

## APPENDIX A - ZONING

## PREAMBLE

The City of Watervliet, Berrien County, Michigan, under and by virtue of the provisions of the Act No. 207 of the Public Acts of 1921 (MCL 125.581 et seq.), as amended, does hereby ordain:

*Footnotes:*

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**Editor's note**— *Printed in this appendix is the city's zoning ordinance, as adopted on September 8, 1987. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.*

**Cross reference**— *Any ordinance constituting the basic zoning ordinance or an amendment thereto, rezoning property, or amending the zoning map saved from repeal, § 1-11(16); buildings and building regulations, ch. 10; environment, ch. 14; streets, sidewalks and other public places, ch. 38; telecommunications, ch. 46; vegetation, ch. 58.*

**State Law reference**— *Zoning, MCL 125.581 et seq.*

## ARTICLE I. - TITLE

This zoning ordinance may be designated as the City of Watervliet Zoning Ordinance.

## ARTICLE II. - INTENT AND PURPOSE

This ordinance is adopted to implement one or more of the following purposes:

1. To promote and protect the public health, safety, morals, comfort and general welfare of the people of the City of Watervliet, Berrien County, Michigan.
2. To divide the City of Watervliet into zones or districts, restricting and regulating therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures and land for residence, business, manufacturing and other specified uses.
3. To protect the character and stability of the residential, business, and manufacturing areas within the City of Watervliet and to promote the orderly and beneficial development of such areas.
4. To provide adequate light, air, privacy and convenience of access to property.
5. To regulate the intensity of use of lot areas and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air, and to protect the public health.
6. To establish building lines and the locations of buildings designed for residential, business and manufacturing or other uses within such areas.
7. To fix reasonable standards to which buildings or structures shall conform therein.
8. To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts.
9. To prevent additions to or alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder.
10. To limit congestion in the public streets and protect the public health, safety, convenience and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles.
11. To facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply,

education, recreation and other public requirements.

12. To protect against fire, explosion, noxious fumes and other hazards in the interest of public health, safety, comfort and general welfare.
13. To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them.
14. To conserve the taxable value of land and buildings throughout the City of Watervliet.
15. To conserve the natural resources and character of land throughout the City of Watervliet.
16. To provide for the gradual elimination of nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district.
17. To define and limit the powers and duties of the administrative officers and bodies as provided herein.
18. And to prescribe the penalties for the violation of the provisions of this ordinance or any amendments thereto.

### ARTICLE III. - RULES AND DEFINITIONS

#### Section 3.01. - Rules.

In the construction of this ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise:

1. Words used in the present tense shall include the future;
2. Words in the singular number include the plural number and words in the plural number include the singular number;
3. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for";
4. The word "shall" is mandatory;
5. The word "may" is permissive.

#### Section 3.02. - Definitions.

*Abandonment.* Any action or inaction indicating an intent to give up one's right or interest in property or intention to give up a particular use of such property.

*Accessory building or use.* An accessory building or use is one which:

1. Is subordinate to and serves a principal building or principal use;
2. Is subordinate in area, extent or purpose to the principal use served;
3. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
4. Is located on the same zoning lot as the principal building or principal use served with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere on the same zoning lot with the building or use served.

An accessory use includes, but is not limited to, the following:

1. A children's playhouse, garden house, and private greenhouse;

2. A shed or building for domestic storage;
3. Incinerators, incidental to residential use;
4. Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations;
5. Storage of goods; used in or produced by manufacturing activities on the same lot or parcel of ground with such activities unless such storage is excluded by the district regulations;
6. Swimming pool, private for use by the occupants and his/her guests;
7. Off-street motor car parking areas, and loading facilities;
8. Signs (other than advertising signs) as permitted and regulated in each district incorporated herein;
9. Carports;
10. Public utility facilities—telephone, electric, gas, water and sewer lines, their supports and incidental equipment unless such use is excluded by the district regulations.

*Acreage.* Any tract or parcel of land having an area of one or more which has not heretofore been subdivided or platted.

*Agriculture.* All the processes of planting, growing, harvesting of crops in the open and the raising and feeding of livestock and poultry; including farming, farm buildings and farm dwellings, truck gardens; flower gardens, apiaries, aviaries, mushroom growing, nurseries, orchards, forestry, dairying, green houses and commercial vegetables.

*Airport.* Any area of land which is used or intended to be used for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport building or other airport facilities located thereon.

*Alley.* A public way, not more than 30 feet wide, which affords only a secondary means of access to abutting property.

*Alteration, structural.* Any change which would tend to prolong to alter the life of or alter or change or remove the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

*Animal hospital.* Any building or portion thereof designed or used for the care, observation or treatment of household domestic animals.

*Apartment.* A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, (sink, stove, refrigerator and storage facilities), and necessary sanitary facilities must always be included for each apartment.

*Apartment hotel.* See *Hotel apartment.*

*Auditorium.* A room, hall or building, made a part of a church, theatre, school, recreation building or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations.

*Automobile laundry (automatic).* A building or portion thereof containing facilities for washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device or other mechanical devices.

*Automobile laundry (self-service).* A building or portion thereof containing facilities for washing automobiles, using self-service mechanical devices.

*Automobile repair, major.* Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame or fender straightening or repair, and painting of vehicles.

*Automobile repair, minor.* Incidental repair, replacement of parts and motor service to automobiles, but not including any operation specified under *Automobile repair, major.*

**Automobile service station.** Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, also cold drinks, package foods, tobacco and other similar convenience goods for service station customers may be provided as accessory and incidental to the principal operation. Other incidental services including minor automobile repair and automobile washing and polishing where no chain conveyor, blower or steam cleaning devices are employed, may be provided. Automobile service stations shall not include sale or storage of automobiles or trailers (new or used) or major automobile repairs.

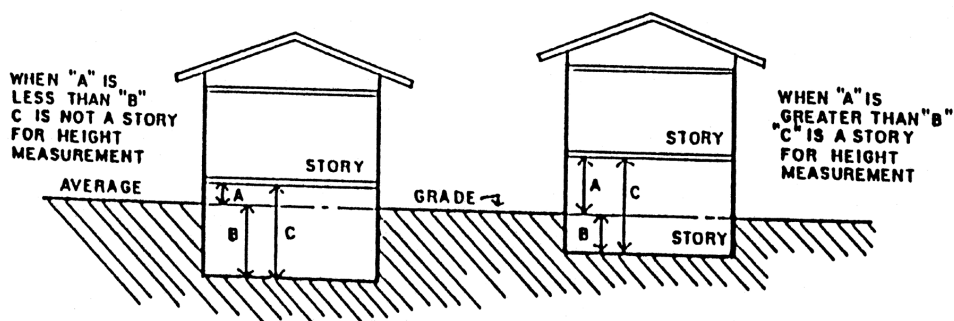
**Automobile and trailer sales area.** An open area, other than a street used for the display or sale of new or used automobiles or trailers, and where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

**Automobile wrecking yard.** Any place where one or more motor vehicles, not in running condition or parts thereof, are stored in the open and are not being restored to operation on any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof and including the commercial salvaging of any other goods, articles or merchandise. Also, any motor vehicle stored by mounting on blocks or any other means for more than 30 days.

**Awning.** A rooflike cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

**Banks and financial institutions.** Commercial banks, currency exchanges, savings and loan associations, brokerage offices and other similar financial institutions, but not including loan offices, finance companies and pawn shops.

**Basement.** A story partly or wholly underground. Where more than one-half of its height is above the established curb level or above the average level of the adjoining ground where the curb level has not been established, a basement shall be counted as a story for the purpose of height measurement.



**Beach.** Beach is that portion of the shoreline of the river known as "St. Joseph" or any manmade watercourse, both above and below the high water line which is sanded, pebbled or graveled and used for activities normally associated with shore front properties.

**Bedroom.** Any room other than a living room, family room, dining room, kitchen, bathroom or utility room for the purpose of this ordinance, shall be considered a bedroom.

**Block.** A tract of land bounded by streets or in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways or corporate boundary lines of municipalities.

**Board of appeals.** The board of appeals of the City of Watervliet.

**Boardinghouse.** A building other than a hotel or restaurant where meals are provided for compensation to three but not more than 12 persons, who are not members of the keeper's family.

**Boathouse.** Any structure designed for the purpose of protecting or storing of boats used in conjunction with a residence for noncommercial purposes, and located on the same lot as the principal building and not for human habitation.

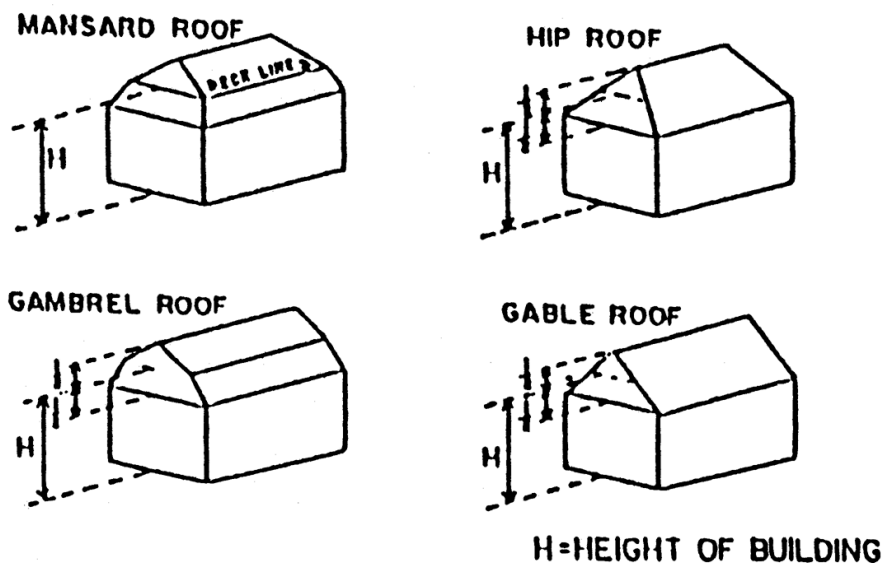
**Borrow pit.** Any place or premises where dirt, soil, gravel or other material is removed by excavation or otherwise below the grade of surrounding land for any purpose other than the necessary and incidental to grading or to building construction or operation on the premises.

