty (30) continuous days.
2. A residence must contain a minimum of two thousand four hundred (2,400) square feet of liveable floor space to be converted into a bed and breakfast facility.

Section 18.03 - Adult Entertainment Facilities. Adult entertainment businesses, meeting the definition of adult entertainment business as set forth in Article III or those similar in character, shall be subject to the following special provisions:

1. All businesses shall be the principal use of a building located in the I-1 or I-2 Industrial districts and subject to the provisions of Article XXII, Site Plan Review and be approved as a Special Use in accordance with the

provisions of Article XX, Special Uses.

2. No business shall be located within 1,000 feet, measured from the perimeter of the building to the lot line of zoning lot containing a residential, commercial or public building.
3. All businesses shall be conducted in an enclosed building having an occupancy of less than 50 persons, as determined by the Fire Chief or Zoning Administrator based on nationally recognized occupancy standards established by the National Fire Insurance Board or Michigan Construction Code or other fire protection standard organization.
4. Any building used may have not more than forty (40) per cent of the floor area devoted to storage purposes incidental to such primary use.

Section 18.04 - Communication and Other Towers.

1. Intent To Provide for Wireless Communication Services

It is the intent of this ordinance to allow communication and other similar towers to serve the ever changing technology in the field of personal and business communications for wireless communications as defined in the Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed. The term tower shall include all communication towers, other antenna support structures, antennas, buildings/facilities and any similar structures necessary for the provision of wireless communication services.

2. Policy of Collocation of Antenna and Antenna Arrays on Existing Structures

It is the policy of the City to encourage the collocation of antenna and antenna arrays on existing City owned structures including existing water towers, communications towers and location of any new tower upon land owned by the City; specifically at the City Hall or Public Works facilities. Location of an antenna /antenna array and related equipment shall be permitted as a special use pursuant to the provisions of this ordinance. A proposal for the location of a new tower or communication structure for the purpose of collocation of wireless communication antenna/antenna arrays and which meets the locational requirements and construction standards set forth in paragraph 4, below, may be permitted as a special use issued by the Board of Zoning Appeals only on land owned by the City as prescribed above or as prescribed in the following subsections.

3. Restriction Upon the Location of New Towers Unless Standards Are Met

It is a policy of the City to prohibit the location of any additional towers or other communication support structures within City limits unless the applicant can demonstrate to the reasonable satisfaction of the Planning Commission and Board of Zoning Appeals and the City Commission that the following conditions exist and the location of the proposed tower or other communication support structure meets the locational requirements and construction standards as set forth in paragraph 4, below:

- a. There is no existing tower or other communication support structure located within the City limits for which the applicant's proposed antenna or antenna array can be attached which meets the applicant's engineering requirements.
- b. There is no existing tower or other support structure located within the City having sufficient height to meet the applicant's engineering requirements.
- c. There is no existing tower or other support structure located within the City having sufficient structural strength to support the applicant's proposed antenna or antenna array.

4. Location Requirements, Construction Standards and Other Conditions

All newly constructed towers, communication support structures and any related equipment shall conform to the following locational

requirements, constructions standards and other conditions as follows:

- a. Towers, not otherwise permitted in section 2 above, shall be allowed as a special use in industrial zoning districts.
- b. The minimum lot size shall in be one (1.0) acre of land area. All lots shall have a minimum of one hundred twenty five (125 feet) of road or street frontage.
- c. The base of the tower or other communication structure shall be of the self-supporting pole type and not be of the construction which require cable support of any type.
- d. The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the City Engineer that the structural integrity of the tower will withstand the maximum high wind velocity for the area, as reported by a nationally recognized weather service or City Building Code specifications, and associated impacts, and the likelihood of a tower failure is minimal.
- e. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than forty (40) feet.
- f. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
- g. All other requirements of the zoning district in which the tower is located shall be enforced.
- h. Security to prevent unauthorized access shall be provided for all fence and building enclosures. A written agreement with the Fire Department concerning access for fire safety shall be provided to the City prior to approval of the special use.
- i. Engineering plans and specification for the tower, prepared by a State of Michigan Registered Engineer specializing in structural engineering, shall be provided with the application for the special use.
- j. Engineering plans and specifications for the tower mounting foundation and the foundation for any structure shall be prepared by a State of Michigan Registered Engineer. These shall be accompanying the application for the special use. Engineering plans shall include soil boring information for the site of the tower mounting foundation and any other foundation in excess of four (4) feet in depth. The applicant shall provide a statement signed by a State of Michigan Registered Professional Engineer that soils have been determined to be suitable for the tower mount foundation.
- k. The applicant shall provide inspection and verification that the installation of the tower, mount and foundation have been installed in compliance with the plans and specification and all applicable codes and standards. A statement, including the date of the physical inspection, from a State of Michigan Registered Professional Engineer shall be provided to the City Building Inspector prior to the issuance of a Certificate of Occupancy for use of the tower indicating that the tower has been installed in compliance with all applicable codes and standards.
- l. All towers shall meet the standards of the Federal Aviation Administration, Federal Communications Commission and any other applicable regulatory State of Michigan or Federal agency.
- m. Communication towers in excess of one hundred(100)feet in height above grade level shall be prohibited within a two(2) mile radius of a public or private airport or helipad.
- n. No part of any tower shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the tower will be located. In no case shall a tower be located within forty

(40) feet of a property line.

- o. Metal towers shall be constructed of, or treated with, corrosive resistant material acceptable to the City.
- p. Towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- q. All attachments to any tower shall be designed to withstand a maximum uniform wind loading as prescribed in the City Building Code. A statement signed by a State of Michigan Registered Professional Engineer shall be provided to the City Building Inspector certifying the tower has been designed in conformance with applicable City Building Code wind loading requirements.
- r. All signals and remote control conductors extending substantially horizontally above the ground between the tower and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- s. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned or leased by the applicant, including fire safety equipment.
- t. The base of the tower shall occupy no more than five hundred (500) square feet of area.
- u. Minimum spacing between tower locations shall be one-half (½) mile in order to prevent a concentration of towers in one area.
- v. Height of the tower shall not exceed three hundred (300) feet and no tower located within five hundred (500) feet of any residential area shall exceed one hundred seventy five (175) feet in height from grade.
- w. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- x. Existing on-site vegetation shall be preserved to the maximum extent possible.
- y. There shall not be displayed advertising or identification of any kind intended to be visible from the ground mounted on the tower or other structures, except for emergency purposes.
- z. Any attachments to the tower shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the tower as determined by the City Building Inspector.
- aa. All structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the tower shall be made to conform to the extent required by such standards or the special use approval will be subject to revocation by the City Commission. Costs for testing and verification of compliance shall be born by the owner of the tower.
- bb. There shall be no employees located on the site on a permanent basis to service or maintain the tower or attachments, unless specifically approved as part of the special use approval. Occasional or temporary repair and service activities are excluded from this restriction.
- cc. All parking and drive areas must be paved with material meeting the standards of the City.
- dd. A vegetative buffer shall be required where the property adjoins any residentially zoned property or land use. The tower owner shall plant and maintain two (2) alternating rows of evergreen trees with a minimum height of five (5) feet

on twenty (20) foot centers along the entire perimeter, and twenty (20) feet beyond but not further than the property line, of the tower and structure, to provide a visual sight barrier from the adjoining residential zoned properties and the tower and structures. In no case shall the evergreens be any closer than ten (10) feet to the tower or structure.

5. Process for Obtaining Approval for Location of New Towers

An applicant seeking approval for the location of a new tower shall prepare and present a complete application to the Planning Commission who shall review the application, hold any required public hearings, issue findings and make recommendations concerning the proposed location and compliance with the standards in paragraph 4. A copy of the Planning Commission report shall be filed with the City Commission who shall review the report and formally attach any comments or issue a statement of concurrence with the Planning Commission findings and recommendations. Both the Planning Commission and City Commission reports shall be filed with the Zoning Board of Appeals and considered as part of the deliberations concerning the issuance of a Special Land Use Permit.

6. Additional Requirements

- a. The tower shall be removed by the property owner or property lessee within six months of being abandoned. Notice of the abandonment of the tower shall be provided to the City ninety days prior to abandonment.
- b. The applicant shall incur all cost associated with the City review of the application for the special use.
- c. The applicant shall provide a performance bond or irrevocable letter of credit, in such form as approved by the City Attorney, in an amount equal to the estimated cost to remove the tower, but in no case less than \$50,000, to be used by the City to remove the tower if said tower is abandoned and not removed in accordance with the terms of this ordinance, by the applicant, successors and/or property owner.
- d. Upon approval or upon meeting all of the standards and qualifications set forth above, the applicant shall provide to the City or the owner of the proposed and approved site a lease agreement or other suitable legal document setting forth the terms and conditions for the use of said site. If City-owned property is involved, said lease shall be reviewed by the City Attorney. Applicant shall reimburse the City for its legal appraisal, not to exceed \$1,500.00. The terms and conditions of any agreement with respect to City-owned property shall be approved by the City Commission pursuant to its Charter and Ordinances. In the case of privately-held property, it shall be the responsibility of the applicant to obtain an agreement with the property owner with respect to the use of the proposed site. The applicant is required to file with the City Clerk any such agreement.

Section 18.05 - Commercial/Industrial Minimum Landscaping Regulations and Standards.

In the C-2 Commercial and the I-1 and I-2 Industrial districts, a minimum of fifteen (15) percent of the total lot area shall be landscaped containing two (2) shrubs for every 250 square feet of total lot area, plus two (2) trees for every 500 square feet of landscaped area or portion thereof shall be required. (Plant materials existing on the site prior to the development may be included as part of the requirement.) Mulch, stone, or other vegetive ground cover is required in all landscaped areas. A minimum of 33 percent of required landscape area shall be located between any building and the street. Trees shall be a minimum of one and one-half (½) inch caliper in size. Trees should be located so as to provide canopy over paved surfaces and so not to interfere with utilities or other improvements.