**Buildable area.** The space remaining on a zoning lot after the minimum open space requirements have been complied with.

**Building.** Any covered structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land.

**Building, detached.** A building surrounded by open space on the same building lot.

**Building height.** The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest elevation of the roof in the case of a slant or flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.



**Building line.** The line nearest the front of and across a zoning lot, establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

**Building, nonconforming.** Any building which does not conform to the regulations herein prescribing the required yards, coverage, height and setbacks, minimum required usable open space for the district in which the building is located.

**Building permit.** A permit by the building official of the City of Watervliet for the construction, alteration, removal or demolition of a building or structure within the City of Watervliet.

**Building principal.** A nonaccessory building in which the principal use of the zoning lot on which it is located is conducted.

**Building setback line.** A line parallel to the street line at a distance from it, regulated by the front yard requirements set up herein.

**Building, temporary.** Any building not designated to be permanently located in the place where it is or where it is intended to be placed or affixed.

**Bulk.** The term used to indicate the size and setbacks of buildings or structures and location of same with respect to one another and includes the following:

1. Size and height of buildings;

2. Location of exterior walls at all levels in relation to lot lines, street, or other buildings;
3. All open spaces allocated to the building;
4. Amount of lot area per dwelling unit;
5. Required parking areas.

*Bus lots.* Any lot or land area used for the storage or layover of passenger buses, school buses, or motor coaches.

*Business and professional office.* The office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

*Carport.* A roofed-over area attached and/or detached to the principal building for vehicle storage, which may be open on three sides if attached or four sides if detached.

*City.* The City of Watervliet, Michigan.

*Clinic or medical health center.* A medical center clinic is an establishment where three or more licensed doctors of medicine engage in the practice of medicine, operating on a group or organizations.

*Club or lodge, private.* A nonprofit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

*Cluster subdivision.* A land subdivision with a majority of the individual building sites abutting directly on parks or other common open space.

*Country club.* A facility, intended to be nonprofit, under the management of a private membership association which leases and/or owns a minimum of 60 acres of contiguous property on which are located structures and site developments including a minimum of a nine-hole golf course, club house, maintenance buildings and possible other customary facilities including, but not limited to, a restaurant with or without a liquor license, locker room, pro-sales shop, swimming pool, gameroom, outdoor activity areas; intended for use solely by members and guests.

*Court, outer.* An open unoccupied space opening onto a street, alley or yard.

*Curb level.* The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the curb level shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the mean of the street grade shall be considered the curb level.

*Day nursery.* A building or portion thereof used for the daytime care of preschool children.

*Districts.* The areas into which the City of Watervliet has been divided for which uniform regulations governing the use, size and intensity of land and buildings and open space about buildings are established.

*Dwelling.* A building or portion thereof, but not including house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units, but not including hotels, motels, boarding[houses] and lodginghouses.

*Dwelling unit.* A room or rooms connected together constituting a separate, independent housekeeping establishment for one-family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

*Dwelling, detached.* A dwelling which is entirely surrounded by open space and is not connected to any other dwelling unit by roof, walls or porches on the same lot.

*Dwelling, group.* Two or more one-family, two-family or multiple-family dwellings or boarding[houses] or lodginghouses, located on one zoning lot but not including tourist courts or motels.

*Dwelling, modular.* A detached residential dwelling composed of two or more units containing an assembly of materials or products intended to comprise part of a building or structure, which are assembled at other than the final location of the unit of the circumstances intended to insure [ensure] conformity of quality and material content.

*Dwelling, multiple-family.* A residential building, other than a mobile home, designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

*Dwelling, row (party wall).* A row of two to eight attached one-family party wall dwellings, not more than 2½ stories in height, not more than two rooms in depth, measured from the building line.

*Dwelling, single-family.* A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

*Dwelling, two-family.* A detached residential building, other than a mobile home, containing two dwelling units designed for occupancy by not more than two families.

*Educational institution.* Public, parochial schools, charitable or nonprofit junior college, college or university, other than trade or business schools including instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental [institutional] facilities for students, teachers and employees.

*Efficiency unit.* A dwelling unit consisting of one principal room for living, sleeping, and eating plus facilities for cooking and a complete bath and toilet facilities.

*Family.* One or more persons related by blood, marriage or adoption, or a group of not more than five persons (excluding servants) who need not be related by blood, marriage or adoption, living together and maintaining a common household but not including sororities, fraternities, or other similar organizations.

*Fence.* A structure or tree or shrub hedge which is a barrier and is used as a boundary or means of protection or confinement.

*Fence, solid.* A fence including gates, which conceals from view the adjoining properties, streets or alleys, activities conducted behind it.

*Flood insurance rate map (FIRM).* The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study.* The official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

*Floodplain.* The area defined by the most current 100-year flood hazard elevation (one percent chance of flooding in any given year) as described within the U.S. Department of Housing and Urban Development-Federal Insurance Administration, Flood Insurance Study for the City of Watervliet, Michigan.

*Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.01 foot.

*Floor area, gross (for the purpose of determining requirements for off-street parking and off-street loading).* The floor area shall mean the sum of the gross horizontal area of the several floors of the buildings or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, rack or closets, and any basement

floor area devoted to retailing activities to the production of goods or to business or professional offices. However, floor area for the purpose of measurement of off-street parking spaces shall not include floor area devoted primarily to storage purposes. The following areas shall not be included for the purpose of measurement of off-street parking spaces:

- a) Floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space.
- b) Basement floor area other than area devoted to retailing or service activities or the production or processing of goods, or to business or professional offices.

*Freeway.* A major highway having no intersections at grade and having fully controlled access, hence "free" from conflicts and interruptions.

*Frontage.* All the property fronting on one side of a street between the nearest intersecting streets or between a street and a right-of-way, waterways or other similar barrier.

*Garage, bus.* Any building used or intended to be used for the storage of three or more passenger motor buses or motor coaches used in public transportation including school buses.

*Garage, private.* Any building or portion of the principal building in which is intended for and used to store the private passenger vehicles of the family or families resident on the premises, and in which no business, service or industry connected directly or indirectly with the automotive vehicles is carried on; provided that not more than one-half of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one- or two-car capacity may be so rented. Such a garage shall not be used for more than two commercial vehicles, and the load capacity of such vehicles shall not exceed 2½ tons.

*Garage, public.* A building other than a private garage used for the care, incidental serving and sale of automobile supplies or where motor vehicles are parked or stored for remuneration, hire or sale within the structure but not including trucks, tractors, truck trailers and commercial vehicles exceeding 1½ tons capacity.

*Golf course.* Public, semipublic, or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto, and consisting of at least 45 acres for each standard nine-hole course and 25 acres for each nine-hole "par 3" course.

*Grade, street.* The elevation of the established street in front of the building measured at the center of such front. Where no street grade has been established, the county or authorized engineer shall establish such street grade or its equivalent for the purpose of this section.

*Ground floor area.* The lot area covered by a principal building measured at grade from the exterior walls, but excluding open porches or terraces, garages, or carports.

*Home occupation.* An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is incidental to the use of the dwelling unit for residential purposes (see [section 4.09](#)).

*Hospital or sanitarium.* An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than 24 hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical or mental conditions.

*Hotel, apartment.* A hotel in which at least 90 percent of the hotel accommodations are for occupancy by the permanent guests. An apartment hotel having not less than 50 guestrooms may have a dining room open to the public which is accessible only from an inner lobby or corridor.



*Hotel, motel, inn or auto court.* An establishment containing lodging accommodations designed for use by transients or travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial or desk service, meeting rooms, restaurants including the sale of alcoholic beverages.

*Householder.* The occupant of a dwelling unit who is either the owner or lessee thereof.

*Kennel, commercial.* Any lot or premises or portion thereof on which more than four dogs, cats or other household domestic animals over four months of age are kept, or on which more than two such animals are boarded for compensation or kept for sale.

*Laboratory, commercial.* A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly or packaging of products is not included within this definition.

*Loading and unloading space or area, off-street.* An open, hard-surfaced area macadam base and bituminous top of land other than a street or a public way, the principal use of which is for standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, 50 feet in length, and 14 feet in height, exclusive of access aisles and maneuvering space.

*Lodging[house] or roominghouse.* A building with the owner in residence with not more than five guestrooms where lodging is provided for compensation pursuant to previous arrangement, but not open on a daily, overnight or per meal basis to transient guests.

*Lot.* For the purpose of this ordinance, a lot is a parcel of land of at least sufficient size, exclusive of areas under water, to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. The word "lot" includes the words plot and parcel. Such lot shall have frontage on a recorded public or private street. In no case of division or combination shall any new or residual lot or parcel be created which does not meet the requirements of this ordinance.

*Lot coverage.* The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

*Lot frontage.* The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this section.

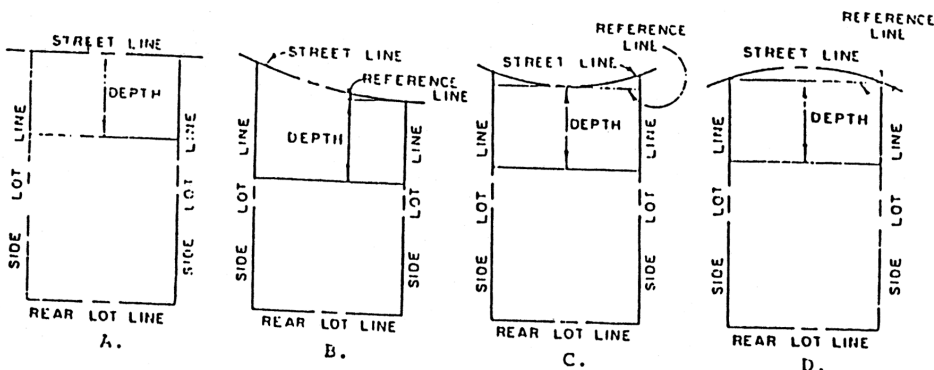
*Lot line.* A property boundary line of any lot held in single or separate ownership except that where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley line.

*Lot measurement.*

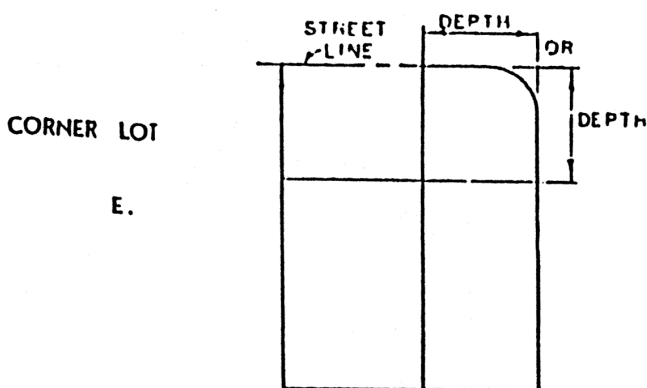
- a) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- b) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, provided however, that in determining lot frontage on odd shaped lots if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear line of the principal building or 30 feet behind the front setback line, parallel to the street or street chord. Every corner lot in a residential district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located; provided,

however, that this does not reduce the buildable width of any lot of record to less than 25 feet. On corner lots where a rear lot line abuts on side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line and distance equal to the side yard setback required for the district.

*Depth of required front yards.* Shall generally be measured from the innermost point of the street line (right-of-way) inward for a distance of the required front yard depth, as in diagrams A, B, C, and D.

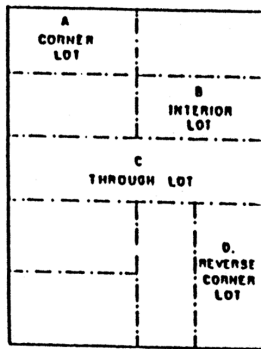


In the case of rounded property corners at street intersections, reference points for measurements shall be placed as though the side lot lines would have met the street line of the corner were not rounded, as in diagram E. The front and rear lot lines of the front yard shall be parallel.



*Lot of record.* A lot which is a part of a subdivision recorded in the office of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded. Every single-family, two-family, and multiple-family dwelling structure shall be located upon a lot of record as defined in this ordinance, and no more than one such structure or unit shall be erected upon such lot of record. The creation of a lot of record as defined in this ordinance on a premises or parcel of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, where the act of creating a lot of record creates five or more lots of record each of which is ten acres or less in area are created by successive acts within a period of ten years shall be deemed subdividing as defined in Act 288 of 1967 (MCL 560.101 et seq.) being the Subdivision Control Act for the State of Michigan, even in the event said lots of record shall be surveyed and a plat thereof submitted, approved and recorded as required by said Act 288 of 1967 and the ordinances of the City of Watervliet.

*Lot types.* The diagram below illustrates terminology used in this ordinance with reference to corner lots, interior lots, through lot and reverse corner lots:



In the diagram, A = corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle of less than 130 degrees. See lots marked A (1) in the diagram.

B = interior lot, defined as a lot other than a corner lot with only one frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

D = reverse corner lot, defined as a corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

**Manufacture.** The production, making or processing of products or commodities for general consumption of the public or for sale to specialized institutions or organizations. Also included is the subassembly, fabrications, or processing of parts or components for use in other products or commodities.

**Marina.** Any place where one or more boats are berthed or moored except where a property owner berths or moors his own personal boat only. A complete marina will normally have facilities or berthing, securing and servicing all types of recreational water craft, as well as providing adequate supplies, provisions, storage, fueling and launching facilities. The following facilities may, therefore, be provided in a complete marina: Recreational facilities; park and picnic grounds; marina and hardware supply store; boat slips; boat handling equipment; fuel station; repair and maintenance shops; boat gear and storage; launching facilities; restaurant; clubhouse; motel or boatel; commercial stores; spectator area; pedestrian area; automobile parking; lockers and sanitary facilities. Provided, however, that a permit for special use as a marina shall not include the right to use the property for any of the above purposes unless it is expressly provided for in the application and the special use permit, after full compliance with the requirements for securing a special use permit as provided for in article XVII of the zoning ordinance of the City of Watervliet. Types of marinas are:

One (1): That which is owned and operated by and for the community;

Two (2): That which is owned by private enterprise and developed for profit.

**Marquee or canopy.** A rooflike structure of a permanent nature which projects from the wall of a building and may overhang the sidewalk and is designed and intended to protect pedestrians from adverse weather conditions.

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

*Mobile home park.* Any parcel or tract of land licensed and regulated under provisions of the State Mobile Home Park Act, being Act 419 of the Public Acts of 1976 [repealed see now MCL 125.2301 et seq.], as amended, under the control of any person, upon which three or more occupied mobile homes are harbored on a continual or nonrecreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of mobile homes.

*Mobile home subdivision.* A "subdivision" as defined by the state Subdivision Control Act, being Act 288 of the Public Acts of 1967 (MCL 560.101 et seq.), as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provisions of the aforementioned Act and of all other applicable state, county, and township regulations.

*Motor freight terminal.* A building in which freight, brought to said building by motor truck is assembled and sorted for routing in either interstate or intrastate shipment by motor truck.

*Nameplate.* A sign indicating the name and address of a building or the same of an occupant thereof, and the practice of a permitted occupation therein.

*Net site area.* The area of a zoning lot, parcel or tract, excluding boundary rights-of-way.

*Nonconforming use.* Any building, structure or land lawfully occupied by a use or lawfully established at the time of the adoption of the ordinance or amendments thereto, which does not conform after the passage of the ordinance or amendments thereto with the use regulations of the ordinance.

*Noxious matter.* Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the psychological, social or economic well being of human beings.

*Nursery, child care.* An establishment for the part-time care of five or more children of pre-elementary school age in addition to the members of the family residing therein. All child care nurseries must comply with all governmental licensing regulations.

*Nursing home or rest home.* A commercial establishment for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders but not including facilities other than for physical therapy for the treatment of sickness or injuries or surgical care. All nursing homes must comply with all governmental licensing regulations.

*Occupancy certificate.* A certificate issued by the building inspector stating the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance.

*Open sales lot.* A lot or parcel of land used or occupied for the purpose of buying, selling, or trading of all goods and commodities and including the storage of same prior to sale or exchange.

*Ordinance.* The City of Watervliet zoning ordinance.

*Parking area, private.* An open, hard-surfaced area, macadam base and bituminous top, other than a street or public way intended to be used for the storage of passenger automobiles and commercial vehicles under 1½ tons capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

*Parking space, off-street.* A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any street, walk, or alley and so that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten feet by 20 feet. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square

feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the city.

*Planning commission.* The City of Watervliet planning commission as constituted by this ordinance.

*Planned development.* A tract of land which is planned as a whole for development under single ownership or control and which, by virtue of such unified planning and development, provides greater amenities, convenience or other benefits than normally would be had through the development, adequate provision shall be made for basic community facilities such as schools, parks, playgrounds and churches, among others. The minimum area for a planned development shall be:

- a) For residential — 3 acres;
- b) For business — 3 acres;
- c) For industrial — 10 acres;
- d) For government — 2 acres.

*Porch.* A roofed-over structure, projecting out from the wall or walls of a main structure and commonly open to the weather in part.

*Principal use.* The main use of land or buildings as distinguished from a subordinate or accessory use.

*Public open space.* Any publicly owned open area including, but not limited to, the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

*Public utility.* Any person, firm or corporation duly authorized to furnish under public regulation to the public electricity, gas, steam, telephone, transportation or water.

*Railroad right-of-way.* A strip of land with tracks and auxiliary facilities for track operation, but not including depot loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, water towers, etc.

*Restaurant.* A public eating establishment in which the primary function is the preparation and serving of food for consumption within the building. Food may be taken outside of the building by a patron for consumption either on or off the premises.

*Restaurant, drive-in.* An establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

*Roadside stand.* A structure used or intended to be used solely by the householder, owner or tenant of the parcel on which such structure is located for the sale of the farm products raised on such parcel.

*Sign, church bulletin board.* A sign attached to the exterior of a church or located elsewhere on the church premises, used to indicate the services or activities of the church and including its name, if desired.

*Sign, flashing.* Any illuminated sign of which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this ordinance, any revolving illuminated sign shall be considered a flashing sign.

*Sign, gross surface area of.* A sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However such perimeter shall not include any structural or framing elements outside the limits of such sign and not forming an integral part of the display.

*Special use.* A special use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted upon the issuance of a special use permit by the city commission in such zoning district as a special use, if specific provision for such special use is made in this ordinance.

*Stable, private.* Any building which is located on a lot on which a dwelling is located and which is designed, arranged, used or intended to be used for housing horses for the private use of occupants of the dwelling.

*Stacking requirements.* For the purposes herein, stacking requirements are the number of cars that must be accommodated in a reservoir space while awaiting ingress or egress to specified business or service establishment.

*Story.* That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above then the space between the floor and the ceiling next to it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

*Story, half.* A half-story is that portion of a building under a gable, hip or mansard roof, the wall plates of which on at least two opposite exterior walls are not more than 4½ feet above the finished floor of each story. In the case of one-family dwellings, two-family dwellings and multiple-family dwellings less than three stories in height, a half-story in a sloping room shall not be counted as a story.

*Streets.* A public way other than an alley which affords a primary means of access to abutting property.

*Street line.* A line separating a lot, piece or parcel of land from a street.

*Structure.* Anything constructed or erected which requires location on the ground or is attached to something having location on the ground including a fence or freestanding wall. A sign or other advertising medium, detached or projecting shall be construed to be a structure.

*Structural alterations.* See *Alterations, structural*.

*Swimming club, private (commercial).* A private club operated for profit, maintaining and operating a swimming pool and apparatus and equipment pertaining to the swimming pool with specified limitations upon the number of members for the exclusive use of members and their guests.

*Swimming pool, commercial.* A swimming pool and the apparatus and equipment pertaining to the swimming pool, operated for profit, open to the public upon payment of an hourly, daily, weekly, monthly, annual or other fee.

*Swimming pool, private.* A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained by an individual for the sole use of his household and his guests, without charge for admission and not for the purpose of profit, located on a lot as an accessory use to a residence.