Section 18.06 - Storage and Screening Required In Commercial and Industrial Districts. In addition to other provisions of this Ordinance every application for a building permit in the C-1, C-2, C-3 - Commercial and I-1 and I-2 Industrial zoning districts shall provide a plan for outdoor material storage and screening so as to eliminate unsightly open storage of material equipment and supplies including garbage and trash disposal containers. Each application for a permit shall also provide for appropriate landscaping and planting so as to improve and preserve the physical appearance of the district. Any landscaped area required shall thereafter be preserved, as far as it is practicable to do so, and used maintained and reserved for grass, trees, shrubs and similar ornamental landscaping.

All screening shall comply with the following standards:

3. Adequate screening shall consist of a six (6) high solid fence, wall, or visual screen of suitable shrubs, spaced at intervals of not more than four feet, maintained within fifteen (15) feet of the property line separating the uses.
4. All fences, hedges, walls, and shrubs must be maintained in good condition. No advertising shall be permitted on fences adjoining residential districts.
5. Fences, walls, and hedges under six (6) feet may be located in any yard or court, except as regulated by Article XVII, Section 17.06.

Section 18.07 - Display of Goods & Merchandise in C-1, C-2 and C-3 Commercial Districts. All merchants and businesses located within the C-1, C-2 and C-3 Commercial districts shall maintain a continuous free and clear passage for safe pedestrian traffic from the backside of the curb, and at no time shall any merchant or others be allowed to occupy more than fifty (50) percent of the sidewalk for displaying goods, wares and merchandise. Utility poles, lighting street furniture and the like installed by the City or any of its agencies are exempt from the terms of the setback requirements.

Section 18.08 - Mobile Home Parks. The Plan Commission and the City Commission recognize the need and desirability to encourage alternative alternative housing choices in the City including the use of mobile homes constructed pursuant to the State of Michigan and federal regulations as evidenced by proper certificates affixed to all mobile homes so constructed. Mobile homes are expressly prohibited on single-family lots in the R-1, R-2 and R-3 residential districts but permitted in Mobile Home Parks developed and approved in compliance with the provision of the Michigan Mobile Home Commission Act, P.A. 96 of 1987, as amended, containing ten (10) acres of land and upon approval as a Planned Unit Development pursuant to the terms of this Ordinance.

A mobile home park shall be approved as a Planned Unit Development within the City of Buchanan upon meeting the following standards:

1. The proposed mobile home park contains no less than ten (10) acres of land area under a single ownership for operation by one person or other business entity as a mobile home park.
2. The proposed development complies with the minimum specification for a mobile home park as set forth by the Michigan Mobile Home Park Commission pursuant to P.A. 96 of 1987, as amended and any rules and regulations promulgated thereto.
3. City water, sewer and other services are provided to the site and individual mobile home dwellings.
4. That a storm water management plan, meeting the standards of the City is approved by the City Engineer and constructed prior to the installation of the first dwelling unit in the park.
5. Safe and adequate public street access is provided as deemed necessary by the Plan Commission.

Section 18.09 - Home Occupation Application and Approval/Denial Procedure. Home Occupations are those uses of land in residential districts that meets the definition of home occupation as set forth in this ordinance. The purpose of this section is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish home occupations. The criteria for decisions and requirements provided for under the provisions of this section shall be in addition to those required elsewhere in the Ordinance which are applicable to the home occupation under consideration.

An Application for special use permit for permission to establish a home occupation shall be submitted and acted upon in accordance

with the following procedures:

1. **Application.** An Application for a home occupation shall be submitted twenty (20) days prior to the next scheduled Plan Commission meeting, through the Zoning Administrator, who will review the application for completeness, then transmit the application to the Plan Commission. Each application shall be accompanied by the payment of a fee as established by the terms of this Ordinance (See Article XXVI, Section 26.04).
2. **Required Information.** An Application for home occupation shall be accompanied by the following documents and information:
 - A. Home Occupation Application form supplied by the Zoning Administrator, which has been completed in full by the applicant.
 - B. A Site Plan, when required by Article XXV, Section 25.02(2).
 - C. Full payment of any applicable fees.
3. **Public Hearing.** A public Hearing shall be held, pursuant to the provisions of Article XXIV, Section 24.04.
4. **Plan Commission Review and Approval.** Within thirty (30) days following the public hearing, the Planning Commission shall review the application for a home occupation, comments received by the public hearing, the site plan and other material submitted in relation to the application, and deny the application, approve the application or approve the application with conditions. The decision concerning the approval or denial of a home occupation shall be based on the following standards, each of which must be considered by the Plan Commission:
 - A. No person other than members of the family residing on the premises shall be engaged in such occupation.
 - B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The total floor area used for the home occupation shall be specified in the application and shall not conflict with the principal intended use of the structure for residential purposes nor occupy no more than twenty-five (25) percent of the first floor area..
 - C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign not exceeding two (2) square feet against the wall of the principal building.
 - D. No home occupation shall be conducted in any accessory building.
 - E. There shall be no sales of goods on the premises in connection with such home occupation, other than products related to the services provided as approved as part of the application for a home occupation.
 - F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met, off the street, and other than in a required front yard. All parking facilities shall be in conformity with Article XIX, Section 19.04 of this Ordinance.
 - G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the average citizen having normal sight, hearing and

nasal senses off the lot, if the occupation is conducted in a single-family residence. No hazardous or toxic materials shall be stored or used on the premises in quantities greater than those normally stored or used in a residential district. In the case of electrical interfere, no equipment or process shall be used which creates visual or audible interference in any radio to television receivers off the premises, or causes fluctuations in line voltage off the premises.

ARTICLE XIX

OFF-STREET PARKING AND LOADING

Section 19.01 - Scope of Regulations. A Zoning Compliance Permit shall be required wherever a new building or structure is constructed or the use of an existing building or structure changed hereafter to a new use, to assure that parking and loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date of this Ordinance, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of the Ordinance.

Section 19.02 - Existing Parking and Loading Facilities. Off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of this Ordinance or were provided voluntarily after the effective date shall not hereafter be reduced below or, if already less than, shall not further be reduced below the requirements of this Ordinance for a similar new building or use.

Section 19.03 - Parking Requirements and Standards. Off-street parking facilities must be provided and permanently maintained by the owners and/or occupants, except in the C-3 Central Business District, in accordance with the following provisions:

1. **Use of Parking Facilities in Residential Districts.** Off-street parking facilities accessory to residential uses shall be used solely for the parking of noncommercial passenger vehicles owned by occupants of the dwelling structures to which such facilities are accessory or by guests of said occupants. Under no circumstances shall any required parking facilities, accessory to residential structures, be used for the storage of commercials or for the parking of automobiles belonging to the employees, owners, tenants, visitors, or customers of business or industrial establishments, except as provided in the following section.
2. **Use of Parking Regulations - Commercial Vehicles and Equipment.** Except as provided in below, no person shall park any commercial vehicle or commercial equipment on private property in a residentially- or commercially zoned district other than in an enclosed building.

Allowable exceptions to this prohibition are:

- a). Commercial vehicles or commercial equipment may be parked on commercially-zoned property if that commercial vehicle or commercial equipment is owned, leased or otherwise contracted for the use of a commercial enterprise located on that property.
- b). Commercial vehicles or commercial equipment may be parked on commercially— or residentially zoned property for the purpose of:
 - (1) Picking up or delivering persons or materials at the property, but only for the period of time necessary for completing the pickup or delivery of such persons or materials.
 - (2) To perform a service to that property or the improvements located thereon, but only for the period of time necessary to complete such service. Examples of such property service activities shall include, by way of example, but not limitation, plumbing, electrical, painting, carpentry, landscaping or home cleaning services.

- c) Persons who have parked a commercial vehicle on an identified parcel, in a residentially or commercially zoned district, on a regular basis prior to and continuing to the effective date of the adoption of this Zoning Ordinance provision (that being July 1, 1993) , shall be authorized to continue parking a commercial vehicle on said parcel, provided that:
- (1) They register such parking as an existing, nonconforming use, on forms available from the Code Enforcement Officer, not later than September 30, 1993.
 - (2) Only one vehicle per household may be subject to such authorization.
 - (3) The person seeking such authorization must own or reside on the question.
 - (4) In the case of tractor-trailer's only the tractor unit may be parked on the parcel.
 - (5) Such authorization shall be granted to the applicant only, and shall not be transferable to other, future owners or residents of the parcel.
 - (6) Such authorization shall be for a specific parcel, and shall not be transferable to any other location.
 - (7) Such authorized continued parking shall be in compliance with the following general conditions:
 - (7.1) Only one truck at any given time may at any permitted address.
 - (7.2) Truck parking shall not be permitted in the front yard area. In the case of corner lots, parking shall not be permitted in the side yard abutting the street. This condition may be waived by the Code Enforcement Officer if compliance is not possible due to the physical characteristics of the parcel as of the date of registration of said parking. as an existing non-conforming use.
 - (7.3) Truck parking shall not be permitted within the side yard setback applicable to buildings or structures at that location under the Zoning Ordinance. This condition may be waived by the Code Enforcement Officer if compliance is not possible due to the physical characteristics of the parcel as of the date of registration of said parking as an existing, non-conforming use.
 - (7.4) All permitted truck parking locations must have a surface of hard, packed earth and/or gravel, slag, or paving material.
 - (7.5) All permitted truck parking locations under this section will allow an engine idle time maximum of 10 continuous minutes, after which no additional period of 10 continuous minutes of idle time shall be allowed less than one hour from the immediately prior 10-minute idle time period.
 - (8) Such registration must be renewed annually by the original applicant, during the month of January of each year, in order to remain in effect. Failure to do so shall result in termination of such authorization. Forms for such re-registration shall be available from the Code Enforcement Officer.