*Swimming pool, public.* A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained and operated by a municipality or other units of government for the general public whether or not an admission fee is charged.

*Tavern or lounge.* A building where liquors are sold to be consumed on the premises but not including restaurants where the principal business is serving food.

*Toxic materials.* A substance (liquid, solid or gaseous) which by reason of an inherent deleterious property, tends to destroy life or impair health.

*Trailer.* A vehicle with or without motive power used or adaptable for living, sleeping, business or storage purpose, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, which does not meet the building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" includes "camp car" and "house car." A permanent foundation shall not change its character nor shall the erecting of additions to said trailer unless the trailer itself and any additions thereto conform to all city laws.

*Trailer sales area.* An open area, other than a street, used for the display or sale of new or used trailers, and where no repair work is done except for minor incidental repair of trailers to be displayed and sold on the premises.

*Trailer, sports or camping.* A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers and tent trailers.

*Trailer, utility.* See *Utility, vehicles and trailers.*

*Truck parking area or yard.* Any land used or intended to be used for the storage, parking of trucks, trailers, tractors and including commercial vehicles, while not loading or unloading which exceeds 1½ tons in capacity.

*Use.* The purpose for which land or building is designed, arranged or intended or for which it is occupied or maintained, let or leased.

*Use, principal.* The main use of land or buildings as distinguished from a subordinate or accessory use.

*Utility, vehicles—trailers.* Trucks and trailers available on a rental basis.

*Variance.* A variance is a relaxation of the terms of the zoning ordinance where such variances will not be contrary to public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open space; establishment or expansion of a use, otherwise prohibited, shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

*Vehicle sales lot (with or without motor power).* A zoning lot on which used or new cars, trailers or trucks are displayed in the open for sale or trade.

*Yard.* A required open space, between a lot line and a structure or group of structures, other than a court, unoccupied and unobstructed by any structure or portion of a structure, except as provided within this ordinance; provided, however, that fences, walls, poles and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

*Yard, front.* A front yard extending between side lot lines across the front of a lot adjoining a public street; or in the case of water front lots, which shall be considered as through lots, a public street on one frontage and the water front on the other frontage. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the zoning administrator may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

*Yard, rear.* The yard extending across the rear of a lot between side lot lines.

*Yard, rear, depth of a required.* Shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

*Yard, side.* A yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards.

*Yard, side, width of a required.* Shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the side lot line.

*Zoning administrator.* Wherever the term "zoning administrator" is used, it shall mean the zoning administrator, usually the building inspector appointed by the City of Watervliet city council [commission] and such deputies or assistants as have been or shall be duly appointed. That officer is hereby authorized and it is his duty to administer and enforce the provisions of the zoning ordinance, making such determinations, interpretations and orders as are necessary thereof and with applications for permits as are necessary for him to judge compliance with the ordinance.

*Zoning lot.* A single tract of land within a single block which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a zoning lot may or may not coincide with a lot of record.

*Zoning map.* The map incorporated herein as a part hereof, designating zoning district.

#### ARTICLE IV. - SUPPLEMENTARY DISTRICT REGULATIONS

##### Section 4.01. - Scope of regulations.

*Change in structures or use.* Except as may otherwise be provided, all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations herein which are applicable to the zoning district in which such buildings, uses or land shall be located.

##### Section 4.02. - Use and bulk regulations.

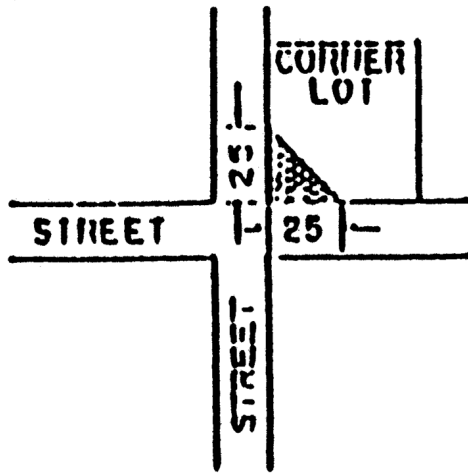
1. *Use.* No building, structure or land shall hereafter be used or occupied and no building or part thereof or other structure shall be erected, raised, moved, reconstructed, extended, enlarged or altered except in conformity with regulations herein specified for the district in which it is located.
2. *Bulk.* All new buildings and structures shall conform to the building regulations established herein for the district in which each building shall be located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the City of Watervliet.

##### Section 4.03. - Lot coverage.

1. *Maintenance of yard, courts and other open space.* The maintenance of yards, courts and other open spaces and minimum lot area required for a building shall be a continuing obligation of the owner of such building or of the property of which it is located, as long as the building is in existence. No legally required yards, courts, or other open space or minimum lot area allocated to any building, shall be virtue of change of ownership or for any reason be used to satisfy yard, court or other open space or minimum lot area requirements for any other building.
2. *Division of zoning lots.* No improved zoning lot shall hereafter be divided into two or more zoning lots unless all improved zoning lots resulting from each division shall conform with all the applicable bulk regulations of the zoning district in which the property is located. (See [the] city clerk for procedures for land splits.)



3. *Location of required open space.* All yards, courts and other open spaces allocated to a building or dwelling group shall located on the same zoning lot as such building or dwelling group.
4. *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of the zoning ordinance shall subsequently be reduced below or further reduced below if already less than the minimum yard requirements of the ordinance for equivalent new construction.
5. *Permitted obstructions in required yards.* The following shall not be considered to be obstructions when located in the required yards as specified:
  - a) *In all yards.*
    - (1) Open terraces not over four feet above the average level of the adjoining ground, but not including permanently roofed-over terrace or porch;
    - (2) Awnings and canopies but not projecting more than ten feet and at least seven feet above the average level of the adjoining ground;
    - (3) Steps, four feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley;
    - (4) Chimneys projecting 18 inches or less into the yard;
    - (5) Arbors, trellises, flagpoles, fountains, sculptures, plant boxes and other similar ornamental objects;
    - (6) Fences and walls not exceeding four feet in height above natural grade level in front yards and not exceeding six feet in height in side and rear yards; and open type fences exceeding six feet in any side yard, provided that visibility through any surface of such fence not be reduced by more than 40 percent.
  - b) *In front yards.* One story suspended bay windows projecting three feet or less into the yards; and overhanging eaves and gutters projecting three feet or less into the yard.
  - c) *In rear yards.* Enclosed, attached or detached off-street parking spaces, open off-street parking spaces accessory shed, tool rooms and similar buildings or structures for domestic or agricultural storage; balconies, breezeways and open porches; one story bay windows projecting three feet or less into the yard. In any residential district, no accessory building shall be nearer than seven feet to the side lot line nor nearer than seven feet to the rear lot line nor nearer than ten feet to any principal building unattached.
  - d) *In side yards.* Overhanging eaves and gutters projecting into the yard for a distance not exceeding 40 percent of the required yard width, but in no case exceeding four feet.
6. *Vision clearance; corner lots.* No building or structure hereafter erected and no planting or other obstruction to the vision of persons lawfully using the public streets shall be located:
  - a) In any residential district exceeding a height of three feet above the street grade within 25 feet of the intersecting street lines bordering corner lots; and
  - b) In any manufacturing district within 25 feet of the intersecting street lines bordering a corner lot, provided that this regulation shall not apply to that part of a building above the first floor.



Section 4.04. - Access to public streets.

Except as otherwise provided for herein, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street, unless a permanent easement of access to a public street was of record prior to the adoption of the ordinance.

**Cross reference**— Streets, sidewalks and other public places, ch. 38.

Section 4.05. - Number of buildings on a zoning lot.

Except in the case of a planned development, not more than one principal detached residential building shall be located on a residential lot, nor shall a principal detached building be located on the same zoning lot with any other principal building. For accessory buildings, see section 4.07 of this ordinance.

**Cross reference**— Buildings and building regulations, ch. 10.

Section 4.06. - Rezoning of public and semipublic areas.

An area indicated on the zoning map as a public park, recreation area, public school site, cemetery or other similar open space, shall not be used for any other purpose than that designated and when the use of the area is discontinued, it shall automatically be zoned to the most restricted adjoining district until appropriate zoning is authorized by the city commission within three months after the day of application filed for rezoning.

Section 4.07. - Accessory buildings.

1. *Location.* When a side yard is required, no part of an accessory building shall be located closer than three feet to the side lot line along such side yard. When a rear yard is required, no part of an accessory building shall be located closer than three feet to the rear lot line or to those portions of the side lot lines abutting such required rear yard. In a residential district, no detached accessory building shall be closer than ten feet to the principal building. No accessory building shall be located in front of the front building line of the principal building on any residential zoning lot.
2. *Number.* Except in the case of a planned development, not more than one accessory building shall be located on a residential lot nor shall an accessory building be located on a lot with any other accessory building.
3. *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

4. *Percentage of required rear yard occupied.* No accessory building or buildings shall occupy more than 40 percent of the of a required yard.
5. *Height of accessory buildings in required rear yards.* No accessory building or portion thereof located in a required rear yard shall exceed 15 feet in height.
6. *On reversed corner lots.* On a reversed corner lot in a residential district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than the required front yard on the adjacent lot to the rear. Further, in the above instance, no such accessory building shall be located within three feet of any part of a rear lot line which coincides with a side lot line or portion thereof of property in a residential district.

#### Section 4.08. - Temporary buildings.

Temporary buildings for construction purposes may be allowed in any district for a period not to exceed the completion date of such construction.

#### Section 4.09. - Home occupations.

Home occupations shall be allowed only by special use permit in conformance with the following regulations:

1. No person other than members of the family residing on the premises shall be engaged in such family occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. 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 sign, not exceeding one square foot in area, nonilluminated, and mounted flat against the wall of the principal building.
4. No traffic shall be generated by such home occupation in greater volume than would be normally 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.
5. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
6. Home occupations may include the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment, but not for the general practice of his profession.

**Cross reference**— Licenses, permits and miscellaneous business regulations, ch. 22.

**State Law reference**— Home occupations, MCL 125.583c.

#### Section 4.10. - Existing special uses.

Where a use is classified as a special use and exists as a permitted use at the date of the adoption of this ordinance, it shall be considered a legal use, without further action of the city commission, the zoning administrator, the board of appeals or the planning commission.