- (8.1) There shall be no charge by the City for the initial registration or subsequent annual renewals.
 - (8.2) The City shall have the right to terminate such authorization if the authorized party is determined to have violated any of the general conditions (above on three or more occasions within any twelve- month period.
 - (8.3) All aspects of the scope of the non-conforming usage shall not be expanded from that usage that existed prior to and continuing to the effective date of this Zoning Ordinance amendment, that being July 1, 1993.
- d. Church-owned busses may be parked on church-owned property without restriction.
 - e. Commercial Motor vehicles may be parked on commercially-zoned property as necessary for the operator or vehicle passenger to transact business at a commercial establishment located on such property.
- 3. **Joint Parking Facilities.** Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituted use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.
 - 4. **Calculation of Required Parking Spaces.** When determination of the number of off-street parking spaces required by this Ordinance that result in a requirement for a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.
 - 5. **Minimum Size of Parking Space.** A required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles. All parking spaces shall have a vertical clearance of at least seven (7) feet. Aisle widths shall be not less than the following: perpendicular parking, twenty (20) feet; angle parking two-way traffic, sixteen (16) feet; angle parking one-way traffic, twelve (12) feet.
 - 6. **Minimum Number of Parking Spaces for a Parking Area.** Except in the case of parking required for single family dwellings, no parking areas may contain less than three (3) parking spaces.
 - 7. **Location of Off-Site Facilities.** Off-site facilities must be located within four hundred (400) feet of the use to which they are accessory; measured from the nearest point to the nearest point, provided that they conform to all district regulations.
 - 8. **Access to Public Street or Roadway.** Each required off-street parking area or space shall open directly upon an aisle or driveway of such width and design as to provide such parking space. All off-street parking facilities shall be designed with appropriate means of ingress and egress which least interferes with traffic movements. No driveway across public property nor curb cut shall exceed a width of forty (40) feet.
 - 9. **Permit Required for Residential Rear Yard Parking.** Off-street parking required for uses permitted in residential districts may be located on driveways or an approved area within the rear yard, upon issuance of a permit by the Zoning Administrator. Driveways may be located no closer than four (4) feet to the side yard property line unless the driveway abuts the driveway located on the adjoining property. All access ways

(curb cuts) to city streets shall be approved by the Zoning Administrator or City Engineer. Off-street parking of permitted uses in industrial or commercial districts may be located in a required front, rear or side yard, except the ten (10) feet adjacent to the rear or side lot line adjacent to a residential district.

10. **Parking in Street Parkways.** No person, firm or corporation shall park, deposit, leave or store any motor vehicle, vehicle or tangible personal property of any type or description at any time between the sidewalk line and curb line at any place within the City.
11. **Design and Maintenance Standards.** All parking spaces and areas herein after constructed in conformance with ordinance shall comply with the following standards:
 - A. **Screening and Landscaping.** All open vehicle parking areas containing more than three (3) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district by a wall, fence or densely planted compact hedge no less than four (4) feet nor more than six (6) feet in height. Such required screening shall conform with the front yard requirements of the district in which the parking is located.
 - B. **Pavement and Surfacing.** All open off-street parking areas shall be of concrete, asphalt other paving material according to standards established by the City Engineer.
 - C. **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance (see Section 16.28).

Section 19.04 - Schedule of Parking Requirements. Whenever a building, the use of which requires the provision of off-street parking, the owner of such building shall provide off-street parking in the minimum number as required by the following standards:

- A. **Parking Spaces Required in the R-1 Residential District.**
 1. **Single-Family Dwellings.** A minimum of two (2) parking spaces shall be provided per dwelling, with one car parking enclosure, covered parking space or garage, location of which shall be limited to the side or rear yard, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress as approved by the Zoning Administrator City Engineer.
 2. **Bed & Breakfast Operations.** Parking shall be provided according to the following formula; 2 spaces, plus 1 space for each guest room, plus 1 space for each employee on duty at one time.
 3. **Other Permitted Uses.** Parking shall be provided in the amount and in accordance with the specifications found in subparagraphs B, C and D for the uses which are permitted within applicable residential District.
- B. **Parking Spaces Required in the R-2, R-3 and R-4 Residential Districts.**
 1. **Single-Family Dwellings.** In the R-2 Zoning District where single-family dwellings as permitted, a minimum of two (2) parking spaces shall be provided for each dwelling unit meeting the requirements of Section 19.04 A 1.

2. **Multiple-Family Dwellings.** One and one-half (1½) spaces per dwelling unit shall be provided for each efficiency and one (1) bedroom unit. Two (2) spaces per dwelling unit shall be provided for each dwelling unit containing two (2) or more bedrooms.
3. **Bed & Breakfast Operations.** Parking shall be provided according to the following formula; 2 spaces, plus 1 space for each guest room, plus 1 space for each employee on duty at any one time.
4. **Churches and Schools.** One (1) parking space shall be provided for each three (3) auditorium seats. Adequate space shall also be provided for buses used in connection with the activities of the institution, and all loading and unloading of passengers shall take place upon the premises.
5. **Libraries and Other Public Buildings.** One (1) parking space shall be provided for each five hundred (500) square feet of gross floor area.
6. **Recreation and Other Religious and Similar Facilities.** Parking space shall be provided for each four hundred (400) square feet of floor space.

C. **Parking Spaces Required in the C-1 and C-2 Commercial Districts.**

1. **Churches and Schools.** One (1) parking space shall be provided for each three (3) auditorium seats. Adequate space shall also be provided for buses used in connection with the activities of the institution, and all loading and unloading of passengers shall take place upon the premises.
2. **Libraries and Other Public Buildings.** One (1) parking space shall be provided for each five hundred (500) square feet of gross floor area.
3. **Parks and Other Places of Assembly.** Parks, recreation and assembly facilities including stadiums, arenas, auditoriums (other than church, college or institutional schools), convention halls exhibition halls and other similar places of assembly shall provide parking spaces equal in number to fifty (50%) percent of the capacity in persons shall be provided.
4. **Religious Facilities.** One (1) parking space shall be provided for each employee, plus one (1) space for each four hundred (400) square feet of floor space.
5. **Hospitals and Similar Uses** One (1) parking space shall be provided for each two (2) hospital beds, plus one (1) parking space for each two (2) employees, other than the staff doctors, plus one (1) parking space for each doctor assigned to the staff.
6. **Clinics, Medical Centers, and Similar Uses.** One (1) parking space shall be provided for each employee and doctor, plus one (1) space for each four hundred (400) square feet of floor space.
7. **Retail Store Uses.** Retail stores including fabrication of merchandise for sale on premises shall provide one (1) parking space for each four hundred (400) square feet of floor area as defined in this Ordinance (See definition of floor area, off-street parking and loading).
8. **Wholesale Uses.** Wholesale establishment including open air and farmers markets (but not including warehouses and storage buildings other than accessory buildings) shall provide one (1) parking space shall provide for each six hundred (600) square feet of floor area.

9. **Personal Service Uses.** Personal service establishments such as barber shops, beauty parlors, shoe repair shops, laundry and dry-cleaning shops. And similar uses shall provide one (1) parking space shall for each four hundred (400) square feet of floor area.
10. **Food Service Uses.** Restaurants, delicatessens, and other dispensaries of food at retail shall provide one (1) parking space for each four hundred (400) square feet of floor area.
11. **Office Space Uses.** Professional and business offices shall provide one (1) parking space for each four hundred (400) square feet of floor area.
12. **Financial Institution Uses.** Banks, savings and loan associations shall provide one (1) parking space for each four hundred (400) square feet of floor area. Drive-in banks or other similar drive-in establishments shall provide three stacking spaces per teller or customer service window.
13. **Miscellaneous Uses.** Theaters, amusements and recreational buildings, showrooms and workshops of plumbers, electricians, painters, decorators and similar trade, photograph supply shops, workrooms and studios, laboratories, and public utility buildings and structures:
 - a. **Theaters (indoor).** One (1) parking space shall be provided for each three (3) seats.
 - b. **Showrooms, Workshops and Studios.** One (1) parking space shall be provided for each four hundred (400) square feet of floor area.
 - c. **Public Utility Buildings and Structures.** One (1) parking space shall be provided for each employee, plus one (1) space for each vehicle used in the conduct of the enterprise.
14. **Building, Home Supply and Similar Uses.** Building supply stores, ice storage and sales, plumbing and heating supplies, farmers' exchange or co-op shall supply one (1) parking space shall be provided for each six (600) hundred square feet of floor area.
15. **Automotive Service and Similar Uses.** Garages and filling stations, provided that all gasoline storage tanks must be underground, tire sale and repair shops, automobile sales and service, automotive parts and supply stores, and bicycle sales and repair establishments. One (1) parking space shall be provided for each six (600) hundred square feet of floor area, plus one (1) parking space shall be provided for each employee.
16. **Drinking Establishments and Similar Uses.** Taverns, cocktail lounges and night clubs. One (1) parking space shall be provided for each four hundred (400) square feet of floor area.
17. **Printing and Similar Job Shops.** Printing and other similar job shops shall provide one (1) parking space for each employee, based upon greatest number of employees on any-one shift, plus one (1) parking space shall be provided for each four hundred (400) square feet of floor area.
18. **Funeral Homes.** Twenty (20) parking spaces shall be provided for each chapel or parlor, plus one (1) parking space for each funeral vehicle kept on the premises; in addition there shall be provided stacking space for not less than ten (10) automobiles for funeral procession assembly.