## Section 4.11. - Uses not specifically permitted in districts.

When a use is not specifically listed in the sections devoted to permitted uses or special uses, it shall be assumed that such uses are hereby expressly prohibited unless by a written decision of the board of appeals. If it is determined that said use is similar to and not more objectionable than uses listed, then such uses may be permitted.

## Section 4.12 - Prohibition of marihuana establishments.

1. **Title.** This section shall be known as and may be cited as the City of Watervliet Prohibition of Marihuana Establishments Ordinance.
2. **Definitions.** Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL MCL 333.27951, et seq., as may be amended.
3. **No marihuana establishments.** The City of Watervliet hereby prohibits all marihuana establishments within the boundaries of the City pursuant to Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.
4. **Violations and penalties.**
  - a) Any person who disobeys neglects or refuses to comply with any provision of this section, or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this section. A violation of this section is deemed to be a nuisance per se.
  - b) A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100.00 nor more than \$500.00, at the discretion of the court. The foregoing sanctions shall be in addition to the rights of the city to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the city incurs in connection with the municipal civil infraction.
  - c) Each day during which any violation continues shall be deemed a separate offense.
  - d) In addition, the city may seek injunctive relieve against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
  - e) This section shall be administered and enforced by the chief of police, his designee, or the ordinance enforcement officer of the city or by such other person(s) as designated by the city commission from time to time.
5. **Severability.** The provisions of this section are hereby declared to be severable. If any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such section which shall continue in full force and effect.
6. **Repeal.** All ordinance or parts of ordinances in conflict herewith are hereby repealed.
7. **Effective date.** This ordinance shall take effect June 24, 2019.

( Ord. No. 2019-1, 6-4-2019)

## ARTICLE V. - NONCONFORMING LOTS, USES, AND STRUCTURES

*Footnotes:*

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**Cross reference**— *Buildings and building regulations, ch. 10.*

**State Law reference**— *Nonconformities, MCL 125.583a.*

## Section 5.01. - Intent.

1. Within the districts established by this ordinance or any subsequent amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed but not to encourage their continuation. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
2. Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the district involved. A nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
3. Building permits. Where a building permit for a building or structure has been issued in accordance with law, prior to the effective date of the ordinance, and provided that construction is begun within 90 days of such effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued, and further may, upon completion be occupied under a certificate of occupancy by the use for which it was originally designated—subject thereafter to the provisions of [this] article V.

## Section 5.02. - Lot area and dimension.

1. *Contiguous parcels.* When two or more parcels of land, each of which lack adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.
2. *Lot area and lot frontage restrictions; exemption.* Lot area and lot frontage restrictions shall not apply to any lots or parcels of land which are part of a recorded plat, and at the time of the adoption of this ordinance such plats disclose lot areas or lot frontages of less than those governed by the terms of this ordinance.

## Section 5.03. - Nonconforming uses of land or land with minor structures only.

Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations of this ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains lawful, provided [that]:

1. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which the land is located.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

## Section 5.04. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity. Any building or structure which is nonconforming with respect to yards or any other bulk regulation shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformance with respect to the bulk regulations of the district in which it is located. A nonconforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use and then conforms to all regulations of that district;
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance. In the event the damage or destruction is less than 50 percent of its replacement value, the building may be restored to its original condition and the occupancy or use of such building may be continued which existed at the time of such partial destruction. Restoration or repair of the building or other structure must be started within a period of six months from the date of damage or destruction and diligently prosecuted to completion;
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 5.05. - Nonconforming uses of structures or of structures and premises in combination.

If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any additional land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special use be changed to another nonconforming use provided the city commission either by general rule or by making findings in the specific case, shall find the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the city commission may require appropriate conditions and safeguards in accord with the provisions of this ordinance.
4. Any structure, or structure and land in combination, or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not hereafter be resumed, even though the building may have been originally designed and constructed for the prior nonconforming use.
5. No nonconforming use may be extended in anyway to occupy any required open space or any land beyond the boundaries of the zoning lot as it existed, or to displace any conforming use in the same building or on the same

parcel.

6. When a nonconforming use of a structure or structure and premises in combination, is discontinued or abandoned for 12 consecutive months (except when circumstances beyond the control of the owner impede access to or occupation of the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
7. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

Section 5.06. - Amortization schedule.

The period of time during which the following nonconforming uses of buildings, structures or land may continue or remain, shall be limited from the effective date of this ordinance or amendment hereto which causes the use to be nonconforming. Every such nonconforming use shall be completely removed from the premises at the expiration of the period of time specified below:

1. Any nonconforming use of a building or structure having an assessed valuation not in excess of \$500.00 on the effective date of this ordinance shall be removed after two years;
2. Any nonconforming use of land where no enclosed building is involved or where the only buildings employed are accessory or incidental to such use or where such use is maintained in connection with a conforming building shall be removed after a period of two years;
3. All nonconforming signs, billboards and outdoor advertising structures shall be removed after a period of two years.

Section 5.07. - Repair and maintenance.

1. In any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided the cubic content existing when it became nonconforming shall not be increased. No structural alteration shall be made in a building or other structure containing a nonconforming use, except in the following situations:
  - a) When the alteration is required by law;
  - b) When the alteration will actually result in eliminating the nonconforming use;
  - c) When a building in a residential district containing residential nonconforming uses may be altered in any way to improve liability, provided no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.
2. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 5.08. - Uses under special use provisions are not nonconforming uses.

Any use which is approved by the city commission after the effective date of this ordinance as a special use in a district under the terms of this ordinance in accordance with article XVII shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use. The city commission may approve as a special use a use existing prior to the effective date of this ordinance, subject to the limitations and conditions of this ordinance as though such existing use were a newly initiated use, in which case the use would thereafter have the status of a conforming use as provided for above.

Section 5.09. - Certificate of occupancy for nonconforming structures and for nonconforming uses.

1. In order to establish a record of lawfully existing nonconforming structures and nonconforming uses of structures and land, the zoning administrator shall upon application by the owner, within one year of the time of passage of this ordinance, issue a certificate of occupancy for such lawfully existing nonconformance.
2. If such certificate of occupancy is not so obtained, the burden of proof of the lawful existence of a nonconforming structure or use shall rest upon the owner.
3. Within six months of the time of passage of this ordinance, the zoning administrator shall conduct a survey of lawfully existing nonconforming structures and nonconforming uses of structures and land and shall notify the owners of record thereof of the above conditions of this section. It is not, however, the intent of this paragraph that nonconforming structures and nonconforming uses of structures and land not included in the above described survey and notification procedure would assume the status of conforming to the provisions of this ordinance by virtue of omission of such notification, it being recognized that for practical reasons certain such nonconforming uses of structures and land could be missed in such survey and notification procedure described above.

Section 5.10. - Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses.

ARTICLE VI. - ZONING DISTRICTS AND MAPS

Section 6.01. - Districts.

In order to accomplish the purpose of this ordinance as stated in article II, the City of Watervliet, Berrien County, Michigan, is hereby divided into the following districts:

R-1 one-family residence district

R-2 one-/two-family residence district

R-3 general residence district

B-1 retail business district

B-2 retail and service business district

B-3 auto-oriented business district

I-1 limited industrial district



I-2 general industrial district

F-1 floodplain overlay district

#### Section 6.02. - Maps.

The boundaries of the zoning districts are established as shown on the map entitled, "Official Zoning Map of the City of Watervliet, Berrien County, Michigan"; this map is made a part hereof, and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon were fully set forth and described herein.

1. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk and shall bear the seal of the city under the following words: "This is to certify that this is the official zoning map referred to in section 6.02 of Zoning Ordinance Number \_\_\_\_\_ of the City of Watervliet, Berrien County, Michigan," together with the date of the adoption of this ordinance.
2. If in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map by the city clerk within ten days after the amendment has been approved by the city commission with an entry of the official zoning map as follows: "On (date), by official action of the city commission the following (change) changes were made in the official zoning map: (brief description of nature of change), which entry shall be signed by the mayor and attested by the city clerk." No amendment to this ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry have been made on said map.
3. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable provided in section 21.04.
4. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the city hall shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.
5. In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city commission may by resolution adopt a new official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk and shall bear the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as part of zoning ordinance No. \_\_\_\_\_ of the City of Watervliet."
6. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

#### Section 6.03. - District boundaries.

When uncertainty exists with respect to the boundaries of the various districts, as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines.

2. Boundaries indicated as approximately following property, parcel, or lot lines shall be construed as following such li
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
4. Boundaries indicated as following township section lines shall be construed as following such section lines.
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
6. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
7. Boundaries indicated as parallel to or extensions of features indicated in rules 1 through 6 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
8. Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by rules 1 through 7 above, the board of appeals shall interpret the district boundaries.
9. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the entire lot shall be construed to be within the less restricted district, provided that the construction shall not apply if it increases the less restricted frontage of the lot by more than 25 feet.

#### Section 6.04. - Zoning of public ways.

All streets, alleys, public way, waterways and railroad rights-of-way, if not otherwise specifically designated shall be deemed to be in the same zone as the property immediately abutting on such streets, alleys, public ways and railroad right-of-way or waterways. Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

### ARTICLE VII. - RESIDENCE DISTRICTS

#### Section 7.01. - [R-1] one-family residence district.

1. *Purpose.* The R-1 district is established to provide low density areas in which the principle use of land is for single-family dwellings on medium sized lots.
2. *Permitted uses.* The following uses are permitted:
  - One-family detached dwellings and permitted accessory uses;
  - Parks and recreational areas, when publicly owned and operated;
  - Accessory uses including off-street parking facilities in accordance with the provisions of article XII;
  - Signs as permitted in article XI.
3. *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of article XVII:
  - Churches and rectories;

Filling of holes, pits or lowlands with soil free from refuse and food wastes;

Home occupations;

Public service uses, including pumping stations, police and fire stations; hospitals and associated business; telephone exchanges, electric substations and other similar public service uses;

Planned developments, under single ownership or control, in which incidental business or recreational facilities for the convenience of the occupants may be furnished, provided the property proposed for development shall have a gross area of at least three acres. For such developments, the city commission may vary the regulations herein, provided [that] such variations are consistent with the general purpose and intent of the ordinance and will result in better site planning and thus be of greater benefit to both the occupants of the development and to the community.