19. **Clubs and Similar Uses.** Private clubs operated not for profit and for the benefit of members only shall provide one (1) parking space for each four hundred (400) square feet of floor area.
20. **Miscellaneous and Uses Not Herein Defined.** Any commercial use or establishment parking not herein specifically permitted shall first be approved as a special use by the Plan Commission pursuant to Article XXI. The following shall serve as general guidelines for Plan Commission consideration:
- a. Tourist courts, bed and breakfast operations, tourist homes, motels, and hotels. One (1) parking space shall be provided for the manager and each employee, plus parking as required herein for other ancillary uses such as restaurants and meeting rooms.
 - b. Hotels, transient. One (1) parking space shall be provided for each dwelling unit and one (1) parking space for each two (2) lodging rooms shall be provided.
 - c. Automobile laundry. Ten (10) spaces shall be provided to queue automobiles waiting for access into each wash rack, plus one (1) parking space for each employee working on the site.
 - d. Furniture and appliance stores, household equipment or furniture repair shops. One off-street (1) parking space shall be provided for each six hundred (600) square feet of floor area.
 - e. Motor vehicle sales and machinery sales. One (1) parking space shall be provided for each four hundred (400) square feet of floor area.
 - f. Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods or products. One (1) parking space shall be provided for each employee, based upon greatest number of employees on any single shift, plus one (1) parking space shall be provided for each vehicle used in the conduct of the enterprise.
 - g. Colleges, universities and business, professional and trade schools. One (1) parking space shall be provided for each three employees and one (1) parking space for each four (4) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four-hour (24) period.
 - h. Sanitariums, convalescent homes or institutions for aged or for children, including rest homes, nursing homes and other group homes. One (1) parking space shall be provided for each four beds, plus one (1) parking space shall be provided for each two (2) employees (other than staff doctors) plus one (1) parking space for each doctor assigned to the staff.

D. **Parking Spaces Required in the I-1 and I-2 Industrial Districts.**

- 1. **Wholesale Sales and Storage.**
 - a. Wholesale Establishments (but not including warehouses and storage buildings other than accessory). One (1) parking space shall be provided for each six hundred (600) square feet of floor area.
 - b. Warehouses and Storage Buildings. One (1) parking space shall be provided for each employee, based upon greatest number of employees on any one shift, plus one shift, plus one

(1) parking space for each vehicle used in the conduct of the enterprise.

- c. Industrial or Manufacturing Use. One (1) parking space shall be provided for each employee, based upon greatest number of employees on any one shift, plus one (1) parking space shall be provided for each vehicle used in the conduct of the enterprise.

E. Parking Spaces Required for Planned Unit or Other Mixed Use Developments.

When two (2) or more uses are located on the same zoning lot within the same buildings, parking spaces equal in number to the sum of the separate requirements for each use shall be provided. No parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Plan Commission.

- F. Parking Spaces Required for Other Uses Herein Not Defined.** For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning Administrator and approved by the Plan Commission..

Section 19.05 - Loading Requirements and Standards. Off-street loading facilities must be provided and permanently maintained by the owners and/or occupants, in C-1 and C-2 Commercial and I-1 and I-2 Industrial districts the accordance with the following provisions:

1. **Location of Loading Space.** All required loading berths shall be located on the same zoning lot as the use served. No loading berth for vehicles over two tons capacity shall be closer than fifty (50) feet to any property located in a residential district unless completely enclosed by building walls, or a uniformly painted solid fence or wall, or any combination thereof, no less than six (6) feet in height. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets.
2. **Size of Loading Space.** Unless otherwise specified, a required loading berth shall be at least ten (10) feet in width and at least twenty-five (25) feet in length, exclusive of aisles and maneuvering space, and shall have a vertical clearance of the least fourteen (14) feet. The length of the berth shall be increased to a minimum of fifty-five (55) feet, if intended to serve semi-tractors and trailers.
3. **Access to Public Street or Road.** Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.
4. **Pavement and Surfacing.** All open off-street loading berths shall be concrete or asphalt according to standards established by the City Engineer.
5. **Use of Loading Space for Vehicle Repair and Servicing.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any C-1 or C-2 Commercial or I-1 or I-2 Industrial district.
6. **Loading Space Cannot Serve as Off-Street Parking.** Space allocated to any off-street loading area shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
7. **Loading Space Requirement for Special Uses Not Herein Defined.** For special uses other than prescribed hereinafter, loading berths adequate in number and size to serve such uses, as determined by the Zoning Administrator and approved by the Plan Commission shall be provided.

8. **Requirements in the C-3 Commercial District and for Non conformities.** Nonconforming uses for which off-street loading facilities are required, shall be provided with adequate receiving facilities located off an adjacent alley, service drive or open space on the same lot which is accessible by motor vehicle as recommended by the Zoning Administrator and approved by the Plan Commission.

9. **Schedule of Required Loading Spaces.** For the uses listed herein, loading berths shall be provided on the basis of gross floor area of buildings or portions thereof devoted to such uses in the minimum amounts shown herein:
 - A. **Retail Stores.** One (1) berth for each ten thousand (10,000) square feet of store area and fraction thereof of additional floor space.

 - B. **Hospitals, Group Homes, Hotels, Clubs, and Similar Uses.** One (1) berth for the first twenty thousand (20,000) square feet of floor area, one additional berth for the next one hundred thirty thousand (130,000) square feet of floor area and an additional berth for each one hundred fifty thousand (150,000) square feet of floor area or fraction thereof additional floor space.

 - C. **Eating and Drinking Establishments.** One (1) berth for the first twenty-five thousand (25,000) square feet of floor area and an additional berth for each twenty-fifty thousand (25,000) square feet of floor area or fraction thereof of additional floor space.

 - D. **Wholesale, Industrial and Manufacturing Establishments.** One (1) berth for the first twenty thousand (20,000) square feet of floor area, one additional berth for the next one hundred thirty thousand (130,000) square feet of floor area and an additional berth for each one hundred fifty thousand (150,000) square feet of floor area or fraction thereof of additional floor space.

 - E. **Loading Spaces Required for Other Uses Herein Not Defined.** For uses not listed heretofore in this schedule of loading requirements, loading berths spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning Administrator and approved by the Plan Commission.

ARTICLE XX

SPECIAL USES

Section 20.01 - Purpose. Special uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but has characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria which shall be applied in the determination of request to establish special uses. The criteria for decision and requirements provided for under the provision of the chapter shall be in addition to those required elsewhere in this Ordinance which are applicable to the special use under consideration.

Section 20.02 - Application Procedures. An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

1. **Application.** An application for a special use permit, including any fee established pursuant to this Ordinance (See Article XXVI, Section 26.04), is requested to be submitted twenty days prior to the next schedule Plan Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit the application to the Plan Commission.
2. **Required Information.** An application for a Special Use Permit shall be accompanied by the following documents and information:
 - A. An application, supplied by the Zoning Administrator, which has been completed in full by applicant.
 - B. A site plan, when required by Article XXII, Section 22.02.
2. **Public Hearings.** Upon receipt of an application for a special land use which requires a decision of the Plan Commission a notice that a request for special land use approval has been received and that a public hearing will be held shall be published in a newspaper of general circulation in the City and shall be sent by mail or personal general delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (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 of 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 area 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. The notice shall:
 - A. Describe the nature of the special land use requested.
 - B. Indicate the property which is the subject of the special land use request.

- C. State when and where the public hearings on the special land use request will be held.
 - D. Indicate when and where written comments will be received concerning the request.
3. **Plan Commission Review and Approval.** Within thirty (30) days following the public hearing, the Plan Commission shall review the application for a special use, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and deny application, approve the application, or approve the application with conditions. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed. The decision of the Plan Commission on the special use application shall be made in accordance with the criteria for approval stated in Section 20.03 and such standards contained in this Ordinance which relate to the special use under consideration. Upon the approval or approval with conditions by the Plan Commission, the applicant may apply for a building permit.

Section 20.03 - Basis of Determination Prior to approval of a special use application, the Plan Commission shall insure that standards specified in this Article, as well as applicable standards established elsewhere in this ordinance, shall be satisfied by the completion and operation of the special use under consideration.

- 1. **General Standards.** The Plan Commission shall review the particular circumstances of the special use application under consideration in terms of the special use standards, and shall approve a special use only upon a finding in consideration of each of the following standards, as well as applicable standards established elsewhere in this ordinance.
 - A. The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - B. The special use shall not change the essential use of the surrounding area.
 - C. The special use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
 - D. The special use shall not place demands on public services and facilities in excess of current capacity.
 - E. The special use is in compliance with the City of Buchanan Comprehensive Plan.
- 2. **Conditions.** The Plan Commission may require reasonable conditions in conjunction with approval of any special land use. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure the compatibility with adjacent uses of land, and to promote the use of land in a socially acceptable and economically desired manner. Conditions imposed shall consider all of the following:
 - A. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use

or activity.

- C. Be necessary to meet the intent and purpose of the zoning regulations: be related to the standards established in the Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
 - D. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the public record of the approval action and remain unchanged except upon the mutual consent of the Plan Commission and the landowners.
3. **Termination.** If any special use is not put into effect within six (6) months of the date of approval by the Plan Commission, is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of six (6) months, then the special use shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this Ordinance; however, the Plan Commission, for good cause, may grant an extension of time to comply, or to continue such special use if, in its judgement, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.

ARTICLE XXI

GROUP HOMES AND ADULT FOSTER CARE FACILITIES

Section 21.01 - Applicability. The following regulations shall apply to group homes and adult foster care facilities:

1. Group homes and adult foster care facilities shall be allowed in the various zoning districts hereafter shown as permitted uses for facilities for not more than six (6) adult foster care residents, and for facilities for more than six (6) residents as a special use approval to be granted in writing by the Plan Commission. Operators of any facility shall provide to the Zoning Administrator, the license when applicable from the Michigan Department of Independent Family Living and/or Michigan Department of Public Health or any other regulating agency and any such facility shall not operate until the Zoning Administrator, the Fire Chief, and the Berrien County Health Department have inspected the premises and given their written approval.
2. The Plan Commission may grant special approval for a group home or adult foster care facilities only if that facility contains the minimum square footage per building or structure for the zoning district in which it is located and, in addition thereto, if the building or structure has, or will provide services to a total of six (6) or more residents a total of 150 square feet for recreational, dining areas, or usable floor space as a bedroom. Usable floor space is defined as that floor space under a ceiling which is at least seven (7) feet six (6) inches in height.
3. The Plan Commission may grant special approval for a group home or adult foster care facility only if the lot area of real estate upon which the facility is to be located meets the requirements for minimum lot frontage and area for the zoning district within which the facility is located and, in addition thereto, has minimum of three thousand (3,000) square feet for each resident over the number of six (6) residents.

Section 21.02 - R-1, R-2, R-3, and R-4 Residential Districts, Permitted Use. For an adult foster care facility providing care for one (1) to six (6) adult foster care residents, no more than one (1) adult foster care facility may be housed in any one structure or building or on any one parcel of land, or joined parcels of land, nor can any adult foster care facility location be approved which is within a 1,500 foot radius of another previously approved or existing foster care facility having six (6) or more inhabitants.

Section 21.03 - R-3 and R-4, Residential Districts, Uses Special Uses. The following regulations shall apply to group homes and adult foster care facilities in the R-3 and R-4 Residential Districts:

1. Group homes providing care for one (1) to twelve (12) residents and adult foster care facility providing care for seven (7) to twelve (12) adult foster care residents. No more than one (1) care facility in any one structure or building or on any one parcel land, or joined parcels of land, is allowed, nor is any facility which is within a two thousand (2,000) foot radius of another previously approved or existing facility.
2. For a facility providing care for thirteen (13) to twenty (20) residents, No more than one (1) facility is permitted in any one structure or building or on any one parcel of land, or joined parcels of land, is allowed, nor is any facility which is within a three thousand (3,000) foot radius of another previously approved or existing facility.

Section 21.04 - C-2 Commercial and C-3 Central Business Districts, Special Uses. The following regulations shall apply to

group homes and adult foster care facilities in the C-2 and C-3 Districts:

1. A group home having one (1) or up to (12) residents or adult foster care facility providing care for seven (7) to twelve (12) residents. No more than one (1) facility in any one structure or building or on any one parcel of land, or joined parcels of land, is allowed, nor is any facility which is within a one thousand five hundred (1,500) foot radius of another previously approved or existing facility.
2. A facility providing care for thirteen (13) to twenty (20) residents. No more than one (1) facility in any one structure or building or on any one parcel of land, or joined parcels of land, is allowed, nor is any facility which is within a two thousand (2,000) foot radius of another previously approved or existing facility.
3. A facility known as 'congregate facility' providing care for more than twenty (20) residents, with the condition that each living unit shall not exceed twenty (20) individuals, and requiring functional grouping of residents. No more than one (1) facility in any single structures or building or on any one parcel of land, or joined parcel or land, is allowed nor is any facility which is within a three thousand (3,000) foot radius of another previously approved or existing foster facility.

ARTICLE XXII

SITE AND BUILDING FACADE PLAN REVIEW

Section 22.01 - Purpose. The intent of this Section is to provide for consultation and cooperation between the applicant and the Plan Commission in order that the applicant may accomplish his objectives in the utilization of land within the regulations of this Ordinance and with minimum adverse effect on the use of adjacent streets and highways, and on existing and future uses in the immediate area and vicinity.

Section 22.02 - When a Site Plan must be Approved by the Planning Commission.

New Development. The Zoning Administrator shall not issue a zoning compliance permit or the Building Inspector issue a building permit for any proposed development in the R-3 and R-4 Residential, C-1 Neighborhood Commercial, C-2 Commercial C-3 Central Business I-1 Light Industrial and I-2 Heavy Industrial districts and any use requiring more than four (4) parking spaces in the R-1 or R-2 Residential districts except a single-family dwelling proposed for construction as an allowable use in these districts or as otherwise required in this Ordinance until a site plan has been reviewed and approved by the Plan Commission.

Existing Development. The Zoning Administrator, upon review of a building permit application for the addition to, modification of a building or structure that does not increase the total gross floor area by fifteen (15) percent of the current total gross square footage, or the demolition of any part of a legally conforming existing building or structure and upon finding the modification, addition to, modification of, or the demolition thereof conforms with the specifications of the district in which the property is located, shall issue a zoning compliance permit, or the Building Inspector a building permit, provided the proposed action is in compliance with all other applicable laws and ordinances. All other applications shall first be reviewed by the Planning Commission prior to any action of the Zoning Administrator.

Section 22.03 - When a Building Facade Plan Is Required. The Zoning Administrator shall not issue a zoning compliance permit nor the Building Inspector issue a building permit for any proposed development in the C-3 Central Business Districts until a building facade plan has been reviewed by the Planning Commission based on facade design and aesthetic standards established by the Downtown Development Authority and approved by resolution of the City Commission.

Section 22.04 - Application Procedures. All applications for site plan review (and a building facade plan, when required) shall be submitted with any fee established by the terms of this Ordinance (See Article XXVI, Section 26.04) thirty (30) days prior to the next scheduled Plan Commission meeting through the Zoning Administrator, who will review the application and plans for completeness, then transmit the application and site plan to the Plan Commission and when applicable under the terms of Article XI, Section 11.04, the Downtown Development Authority.

Section 22.05 - Preliminary Site and Building Facade Plan Review. Preliminary sketches of proposed site and other development plans, including building facade plans, when required, may be submitted for review to the Plan Commission with any fee established by the terms of this Ordinance (See Article XXVI, Section 26.04) prior to final site plan submission. The purpose of such procedure is to allow discussion between the applicant and the Plan Commission and when applicable the Downtown Development Authority to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for a final site plan.

Such plans shall include, as a minimum, the following:

1. Legal description of the property,
2. Small scale sketch of properties, streets, and uses of land of all properties abutting or across the street from the subject property,
3. A generalized map, schematic plans and building illustrations showing any existing or proposed arrangement of:
 - A. Streets and lots;
 - B. Access points and other transportation arrangements;
 - C. Buffer strips, fences, wall and screening;
 - D. Natural characteristics including, but not limited to, open space, stands of trees, brooks, ponds, floodplain, hills, and similar natural assets;
 - E. Signs - location and lighting;
 - F. Buildings and other structures; and
 - G. Architectural style, exterior surface materials and exterior surface color of all building facades viewable from a public street.
4. Hazardous Materials Property form for site plan review and state/county environmental permits, as required by the City of Buchanan Ground Water Protection Ordinance.
5. A narrative declaration including:
 - A. The overall objectives of the proposed development;
 - B. Number of acres (or square feet) allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space;
 - C. Dwelling unit densities by type;
 - D. Proposed method of providing sewer and water service as well as other public and private utilities; and
 - E. Proposed method of providing storm drainage.

Section 22.06 - Plan Commission Review of Preliminary Site Plan. The Plan Commission shall review the preliminary site plan and make recommendations in either writing or in person by representative, to the applicant at the regular Plan Commission meeting based on the purposes, objectives, and requirements of this Ordinance and specifically the following considerations, when applicable:

1. Ingress and egress to property and proposed structures thereon, with particular reference to motor vehicle and pedestrian safety and convenience, traffic flow and control, and access in cases of fire, catastrophe or emergency.
2. Off-street parking and loading areas, when required, with particular attention to noise, glare and odor effects of each use in the plan on adjoining properties and properties in the proposed development.

3. Sewer, water, and storm drainage, with reference to location, availability and capacity.
4. Screening and buffering with reference to type, dimensions, and character.
5. Signs, if any, and their proposed lighting relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.
6. Required yards.
7. General compatibility with adjacent properties.
8. The purpose and intent of this Ordinance and the goals, objectives and policies of the City of Buchanan Comprehensive Plan.

Section 22.07 - Planning Commission Review of Facade Plan. The Planning Commission shall review the building facade plan and make recommendations to the applicant based on facade design and aesthetic standards established by the Downtown Development Authority and approved by resolution of the City Commission.

Section 22.08 - Final Site Plan Review. The site final plan shall include the following information and any other information as may be required by the Plan Commission from its review of the preliminary site plan.

1. Legal description of the property.
2. Small scale illustration of properties, streets, and use of land of all abutting properties area abutting or across the street (or alley) of the subject property.
3. A map, at a scale not to exceed one (1) inch equals one hundred (100) feet (1" = 100'). The following items shall be shown on the map:
 - A. Date site plan was prepared;
 - B. Name and address of preparer (including any participating licensed architects and/or engineers) ;
 - C. Topography of the site and its relationship to adjoining land;
 - D. Existing man-made features;
 - E. Dimensions of setbacks, locations, heights, and size of buildings and structures;
 - F. Street right-of-ways, indicating proposed access routes, internal circulation; and relationship to existing right-of-ways;
 - G. Proposed grading;
 - H. Location and type of drainage, sanitary sewers, storm sewers, and other utilities;
 - I. Location and type of fences, landscaping, buffer strips, and screening;
 - J. Location and type of signs and on-site lighting;

- K. Proposed parking facilities and drives. Parking lots (public and private) shall be designed with lines showing individual spaces and shall conform with the provisions of Article XIX;
- L. Easements, if any;
- M. Dimensions and number of proposed lots;
- N. A narrative describing the items indicated in Section 21.05.

Section 22.09 - Plan Commission Review of Final Site Plan. The Plan Commission shall review the final site plan and either approve, deny or approve with conditions the final site plan based on the purposes, objectives and requirements of this Ordinance, and specifically the considerations listed in Section 22.06.

1. To insure compliance with the final site plan and any conditions imposed under the ordinance, the Plan Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Plan Commission covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the City Clerk to insure faithful completion of the improvements. The performance guarantee shall be filed with the City Clerk prior to the issuance of a building permit by the Building Inspector for any portion of the project.
2. Each development shall be under construction within one (1) year after the date of final approval by the Plan Commission. If said applicant does not fulfill this provision, the Plan Commission may grant a sixty (60) day extension provided the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired, without commencement of construction, the site development plan shall be null and void.
3. The Plan Commission shall undertake and complete all site plan reviews within sixty (60) days of submission of all required information by the applicant. Upon approval of said plan, the Chairman of the Plan Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Plan Commission's files and one (1) shall be forwarded to the Zoning Administrator for issuance of a building permit. The third copy shall be returned to the applicant.
4. This review process and site plan requirement shall apply to all Planned Unit Development applications including plats submitted for consideration pursuant to the Land Division Act or Condominium Act of the State of Michigan.