4. *Off-street parking.* Automobile parking facilities shall be provided as required or permitted in article XII.
5. *Minimum lot size.*
  - a) Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than 8,000 square feet, and a width at the established building line of not less than 65 feet, frontage of not less than 15 feet and a depth of not less than 80 feet. Street and/or highway right-of-way line bordering the front of the lot or parcel of land shall be the point of beginning for the depth measurement herein required;
  - b) All nonresidential principal uses of buildings, as permitted herein, shall be located on a tract of land having an area of not less than 8,000 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 65 feet;
  - c) Minimum lot sizes for special uses shall be prescribed and conditions stipulated at the time a special use permit is authorized, but in no case shall any such lot have an area of less than 8,000 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 65 feet.
6. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement:
  - a) Front yard: A front yard of not less than 20 feet. Any front yard which faces a public street shall be considered a front yard.
  - b) Side yard: A side yard on each side of the main building of not less than seven feet except where a side yard adjoins a street, the minimum width of such yard shall be not less than 15 feet.
  - c) Rear yard: A rear yard of not less than 20 percent of the depth of the lot; provided, however, that such rear yard shall not be less than 20 feet but need not exceed 25 feet.
7. *Maximum lot coverage.* No more than 30 percent of the lot area may be occupied by buildings and structures including accessory buildings.
8. *Building height.* No building, other than hospitals, shall exceed a height of 30 feet or 2½ stories, whichever is lower.
9. *Hospitals.* No hospital shall exceed 60 feet in height.

(Mo. of 12-12-2000, § 7.01.6.a.; Mo. of 11-11-2003, § 7.01.3,8,9)

#### Section 7.02. - R-2 one-/two-family residence district.

1. *Purpose.* The R-2 district is established as a general residence district to provide for a wider variety of dwelling accommodations with a medium density of dwelling units; to provide for two-family dwellings with adequate open space for family living; to provide for and encourage the redevelopment of older residential districts in the city and to provide for a transition between nonresidential areas and single-family areas of lower density.

2. *Permitted uses.* The following uses are permitted:

Any of the uses permitted in the R-1 one-family residence district;

Two-family dwellings;

3. *Special uses.* The following uses may be allowed by special use permit in accordance with provisions of article XVII:  
Any use which may be allowed as a special use in the R-1 district.

4. *Off-street parking.* Off-street parking and loading facilities shall be provided as required or permitted in article XII.

5. *Minimum lot sizes.*

- a) Every one-family detached dwelling or two-family dwelling hereafter erected or structurally altered, shall be located on a lot having an area of not less than 6,500 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 50 feet;
- b) Existing residential buildings in the R-2 district may be altered to provide for not more than two dwelling units, provided that no existing residential building is altered in such a way as to conflict with or further conflict with the foregoing requirements;
- c) Minimum lot sizes for special uses shall be prescribed at the time a special use permit is authorized, but in no case shall any such lot be less than 6,500 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 50 feet.

6. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:

a) Front yard: A front yard not less than 20 feet deep or equal to adjacent property.

b) Side yards: In the R-2 district, the minimum side yard requirements for permitted uses shall not be less than those itemized below:

- (1) For one- and two-family buildings, the same regulations shall apply as permitted or required in the R-1 one-family residence district.
- (2) For each permitted nonresidential building, interior side yards on each side of the building shall not be less than ten feet, plus one foot for each two feet by which the building height exceeds 15 feet.
- (3) For special uses, the interior side yards shall be as specified in the special use permit, but in no case shall the interior side yards be less than those specified for nonresidential buildings in paragraph two above.
- (4) Minimum corner side yards: In an R-2 district, the minimum corner side yard requirements for permitted uses shall be not less than those itemized below:
  - (a) For one- and two-family dwellings, the same regulations shall apply as permitted or required in the R-1 one-family district.
  - (b) For reversed corner lots there shall be maintained a setback from the side street of not less than 25 percent of the front yard required on the lots in the rear of such corner lots, but such setbacks need not exceed 15 feet. No accessory building on said reversed corner lot shall project beyond the front yard required on the adjacent lot to the rear, nor be located nearer than ten feet to the side lot line of said adjacent lot.
  - (c) For permitted nonresidential uses, 15 feet plus one foot for each two feet by which the building height exceeds 15 feet.
  - (d) For special uses, corner side yards shall be as specified in the special use permit, but in no case shall such side yards be less than that specified for nonresidential buildings in paragraph (c) above.

c) Rear yard: There shall be a rear yard of not less than 20 feet.

7. *Maximum lot coverage.* Not more than 40 percent of the lot area may be occupied by buildings and structures including accessory buildings.
8. *Building height.* No building shall exceed a height of 30 feet or 2½ stories, whichever is lower.

Section 7.03. - R-3 general residence district.

1. *Purpose.* The R-3 district is established as a general residence district to provide for a wider variety of dwelling accommodations with a higher density of dwelling units for multiple-family dwellings with adequate open space for family living; to provide for and encourage the redevelopment of older residential districts in the township; and to provide for a transition between nonresidential areas and single family areas of lower density.

2. *Permitted uses.* The following uses are permitted:

Any of the uses permitted in the R-2 one-/two-family residence district;

Multiple-family dwelling, apartments and apartment hotels;

One-family row dwellings (party wall) with not more than six dwellings in a row or building.

3. *Special uses.* The following uses may be allowed by special use permits in accordance with the provisions of article XVII:

Any use which may be allowed as a special use in the R-2 district.

Medical and dental offices and medical centers.

Mobile home parks, provided that public or community sewer and water facilities are available for each mobile home, and that each mobile home site contains not less than 3,000 square feet of area, including parking space, but not including roadway.

Philanthropic or charitable uses or institutions, provided that not more than 20 percent of the gross floor area or 2,000 square feet, whichever is greater, shall be used as office space.

Private clubs or lodges, except those the chief activity of which is a service normally carried on as a business.

Off-street parking areas, provided there is a need for this facility in the interest of public necessity and convenience and that no appropriate site is available in nearby business or manufacturing districts.

Undertaking establishments, funeral parlors.

Planned developments under single ownership or control, in which incidental business or recreational facilities for the convenience of the occupants may be furnished, provided [that] the property proposed for development shall have a gross area of at least three acres. For such developments, the city commission may vary the regulations herein, provided that such variations are consistent with the general purpose and intent of the ordinance and will result in better site planning and thus be of greater benefit both to the occupants of the development and to the community.

4. *Minimum lot sizes.*

- a) Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than 6,500 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 50 feet;

- b) All structures or buildings containing four or more dwelling units shall be located on a lot which provides a

minimum lot area, per dwelling unit, as follows:

Type of Dwelling Unit	Land Area Per Dwelling Unit in Square Feet
More than 4 Bedrooms	3,000
4 Bedrooms	2,000
3 Bedrooms	1,700
2 Bedrooms	1,400
1 Bedroom and efficiency	1,100

Provided, however, that in no case shall the minimum lot area be less than 6,500 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 50 feet.

Existing residential buildings in the R-3 district may be altered to provide for not more than four dwelling units, provided that no existing residential building is altered in such a way as to conflict with or further conflict with the foregoing requirements.

- c) All nonresidential principal uses permitted in this district shall be located on a lot having an area of not less than 6,500 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 50 feet.
  - d) Minimum lot sizes for special uses shall be prescribed at the time a special use permit is authorized, but in no case shall any such lot be less than 6,500 square feet, frontage of not less than 15 feet and a width at the established building line of not less than 50 feet.
6. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:
- a) Front yard: A front yard of not less than 15 feet plus one additional foot of front yard for each two feet over 30 feet in building height.
  - b) Side yards: In the R-3 district, the minimum side yard requirements for permitted uses shall be not less than those itemized below:
    - (1) For buildings containing three or more dwelling units, a side yard on each side of each building of ten feet plus five additional feet for each additional story above two stories in height;
    - (2) For buildings containing three or more dwelling units there may not be less than 20 feet between adjacent row buildings;
    - (3) For permitted nonresidential buildings, side yards on each side of the building shall not be less than 15 feet plus one foot for each two feet by which the building height exceeds 15 feet;
    - (4) For special uses, side yards shall be as specified in the special use permit, but in no case shall the side yards be less than those specified for nonresidential buildings in paragraph (3) above.
    - (5) Minimum corner side yards: In an R-3 district, the minimum corner side yard requirements for permitted uses shall be not less than those itemized below:
      - (a) For buildings containing three or more dwelling units—ten feet except that buildings 50 feet or more in overall width, as projected upon the front lot line, shall have corner side yards not less than 15 percent of the building width or 30 percent of the building height, whichever is greater;
      - (b) For reversed corner lots there shall be maintained a setback from the side street of not less than 25 percent of the front yard required on the lots in the rear of such corner lots, but such setbacks need not exceed 15 feet. No accessory building on such reversed corner lot shall project beyond the front yard

required on the adjacent lot to the rear, nor be located nearer than ten feet to the side lot line of said adjacent lot;

- (c) For permitted nonresidential uses, 15 feet, plus one additional foot for each two feet by which the building height exceeds 15 feet;
  - (d) For special uses, corner side yards shall be as specified in the special use permit, but in no case shall such side yards be less than that specified for nonresidential buildings in paragraph (c) above.
- c) Rear yard: There shall be a rear yard of not less than 20 feet.
7. *Maximum lot coverage.* The principal building shall not cover more than 50 percent of the lot acres; provided, however, that one story attached garage shall be considered an accessory building and not part of the principal building.
8. *Building height.* No building shall exceed a height of 40 feet or four stories, whichever is lower.

#### ARTICLE VIII. - BUSINESS DISTRICTS

*Footnotes:*

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**Cross reference**— *Licenses, permits and miscellaneous business regulations, ch. 22.*

#### Section 8.01. - B-1 retail business district.

1. *Purpose.* The B-1 district is established to provide areas for a wide range of retail stores and personal service establishments which are desirable to provide for both day-to-day and occasional shopping needs.
2. *Permitted uses.* The following retail business and service uses are permitted, provided that they are operated entirely within a building—except for off-street parking and loading facilities:
  - Apparel shops;
  - Art and school supply stores;
  - Art galleries and studios;
  - Bakery shops, including the baking and processing of food products when prepared for retail sale on the premises only;
  - Banks and financial institutions, including drive-in teller facilities;
  - Barbershops, beauty parlors;
  - Book and stationery stores;
  - Camera and photographic supply stores or retail sale;
  - Candy and ice cream shops;
  - Carpet, rug and linoleum stores;
  - Catalog offices for mail order stores;
  - China and glassware stores;

Coin and philatelic stores;

Currency exchanges;

Custom dressmaking, millinery, tailoring or shoe repair shops, when conducted for retail sales on the premises only;

Department stores;

Dry goods stores;

Drugstores;

Dry cleaning and pressing establishments, approved by the fire department;

Florist shops and conservatories for retail trade on the premises only;

Food, meat and fruit stores;

Furniture stores;

Furrier, when conducted for retail trade on the premises only;

Garden supply stores;

Gift shops;

Hardware stores;

Hobby stores;

Household appliance stores and repair;

Interior decorating shops;

Jewelry stores;

Laundromats;

Leather goods and luggage stores;

Loan offices and finance companies;

Meat markets;

Musical instrument stores;

Offices, business and professional, including medical clinics;

Orthopedic and medical appliance stores, but not including the manufacture of such articles;

Paint and wallpaper stores;

Parking lots and garages, other than accessory and subject to the provisions of article XII.

Photography studios, including the development of film and pictures when done as part of the retail business on the premises;

Public utility collection offices;



Radio and television broadcasting stations, including cable TV;

Restaurants;

Sporting goods stores;

Tobacco shops;

Toy stores;

Travel bureau and transportation ticket offices;

Business machines sales and service;

Accessory uses, including off-street parking and loading facilities as permitted or required in accordance with the provisions of article XII.

3. *Special uses.* The following uses may be allowed by special use permit in accordance with provisions of article XVII:

Other retail business uses not specifically listed above, when found to have economic compatibility with established uses on adjoining property;

Animal hospitals;

Bus terminal or other public transportation facilities;

Churches, rectories and parish houses;

Clubs or lodges (nonprofit), fraternal and religious institutions;

Cocktail lounges, taverns, liquor stores—package goods only, and any other establishments in which beer and/or liquor is to be sold either in package or to be consumed on the premises, subject to the conditions specified in article XVII.

Hospital and nursing homes;

Hotels and motels, including restaurants and meeting rooms;

Parks, when publicly owned and operated;

Public utility and public services uses including: Electric substations; fire stations; police stations; public art galleries and museums; public libraries; public parking lots; telephone exchange, repeater stations, microwave relay towers and stations, antenna towers and other outdoor equipment essential to the operation of the exchange in the interest of public convenience and necessity;

Telephone answering services;

Water filtration plants;

Dwelling units—when business uses, premises designed for such uses or off-street parking occupy the ground floor; provided that all of the lot area parking requirements and other regulations affecting residential development as set forth in the R-4 district, are complied with.

4. *Yard area.*

a) *Transitional yards.* Where a B-1 district adjoins a residence district, transitional yards shall be provided in

accordance with the following regulations:

- (1) Where lots in a B-1 district front on the street and at least 80 percent of the frontage directly across the street between two consecutive intersecting streets is in a residence district, the front yard regulations for the residence district shall apply to the said lots in the business district.
  - (2) In a B-1 district, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such side lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this ordinance for a residential use on the adjacent property in the residence district.
  - (3) In a B-1 district, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this ordinance for a residential use on the adjacent property in the residence district.
  - (4) In a B-1 district, where a rear lot line coincides with a side lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be 20 feet in depth.
  - (5) In a B-1 district, where the extension of a front or side lot line coincides with the front line of an adjacent lot located in a residence district, a yard of not less than ten feet shall be provided.
  - (6) Transitional yards shall be unobstructed from lowest level to sky except as allowed in section 4.03, 5.
- b) *Side yards:* If an interior side yard is provided, it shall be not less than five feet wide.
  - c) *Rear yard:* A rear yard of not less than 20 feet in depth.
5. *Signs.* Signs shall be permitted as allowed in article XI.
  6. *Off-street parking and loading.* Parking and loading facilities shall be provided as required or permitted in article XII.
  7. *Building height.* The height of any structure shall not exceed 55 feet, except as provided herein.
  8. *Conditions of use.* All permitted uses in this district except residence district uses, shall be retail and shall be subject to the following conditions:
    - a) There shall be no manufacture, processing or treatment of products other than those which are clearly indicated and essential to the retail business conducted on the same premises.
    - b) Such uses, operations or products shall not be objectionable due to odor, dust, smoke, noise, or vibrations or other similar causes.
    - c) All outside storage of refuse material shall be containerized.

#### Section 8.02. - B-2 retail and service district.

1. *Purpose.* The B-2 district is established to provide additional business and commercial uses, limited service uses not permitted in the B-1 district, and to provide for a greater bulk and intensity of use of land and buildings.
2. *Permitted uses.* The following retail and service uses are permitted, provided [that] they are operated entirely within a building or buildings, except for off-street parking and loading facilities:

Any use permitted in the B-1 business district;

Ambulance service;

Art galleries and studios;

Auction rooms;

Auto accessory stores;

Bicycle sales and repair;

Costume rental shops;

Frozen food stores and food lockers;

Glass cutting and glazing establishments;

Hotels and motels;

Locksmith;

Meeting halls;

Pet shops, but not including animal hospitals;

Photo developing and processing;

Physical fitness and health services;

Picture framing when conducted for retail trade on the premises only;

Plumbing, heating, air conditioning sales and service;

Schools: music, dance business, commercial or trade;

Taxidermist;

Telephone answering service;

Telephone exchange, repeater stations, microwave relay towers and stations, mobile transmitting towers and stations, antenna towers and other outdoor equipment essential to the operation of the exchange in the interest of public convenience and necessity, and including business offices in conjunction therewith;

Theater, indoor;

Upholster shops;

Accessory uses, including off-street parking and loading facilities, as permitted or required in accordance with the provisions of article XII.

3. *Special uses.* The following uses may be allowed by special use permit in accordance with provisions of article XVII:

Any use which may be allowed as a special use in the B-1 retail business district;

Other retail business uses not specifically listed below, when found to have economic compatibility with established uses on adjoining property;

Automobile sales and service shops, including painting and repairing but not the painting or repairing of trucks over 1½ tons capacity;

Automobile service stations;

Blue printing and photostating establishments;

Boat showrooms;

Catering establishments;

Extermination shops;

Funeral homes and undertaking parlors;

Garages, public, for storage of private passenger automobiles and commercial vehicles under 1½ tons;

Hand laundries;

Nursing home or rest home;

Publishing and printing;

Restaurants, including drive-in restaurants.

4. *Conditions of use.* All permitted uses in this district except residence district uses shall be retail and shall be subject to the following conditions:
  - a) There shall be no manufacture, processing or treatment of products other than those which are clearly indicated and essential to the retail business conducted on the same premises;
  - b) Such uses, operations or products shall not be objectionable due to odor, dust, smoke, noise or vibrations or other similar causes;
  - c) All outside storage of refuse material shall be containerized.
5. *Yard areas.* All yard regulations shall be the same as required in the B-1 retail business district.
6. *Signs.* Signs shall be as permitted in article XI.
7. *Off-street parking and loading.* Parking and loading facilities shall be provided as required or permitted in article XII.
8. *Building height.* Height regulations shall be the same as required in the B-1 retail business district.

Section 8.03. - [B-3] auto-oriented district.

1. *Purpose.* The B-3 auto-oriented business district is established to accommodate only those uses that are highway oriented.
2. *Permitted uses.* No permitted uses in this B-3 auto-oriented business district.
3. *Special uses.* The following special uses are permitted in accordance with the provisions of article XVII:
 

Automobile and truck sales and rental;

Automobile laundries;

  - a) All washing facilities shall be completely within an enclosed building,
  - b) Any lights used to illuminate the area shall be directed away from adjacent residential properties,
  - c) A permanent screening fence or wall not less than five feet in height shall be constructed, along any site property line which abuts property zoned for residential use.

Automobile service stations;

Battery and tire service centers;

Drive-in banks;

- Funeral homes;
  - Hotels and motels;
  - Mobile home, motor home and trailer sales and rental, but not including the use of mobile homes as a residence;
  - Produce markets;
  - Public passenger transportation terminals, such as heliports, bus and rail depots;
  - Public service uses, including pumping stations, police and fire stations; telephone exchanges, electric substations and other similar public service uses;
  - Restaurants, including drive-ins;
  - Tourist homes;
  - Vehicle sales, service, washing and repair stations, garages, taxi stands and public parking lots;
4. *Conditions of use.* All special uses permitted in this district shall be retail establishments dealing directly with consumers and shall be subject to the following conditions:
    - a) There shall be no processing or treatment of products other than that which is clearly incidental and essential to the retail use as permitted.
    - b) All outside storage of refuse material shall be containerized.
  5. *Height of buildings.* No building or structure shall be erected or structurally altered to exceed 55 feet in height.
  6. *Minimum lot size.*
    - a) Lot area: Minimum lot area of 12,500 square feet.
    - b) Lot width: Minimum lot width of 100 feet.
    - c) Lot depth: Minimum lot depth of 125 feet.
  7. *Yard areas.*
    - a) Front yard: A front yard of not less than 50 feet.
    - b) Side yards: No requirements except where abutting upon residential use or street lines, there shall be a side yard of 25 feet.
    - c) Rear yard: Not less than 20 feet.
  8. *Signs.* The erection, construction, alteration and location of signs, other advertising structures, marquees and awnings shall be in conformity with the provisions of article XI.
  9. *Off-street parking and loading.* Off-street parking and loading facilities shall be provided as permitted or required in article XII.

Section 8.04. - B-OT office/technical district.