Section 22.10 - Right to Accept Reduced Site and Building Facade Information. The Plan Commission recognizes that not all applications to be submitted for consideration under the terms of this Article will require full compliance with the submission requirements. An applicant may propose or the Zoning Administrator may accept an application not fulfilling all of the submission requirements when in the opinion of the Zoning Administrator that the submission materials are sufficient for the Plan Commission to render a decision on the applicants request. Upon submission of a such an application, the Plan Commission may request and the applicant shall provide such additional information as deemed necessary to fulfill the review and approval responsibilities of this Article.

ARTICLE XXIII

NONCONFORMING USES, BUILDINGS AND LOTS

Section 23.01 - Continuation of Use. A lawful use of land, structure or a lawful use of land and structure exactly as such existed before the date of adoption of this amendment may be continued, as hereinafter provided, as a nonconforming use or a nonconforming structure, although the use of the land or structure of the structure itself does not conform with the provisions of this Ordinance.

Section 23.02 - Repair and Alternation of Nonconforming Uses. Maintenance and repairs of a building or other structure continuing a nonconforming use are permitted provided that such repairs do not extend the area or volume of space occupied by the nonconforming use, except as provided in Section 23.05.

Section 23.03 - Nonconforming Residential Dwelling Alteration Permitted. A building or other structure containing residential nonconforming uses may be altered in any way to improve its livability provided that no such alternation may be made which will increase the number of dwelling units or the volume of the building, as provided in Section 23.05.

Section 23.04 - Change of Use. A nonconforming use may be changed only to a conforming use. A nonconforming use may not be extended to displace a conforming use, nor may a building or structure regardless of the conformity or ownership, be combined with another building or structure, for the purpose of extending an existing nonconforming use or creating a different nonconforming use, except as permitted in Section 23.05..

Section 23.05 - Enlargement. A nonconforming use, building or structure may be enlarged up to but no more than twenty-five (25) percent of its floor area as it existed at the date of adoption of the Ordinance amendment. Any such enlargement(s) must conform to all other ordinance and/or regulations governing the district in which it is situated. This provision may be used any number of times provided that the total enlargement(s) of the building or structure does not exceed the twenty-five (25) percent limitation as herein set forth.

Section 23.06 - Restoration of Nonconforming Use. A nonconforming use, building or structure damaged by fire, casualty, or act of God may be restored, reconstructed and use as before provided that the volume of such use, building or structure may not exceed, subject to the provision of Section 23.02, 23.03, 23.04 and 23.05 above, the volume which existed prior to such damage and that any such restoration or reconstruction be substantially completed within one year of the occurrence of the damage.

Section 23.07 - Time of Termination. A nonconforming use shall be deemed to be permanently discontinued when such use has been discontinued or such building has been vacant for a period of one (1) year.

Section 23.08 - Nonconforming Lots In Residential Districts. A single-family dwelling may be erected on a vacant lot located in a residentially zoned district allowing the construction of a single-family dwelling, provided such lot was nonconforming on March 2, 1966, provided the dwelling conforms to the following yard setback requirements:

- A. Front Yard: The front yard shall conform to front yard setback requirement of the district in which the lot is located.
- B. Side Yard: There shall be a side yard of no less than five (5) feet.

Side Yard Street Frontage: The side yard shall be not less than ten (10) feet.

- C. Rear Yard: There shall be a rear yard no less than ten (10) feet.

ARTICLE XXIV

ZONING BOARD OF APPEALS

Section 24.01 - Creation and Rules of Procedure. There is hereby created a five-member Zoning Board, hereinafter referred to as the Zoning Board of Appeals or BZA, which shall perform its duties and exercise its powers and jurisdiction according to the provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety and general welfare secured, and substantial justice done. The Zoning Board of Appeals shall fix rules and regulations to govern its procedures.

Section 24.02 - Membership. Members of the Zoning Board of Appeals shall be appointed by the Mayor of the City of Buchanan subject to confirmation by the City Commission. The membership shall serve at the pleasure of the City Commission for three year terms. The City Commission may appoint two alternate members who shall serve in the absence of any member(s) or serve in the instance that a member must be recused from any matter before the Board.

Section 24.03 - Jurisdiction. In addition to the duties and powers prescribed in other sections of this Ordinance, the Zoning Board of Appeals shall hear and decide on all matters relating to the following:

1. **Appeals From Administrative Decisions.** The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by Zoning Administrator and shall act upon all questions as they may arise in the administration of this Ordinance.
2. **Interpretation of Zoning District Boundaries.** The Zoning Board of Appeals shall interpret the boundary of any zoning ordinance district as depicted on the Official Zoning Map should a question of interpretation arise.
3. **Issue Variances From the Strict Terms of the Ordinance.** The Zoning Board of Appeals shall upon written application in specific cases may issue a variance from the terms of this Ordinance or vary the strict interpretation of the terms of this Ordinance as shall not be contrary to the public interest owing to special conditions where a literal enforcement of the provision of this Ordinance would result in hardship to the applicant.
4. **Issue Variances From the Strict Terms of Yard Setback Requirements.** The Zoning Board of Appeals shall upon written application in specific cases vary from the strict interpretation issue a variance from the terms of this Ordinance as shall not be contrary to the public interest owing to special conditions, a literal enforcement of the provision of lot and yard setback requirements .
5. **Hear and Decide Appeals Concerning Issuance of Special Use Permits.** The Board of Zoning Appeals shall hear and decide any appeal from any decision made concerning issuance or denial of a Special Use Permit made by the Planning Commission.

Section 24.04 - Public Notification and Public Hearing Requirements. Whenever the approval of an application is required by the Zoning Board of Appeals under the provisions of this Ordinance, the Zoning Board of Appeals will set a date for public hearing on such application and give public notice thereof not less than seven (7) nor more than fifteen (15) days prior to the date of such meeting by publication in a newspaper of general circulation within the City and shall be sent by mail or personal general delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (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 of 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 area 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. The notice shall:

- A. Describe the nature of the proposed amendment requested;
- B. Indicate the property which is the subject of the rezoning or nature of the change on the zoning ordinance text, as applicable;
- C. State when and where the public hearing will be held;
- D. Indicate when and where written comments will be received concerning the request.

Any person who is interested in such application or the determination thereof may appear before the Zoning Board of Appeals in person or by attorney and shall be permitted to state the reasons for approval or disapproval of such application.

Section 24.05 - Standards for Approvals

The Zoning Board of Appeals, in rendering a decision, shall base their decisions on the general and when applicable the specific standards for interpretation or variance, as set forth below:

1. **General Standards for Approval.** In reaching its determination on an application or appeal, the Zoning Board of Appeals shall consider the following:
 - A. Whether the location, use, nature, intensity of operation, and congestion and density of population will be in conflict with the principal permitted uses of the district or with the purposes of this Ordinance.
 - B. Whether the available sewage disposal and water supply facilities will be adequate and safe.
 - C. Whether the lot size and yard area will be in harmony with the orderly and proper development of the district.
 - D. Whether adequate access to the building or use will be provided by either existing roads or other roads to be constructed.
 - E. Whether the building or use will be objectionable to nearby properties and their owners by reason of traffic, noise, vibration, dust, blowing sand and erosion, disposal of waste or sewage, fumes, smoke, air pollution, fire hazard, or bright flashing lights.
 - F. Whether the building or use will discourage or hinder the appropriate development and use of lands and buildings in the general vicinity.
2. **Standards for Zoning Boundary Interpretation.** When the exact boundary of a district is uncertain and upon the filing of an application for an interpretation is filed, the Zoning Board of Appeals shall first consider the boundary location based on the scale of the zoning map and secondly the intended purpose of the Plan Commission in placing the boundary in a location not within a property line, geographic feature or other easily

identifiable geographic identifier.

3. **Standards for Approval of Variances.** In approving a variance the Zoning Board of Appeals shall consider the following standards with respect to the application:
- A. That the application demonstrated special conditions and circumstances which exist that are particular to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 - B. That under the terms of this Ordinance, the literal interpretation of the provisions of this Ordinance would deprive the applicant of right commonly enjoyed by other proprietors in the same district;
 - C. That the special conditions and circumstances do not result from the actions of the applicant;
 - D. An existing nonconforming use of land, structures or buildings, shall not be considered grounds for the issuance of a variance;
 - E. That the variance requested is the minimum variance which would make possible reasonable use of the land, buildings or structures.;
 - F. That the Zoning Board of Appeals may issue a statement of positive findings that the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - G. The Zoning Board of Appeals has established such appropriate conditions and safeguards to assure conformity with the terms of this Ordinance which shall be attached as conditions of the variance.

Section 24.06 - Abandonment Or Recision of A Zoning Board of Appeals Action. If any appeal or variance is not put into effect within six (6) months of the date of approval by the Zoning Board of Appeals is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of six (6) months, the variance shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this Ordinance; however, the Zoning Board of Appeals, for good cause, may grant an extension of time, not to exceed six (6) months, to comply with or to continue the variance, if in its judgment, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.

Section 24.07 - Procedure of Appeals, Meetings and Public Notice. The following rules of procedure will govern the operation and decision making of the Zoning Board of Appeals:

- 1. Upon receiving an application with any fee established by the terms of this Ordinance (See Article XXVI, Section 26.04) for an appeal from any order, requirement, determination or decision of the Zoning Administrator, such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule by the filing with the City Clerk and with the Zoning Board of Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals, all the papers constituting the record upon which the action appealed from was taken.
- 2. A concurring vote of a simple majority of the entire Zoning Board of Appeals shall be necessary to reverse any order, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which they are required to pass under this Ordinance or to affect any variation of the Ordinance.
- 3. Upon receiving an application for an appeal, the Zoning Board of Appeals shall fix a reasonable time for a hearing

and give notice as required by law as set forth in Article XIV, Section 24.04.

4. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of the rules, regulations or provisions relating to the construction, erection or alteration of buildings or structures so that the spirit of this Ordinance shall be observed, public health and safety secured, and substantial justice is accomplished.

Section 24.08 - Appeals From the Zoning Board of Appeals. In the event the Zoning Board of Appeals fails to reach a decision on any matter within thirty (30) days after the hearing thereon, the person affected shall have the right to first appeal to the Board of Zoning Appeals and then thereafter the appropriate Berrien County Trial Court on question of law and fact.

ARTICLE XXV

AMENDMENTS

Section 25.01 - Initiation. Amendments to this Ordinance may be initiated by the City Commission upon its own motion, by the Plan Commission, or may be proposed for consideration by the petition of the owners of property which would be involved or affected by such change or amendment. All proposed amendments not originating with the Plan Commission shall first be referred to the Plan Commission for study, review and recommendation.

Section 25.02 - Plan Commission Procedures. Amendments to this Ordinance, after the review and recommendation of the Plan Commission, may be adopted and enacted by the City Commission. The procedures to be followed in the enactment of an amendment to this Ordinance are those prescribed by the City Charter of the City of Buchanan for the enactment of any other kind of ordinance and Public Act 207 of 1921 as amended.

1. **Application for Amending the Zoning Ordinance.** An applicant, the City Commission or Plan Commission, upon its own action, may initiate an application for amending the zoning ordinance text or map. An application (on a form provide by the City with any established by this Ordinance (See Article XXVI, Section 26.04) shall be filed with the Zoning Administrator who shall immediately transmit the application to the Plan Commission, if the application did not originate from the Plan Commission.

2. **Plan Commission Public Hearing Required.** Upon receipt of an application for a zoning amendment, a notice that a request for zoning amendment has been received and that a public hearing will be held shall be published in a newspaper of general circulation in the City and shall be sent by mail or personal general delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (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, Ae team “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 of 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. The notice shall:
 - A. Describe the nature of the proposed amendment requested;
 - B. Indicate the property which is the subject of the rezoning or nature of the change on the zoning ordinance text, as applicable;
 - C. State when and where the public hearing will be held;
 - D. Indicate when and where written comments will be received concerning the request;

3. **Plan Commission Review and Recommendation.** Within thirty (30) days following the public hearing, the Plan Commission shall review the application for the amendment and comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and take action to recommend approval or denial of the application to the City Commission. The decision shall be incorporated in a statement of conclusions relative to the amendment under consideration. The decision shall specify the basis for the decision, and any special circumstances utilized in arriving at the recommendation. The recommendation of the Plan Commission on application shall be made in accordance with conformance with the City of Buchanan Comprehensive Plan, as from time to time is amended, and such standards contained in this Ordinance which relate to the matters under consideration. Immediately upon action by the Plan Commission, the application, and all supporting documentation including the written report of the Plan Commission shall be transmitted to the City Clerk for inclusion on the City Commission agenda.

Section 25.03 - City Commission Review and Approval. Upon receipt of an application and recommendation to amend the Ordinance, the City Commission shall cause the action to be scheduled for Commission consideration and action. Prior to consideration of an action to approve or deny a request to amend the Ordinance, the City Commission shall consider the report and recommendation of the Plan Commission. The City Commission may provide for an additional public hearing. The City Commission may approve the amendment by a simple majority vote unless a protest petition is presented meeting the provisions of Section 4 of Public Act 207 of 1921 as amended is presented to the City Commission. A minimum two-thirds ($\frac{2}{3}$) majority vote by the City Commission is required to approve an amendment upon the filing of a valid protest petition.

ARTICLE XXVI

ADMINISTRATION, FEES AND VIOLATIONS

Section 26.01 - Zoning Administrator. The provisions of this Ordinance shall be administered by the Zoning Administrator appointed by the City Manager. Said Zoning Administrator's duties shall be the administration of this Ordinance as prescribed by this Ordinance, including issuance of all zoning compliance permits whether as an individual permit or as part of the issuance of a building permit pursuant to the Michigan Construction Code, acceptance of any and all applications required in the administration of the Ordinance any other duties assigned or delegated to the Zoning Administrator by the City Manager or any other law regulation or Ordinance of the State of Michigan or the City of Buchanan.

Section 26.02 - Code Enforcement Officer. The enforcement of this ordinance shall be administered and enforced by the City Manager or by the Code Enforcement Officer designated by and responsible to the City Manager.

Section 26.03 - Duties and Powers - Zoning Administrator and Code Enforcement Officer. The Zoning Administrator and Code Enforcement Officer shall have the following powers in addition to those set forth in Section 26.01 above:

1. **Form of Application, Permits and Certificates.** The Zoning Administrator may prescribe the form of all applications, permits, and certificates required under the terms of the ordinance. If no form is prescribed, a written document in the form of a letter requesting permission, in the case of an application stating precisely what permission is requested, or granting permission, in the case of a permit, stating precisely what permission is granted will suffice.
2. **Receive Applications.** The Zoning Administrator will receive and examine and certify completeness of all applications for permits, certificates, variances, and all other applications required under the terms of this ordinance.
3. **Refer Applications to the Plan Commission or Zoning Board of Appeals.** The Zoning Administrator shall upon a finding that an application is complete must refer all applications for permits, certificates, variances, special use permits and any other applications to the appropriate body within twenty (20) days upon making determination that the submission is complete.
4. **Issue or Refuse Permits.** The Zoning Administrator must issue permits for constructions, alteration, and occupancy of those uses which comply with the requirements of this Ordinance, within thirty (30) days after the receipt of the application. The refusal of a permit must be in writing and shall state the reasons for the denial.
5. **Issue Notice of Violation.** The Zoning Administrator or Code Enforcement Officer must issue a written notice of violation to each violator of this Ordinance, stating the nature of the violations. Duplicate copies of the notice must be sent to the Plan Commission and City Manager.
6. **Make Recommendations.** The Zoning Administrator or Code Enforcement Officer may make recommendations to the Plan Commission, Zoning Board of Appeals and City Manager for any action deemed necessary.
7. **Records.** The Zoning Administrator must keep records of applications, permits, or certificated issued,

of variances and special use permits granted, inspections made, any reports, notices or orders issued.

8. **Additional Duties and Powers.** The Zoning Administrator or Code Enforcement Officer must preform all other duties, and may exercise all other powers and privileges, as may be provided or made necessary by the terms of this Ordinance.

Section 26.04 - Fees. A schedule of fees necessary to cover the cost of processing an application and administration of this Ordinance is required at the time of application for a Cluster Development, (Section 15.06), Planned Unit Development (Section 10.04), a Special Use Permit (Section 20.02), Home Occupation Special Use Permit (Section 20.05), Site Plan Approval (Section 22.03), action of the Zoning Board of Appeals (Section 24.07(1), or Amendment (Section 25.02(1) shall, from time-to-time, be established by resolution of the City Commission. No part of any fee shall be refundable.

Section 26.05 - Violations and Penalties. Buildings erected, altered, razed or converted for use carried on in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court having jurisdiction shall order such nuisances to be abated and the person in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se. Any person that commits a violation, takes part in or assists in any violation of any provisions of the Ordinance shall be guilty of misdemeanor. Upon conviction thereof before any court of competent jurisdiction the person shall be punished by a fine of not less than twenty-five (\$25.00) and no dollars nor more than one hundred (\$100.00) and no dollars for each offence, or shall be punished by imprisonment in the Berrien County Jail for a period not to exceed ninety (90) days, or both, such fine and imprisonment at the discretion of the court, each day that a violation is permitted to exist after conviction shall constitute a separate offence.

ARTICLE XXVII

SEVERABILITY, EFFECTIVE DATE AND ADOPTION

Section 27.01 - Severability and Validity. This Ordinance and the various parts, sections, subsections and clauses thereof are (hereby) declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, (it is hereby proposed that) the remainder of the ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, (it is hereby provided that) the application of such portion of the Ordinance to the property, building or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a Planned Unit Development or any variance, special use, nonconforming use, zoning compliance permit, occupancy permit, site plan approval, or certificate of nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition of limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision hereof, to protect the public health, safety and welfare and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

Section 27.02 - Conflicting Ordinances. Ordinance No. 154, entitled "*Zoning Ordinance of the City of Buchanan*" is expressly amended in its entirety and all other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent they conflict with this Ordinance.

Section 27.03 - Effective Date. This ordinance shall become effective on the 11th day of September 2003 following the publication thereof.

Section 27.04 - Adoption. Public Hearing having been duly held on May 28, 2003, by the Plan Commission this Comprehensive Zoning Ordinance Amendment was duly adopted at a regular meeting of the City Commission of the City of Buchanan, Berrien County, Michigan on September 8, 2003,

David P. Hagey
Mayor

Gladys ByBee
Clerk

ARTICLE XI

C – 3 CENTRAL BUSINESS DISTRICT

Section 11.04 – Alteration, Site, and Façade Plan Required

- A. Prior to any exterior aesthetic or cosmetic alteration (siding, paint, windows, or any exterior work that does not require a building permit) on any building located in the C-3 Central Business District, the building owner or occupant must obtain a Zoning Compliance Permit from the Zoning Administrator. The zoning Compliance Permit application shall include a building façade plan pursuant to Article XXII, Section 22.03. The plan must contain schematics and photos or drawn rendering of the proposed alterations with applicable color sample attached. The Design Review Committee will determine if the applicant's plan conforms to the approved Downtown Design Standards. If not, the applicant will be required to amend the plan and resubmit the plan approval by the Design Review Committee. Failure to comply with the Downtown Design Standards will result in rejection of the applicant's plan and any alteration will be prohibited.

- B. Prior to the issuance of a building permit in the C-3 Central Business District for any new construction or for the remodeling of any existing building or structure which will involve the exterior façade or other exterior surface in any way, the Zoning Administrator shall cause the application including a site and a façade plan prepared pursuant to the provision of Article XXII, Section 22.05 to be submitted to the Design Review Committee for review and determination of compliance with the approved Downtown Design Standards for the Central Business District. The Design Review Committee shall notify the applicant concerning any features and colors inconsistent with the approved standards. Any proposed new construction or remodeling of any existing buildings found to be inconsistent with the standards for the district by the Design Review Committee shall be disqualified for any incentive offered by the City or Downtown Development Authority. The applicant's proposal shall be rejected and no building permit issued until the site and façade plan are in conformance with the approved Downtown Design Standards and the plan approved by the Design Review Committee and the Plan Commission.

Approved by Plan Commission 11-13-2007

Approved by City Commission 12-10-2007

ORDINANCE NUMBER 2017.11/405

**AN ORDINANCE
AMENDING THE CITY OF BUCHANAN ZONING ORDINANCE;
ARTICLE III-DEFINITIONS AND USE OF TERMS; ARTICLE X – C-2
COMMERCIAL DISTRICT; ARTICLE XI – C-3 CENTRAL BUSINESS DISTRICT;
ARTICLE XII I-1 LIGHT INDUSTRIAL DISTRICT; ARTICLE XIII I-2 HEAVY
INDUSTRIAL DISTRICT; ARTICLE XVIII SPECIAL PROVISIONS: ARTICLE
XXIII NONCONFORMING USES, BUILDINGS AND LOTS; ARTICLE XVII
GENERAL PROVISIONS**

BE IT ORDAINED by the City Commission of the City of Buchanan, Berrien County Michigan that based upon the unanimous recommendation of the Planning Commission after its public hearing held on October 9, 2017 and continued on October 23, 2017, that the City of Buchanan Zoning Ordinance is amended as follows:

At a regular meeting of the City of Buchanan, Berrien County, Michigan, held at the Buchanan City Hall on Monday November 13, 2017, at 7:00 p.m., Commissioner Vigansky moved to adopt the following Ordinance, which motion was seconded by Commissioner Cole:

THE CITY OF BUCHANAN ORDAINS:

ARTICLE III

DEFINITIONS AND USE OF TERMS

Section 3.02 Definitions pertaining to Medical Marihuana.

Grower. A permittee/licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

Licensee. A person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

Marijuana or marihuana. That term as defined in the Public Health Code, MCL 333.1101 et seq.; 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.

Marijuana/marihuana facility. Enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, 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.

MMFLA. Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., being PA 281 of 2016. Any term defined in the MMFLA shall have the definition given in the MMFLA.

MTA. Marihuana Tracking Act, MCL 333.27901 et seq, being PA 282 of 2016. Any term defined in the MTA shall have the definition given in the MTA.

Permit. A current and valid Permit for a Commercial Medical Marihuana Facility issued by the City of Buchanan, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

Permitee. A person holding a City of Buchanan operating Permit issued under the provisions of Ordinance 2017.07/404.

Permit Holder. A Person that holds a current and valid Permit issued under the provisions of Ordinance 2017.07/404.

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

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

Person. An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, or other legal entity.

Processor. A permittee/licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Provisioning center. A permittee/licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this ordinance.

Safety compliance facility. A permittee/licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

Secure transporter. A Permittee/licensee that is commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Section 3.03 Terms Used in this Ordinance.

ARTICLE X

C-2 COMMERCIAL DISTRICT

Section 10.03 - Uses Permitted by Special Use Permit

- D. A medical marihuana provisioning center as authorized by City of Buchanan Ordinance 2017.404.

ARTICLE XI

C-3 CENTRAL BUSINESS DISTRICT

Section 11.03 - Uses Permitted by Special Use Permit

- D. A medical marihuana provisioning center as authorized by City of Buchanan Ordinance 2017.404.

ARTICLE XII

I-1 LIGHT INDUSTRIAL DISTRICT

Section 12.03 – Uses Permitted by Special Use Permit.

- D. A medical marihuana grower as authorized by City of Buchanan Ordinance 2017.404.
- E. A medical marihuana processor as authorized by City of Buchanan Ordinance 2017.404.
- F. A medical marihuana secure transporter as authorized by City of Buchanan Ordinance 2017.404.
- G. A medical marihuana safety compliance facility as authorized by the City of Buchanan Ordinance 2017.404.

ARTICLE XIII

I-2 HEAVY INDUSTRIAL DISTRICT

Section 13.03 – Uses Permitted by Special Use Permit.

- C. A medical marihuana grower as authorized by City of Buchanan Ordinance 2017.404.
- D. A medical marihuana processor as authorized by City of Buchanan Ordinance 2017.404.
- E. A medical marihuana secure transporter as authorized by City of Buchanan Ordinance 2017.404.

- F. A medical marihuana safety compliance facility as authorized by the City of Buchanan Ordinance 2017.404.

ARTICLE XVIII

SPECIAL PROVISIONS INCLUDING HOME OCCUPATIONS

Section 18.10 – Medical Marihuana Facilities – All Types.

1. A medical marihuana grower, processor, provisioning center, secure transporter, and safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to Article XX in the specified zones, provided that:
 - A. No medical marihuana grower, processor, provisioning center, safety compliance facility or secure transporter shall be located within one Thousand (1,000) feet of real property comprising a public elementary, vocational, or secondary school.
 - B. No medical marihuana grower, processor, provisioning center, safety compliance facility or secure transporter shall be located within Five Hundred (500) feet of real property comprising a church or a public park with activities designed specifically for youth.
 - C. In the consideration of granting a special use permit, the setback from residential districts shall be evaluated as it relates to the surrounding areas.
 - D. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the City of Buchanan. In the event that a court with jurisdiction declares some of all of this article invalid, then the City of Buchanan may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
 - E. All special use approvals for medical marihuana facilities are contingent upon the approval of the medical marihuana facility(s) application(s) by the City of Buchanan and the State of Michigan.
 - F. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the City of Buchanan.
 - G. The City of Buchanan may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, City of Buchanan Ordinance 2017.404, or the terms of the special use permit and approved site plan are not met.
 - H. A medical marihuana facility, or activities associated with the permitted and licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home occupation or accessory use.

- I. Signage requirements for medical marijuana facilities are as provided in the City of Buchanan Sign ordinance, being Chapter 76 in the City of Buchanan Code of Ordinances, and in the City of Buchanan Medical Marijuana Facilities Ordinance 2017.404.
 - J. No medical marijuana facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable beyond the boundaries of the property on which the medical marijuana facility is operated.
2. Medical marijuana growers and processors shall also be subject to the following standards:
- A. The minimum operational standards of growers and processors found in the City of Buchanan Medical Marijuana Ordinance 2017/404.
 - B. All applicable regulations of Articles XII and XIII, including but not limited to Accessory Buildings and Structures, Parking Requirements, Signs, Visual Screening Requirements, Building Height Regulations, and Yard, Setback and Lot Area Requirements.
 - C. All marijuana growing and processing shall be located entirely within an enclosed, locked facility which shall include one or more completely enclosed buildings.
 - D. If only a portion of a building used for marijuana production, a partition wall from floor to ceiling shall separate the marijuana production space from the remainder of the building. A partition wall must include a door capable of being closed and locked from both sides for ingress and egress between the marijuana production space and the remainder of the building.
 - E. Light cast by light fixtures inside any building used for marijuana production or processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
3. Provisioning centers (dispensaries) shall also be subject to the following standards:
- A. All applicable regulations of Articles X and XI, including but not limited to Accessory Buildings and Structures, Parking Requirements, Signs, Visual Screening Requirements, Building Height Regulations, and Yard, Setback and Lot Area Requirements.
 - B. A provisioning center shall only sell to consumers or allow consumers to be present in the facility between the hours of 9:00 a.m. and 9:00 p.m.
 - C. All activities of a provisioning center, including all transfers of marijuana shall be conducted within the facility and out of public view. A provisioning center shall not have a walk -up window or a drive thru window service.
 - D. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the facility or on the premises.

- E. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the zoning district.

ARTICLE XXIII

NONCONFORMING USES, BUILDINGS AND LOTS

Section 23.09 – Medical Marihuana Facilities. No medical marihuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marihuana facility be deemed a legal nonconforming use under this ordinance.

ARTICLE XVII

GENERAL PROVISIONS

Section 17.14 – Accessory Structures in Residential Districts.

- A. **Maximum Height:** The roof pitch of an accessory structure shall match the roof pitch of the principal dwelling in order to maintain architectural uniformity, but shall not exceed eighteen (18) feet in height.

DELETE: E. Distance from Principal Structure.

Section 20. Effective Date

This Ordinance shall become effective twenty (20) days after its enactment.

Proposed Commission Member: Daniel Vigansky

Supported Commission Member: Carla Cole

Roll Call Vote:


Ayes: Carla Cole, Brenda Hess, Dale Toerne, Daniel Vigansky

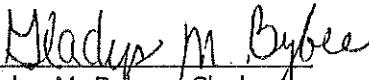
Nays: Patricia Moore

Abstain: none

Absent: none

MADE, PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN, ON THE 13 DAY OF NOVEMBER, 2017, AND IT WAS PUBLISHED IN THE NILES DAILY STAR NEWSPAPER ON SEPTEMBER 25, 2017 AND AGAIN IN THE BERRIEN COUNTY RECORD NEWSPAPER ON NOVEMBER 23, 2017.

By: 
Mayor Brenda J. Hess

By: 
Gladys M. Bybee, Clerk

CERTIFICATION

I hereby certify that the above is a true and complete copy of a resolution adopted by the City Commission of the City of Buchanan, County of Berrien, State of Michigan, at a regular meeting held on the 13th day of November, 2017, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 as required by said act.

Gladys M. Bybee, City Clerk