1. *Purpose.* The B-OT district is established to provide an area of the city that is conducive to professional establishments predominantly of a medical, research or technical nature that sits in a campus like setting away from conventional retail or trade businesses which are encouraged to remain in the downtown district or M-140 business corridor.
2. *Permitted uses.* The following professional uses are permitted provided that they are operated entirely within a building or buildings, except for off-street parking and loading facilities:

Accounting offices, including the offices of tax preparers; architectural firms and offices; armed forces recruiting offices; attorney and law offices; brokerage offices; corporate offices; engineering firms and offices; fire stations, police stations and substations; hospitals, specialty clinics, medical centers, laboratories and research facilities; dental offices; hotels; real estate and insurance agent offices; office equipment and medical supply stores; abstract and title insurance offices; restaurants, delicatessens, coffee shops and pubs; banks, savings and loan associations and similar financial institutions or offices.

3. *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of article XVII:

Veterinarian offices, planned unit developments in accordance with article XVIII.

4. *Conditions of use.* All permitted uses and special uses in this district shall be subject to the following conditions:

- a) All utilities in rights-of-way or to buildings must be underground.
- b) All refuse containers must be located at the rear of each site and not visible from the right-of-way and must be in an enclosure. The enclosure can be integral to the permitted principal structure or detached.
- c) No outside storage will be permitted unless specifically approved by the city commission.
- d) No commercial statements of the occupant's products or services will be allowed as a part of the building facade or elevation.

5. *Height of buildings.* No building or structure shall be erected or structurally altered to exceed 55 feet in height.

6. *Minimum lot size.*

- a) Lot area: Minimum lot area of 22,500 square feet.
- b) Lot width: Minimum lot width of 150 feet.
- c) Lot depth: Minimum lot depth of 150 feet.

7. *Yard areas.*

- a) Front yard: A front yard of not less than 50 feet.
- b) Side yards: A side yard of 15 feet shall be maintained except where abutting a residential use or street line, in which case a side yard of 25 feet shall be maintained.
- c) Rear yards: A rear yard of not less than 20 feet.

8. *Signs.* All signs in the front setback will be ground mounted signs. Building or facade mounted signs will be allowed, however, all signs shall be in conformity with the provisions of article XI.

9. *Off-street parking and loading.* Off-street parking and loading facilities shall be provided as permitted or required in article XII.

( Ord. of 9-10-2013 )

#### Section 8.05. - City business license application.

A new business must submit a business license application to the city before opening for business. Failure to do so will result in a \$500.00 fine.

(Res. No. 07-2013, 4-9-2013; Ord. of 9-10-2013 )

#### ARTICLE IX. - INDUSTRIAL DISTRICTS

*Footnotes:*

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**Cross reference**— *Licenses, permits and miscellaneous business regulations, ch. 22.*

## Section 9.01. - [I-1] limited industrial district.

1. *Purpose.* The I-1 limited industrial district is established to provide areas for industrial concerns whose operations are of a high performance standard; to ensure that operations will be conducted without substantial annoyance or inconvenience to the owners of surrounding property or the users of surrounding highways or streets, and the prevention of adverse effects upon surrounding public or private property.
2. *Permitted uses.* The following uses are permitted:

*Retail and Service Uses*

Agricultural implement sales and service;

Animal pounds, shelters and kennels;

Beverages—bottling and distribution;

Building material sales;

Contractor or construction storage yard or buildings;

Garages and parking lots, other than accessory—and subject to the provisions of article XII;

Greenhouses;

Motorized vehicle service stations;

Plating shops;

Trade schools;

Wholesale business, when completely operated within an enclosed building;

Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products—such as those listed below and other similar uses. All laws, rules and regulations of any local, county, state or federal governmental organization must be strictly adhered to as to the emission of odor, dust, smoke, gas, noise, vibration and the like;

Advertising displays;

Agricultural buildings and structures;

Automobile laundries;

Automobile and truck repair, including body repair and repainting;

Bakeries;

Blacksmith shops;

Books—hand binding and tooling;

Bottling works—nonalcoholic;

Brushes and brooms;

Building equipment, building materials, lumber and yards for contracting equipment of public agencies or public utilities or materials or equipment of similar nature;

Cameras and other photographic equipment and supplies;

Canning and preserving;

Canvas and canvas products;

Carpet and rug cleaning;

Ceramic products—such a pottery and small glazed tile;

Cleaning and dyeing establishment;

Cosmetics and toiletries;

Creameries and dairies;

Dentures;

Drugs;

Electrical appliances, such as lighting fixtures, irons, fans, toasters and electrical toys;

Electrical equipment assembly, such as home radio and television receivers and home movie equipment, but not including electrical machinery;

Electric supplies, manufacturing and assembly of—such as wire and cable assembly, switches, lamps, insulation and dry cell batteries;

Food products, processing and combining of baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing, and pressing, but not including slaughterhouses;

Garment manufacturing;

Glass products, from previously manufactured glass;

Hair, felt and feather products, (except washing, curing and dyeing);

Ice, dry and natural;

Ink mixing and packaging of inked ribbons;

Jewelry;

Laboratories—medical, dental, research, experimental and testing—provided there is no danger from fire or explosion or offensive noise, vibration, smoke, dust, odor, heat, glare or other objectionable influence;

Laundries;

Leather products and similar manmade products;



Luggage;

Machine shops for tool, die and pattern making;

Metal stamping and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons and kitchen utensils;

Mobile homes;

Musical instruments;

Orthopedic and medical appliances (sic), such as artificial limbs, braces, supports, and stretchers;

Packing and crating;

Paper products, small, such as envelopes and stationery, bags, boxes, tubes and wallpaper printing;

Perfumes and cosmetics;

Pharmaceutical products, compounding only;

Plastic products, but not including the processing of raw materials;

Precision instruments—such as optical, medical and drafting;

Products from finished materials—plastic, bone, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, precious and semiprecious stones, rubber, shell or yarn;

Printing and newspaper publishing, including engraving and photo engraving;

Repair of household or office machinery or equipment;

Rubber products, small and synthetic treated fabrics (excluding all rubber and synthetic processing) such as washers, gloves, footwear, bathing caps and atomizers;

Soap and detergents;

Soldering and welding;

Sporting and athletic equipment, such as balls, baskets, cues, gloves, bats, rackets and rods;

Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations;

Storage of household goods;

Tinsmiths;

Textiles—spinning, weaving, manufacturing, dyeing, printing, knit goods, yarn, thread and cordage, but not including textile bleaching;

Tobacco curing and manufacturing and tobacco products

Tools and hardware—such as bolts, nuts, and screws, doorknobs, drills, hand tools, and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances;

Toys;

Truck, tractor, trailer or bus garage including a motor freight terminal;

Umbrellas;

Upholstering (bulk) including mattress manufacturing, rebuilding and renovating;

Vehicles, children's—such as bicycles, scooters, wagons and baby carriages;

Watches;

Wood products, such as furniture, boxes, crates, baskets and pencils and cooperate works;

#### *Public and Community Service Uses*

Bus terminals, bus turnarounds, bus garages, bus lots;

Electric substations;

Fire stations;

Municipal or privately owned recreation buildings or community centers;

Police stations;

Telephone exchanges;

Water filtration plants;

Water pumping stations;

#### *Residential Uses*

Dwelling units for watchmen and their families when located on the premises where they are employed in such capacity.

#### *Miscellaneous Uses*

Accessory uses customarily incidental to the permitted principal use;

Signs, as permitted and regulated in article XI.

3. *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of article XVII:

Filling of holes, pits or lowlands with soil free from refuse and food wastes;

Mining, loading and hauling of sand, gravel, topsoil or other aggregate or minerals, including equipment, buildings or structures for screening, crushing, mixing, washing or storage provided that:

- a) No open pit or shaft is less than 100 feet from any public road;
- b) All buildings or structures for the screening, crushing, washing, mixing or storage are located not less than 150 feet from any property line;
- c) The borders of the property adjacent to any district other than an industrial district, are fenced with a solid fence or wall at least six feet in height.
- d) A plan of development of the reclamation of the land is provided as part of the application for special use. The

plan of development shall be accompanied by a written agreement between the owner or his agent and the City of Watervliet and a performance bond in an amount equal to the cost of the reclamation of the land as set forth in the development plan.

Radio and television towers;

Sewage treatment plants;

Theaters, outdoor drive-in;

Trailer sales or rental (including mobile homes and cap trailers) business not including occupancy of trailers except by a watchman when located on the premises.

4. *Off-street parking and loading.* [Off-street parking and loading] shall be as permitted or required in article XII.
5. *Conditions of use.* All permitted uses are subject to the following conditions:
  - a) All local, county, state and federal laws, rules and regulations must be strictly adhered to as to the emission of odor, dust, smoke, gas, noise, vibration and the like.
  - b) All business, production, servicing, processing shall take place within completely enclosed buildings unless otherwise specified. Within 150 feet of a residence district all storage shall be in completely enclosed buildings or structures, and storage located elsewhere in this district may be open to the sky but shall be enclosed by solid walls or fences (including solid doors or gates thereto) at least six feet high, and suitably landscaped. However, open off-street loading facilities and open off-street parking of motor vehicles may be unenclosed throughout the district, except for such screening of parking and loading facilities as may be required under the provisions of article XII.
6. *Yard areas.* No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such building:
  - a) *Front yard.* On every zoning lot a front yard of not less than 50 feet in depth shall be provided. However, where lots within the same block and comprising 40 percent of the frontage on the same street are already developed on the effective date of the ordinance with front yards with an average depth shall be the required front yard depth for such frontage in said block. No industrial building or a position thereof or any accessory building in connection therewith, shall be hereafter erected in front of a building or setback line.
  - b) *Side yards.* A side yard 25 feet deep is required except on the side of the lot adjoining a residence district, in which case there shall be a side yard of not less than 40 feet.
  - c) *Rear yard.* On every zoning lot there shall be a rear yard of not less than 30 feet, except where a use in the I-1 limited industrial district is adjacent to a residence district, a rear yard shall be provided and maintained of not less than 50 feet.
7. *Maximum lot coverage.* No building with its accessory building and accessory uses including parking facilities, driveways and roadways outside storage areas, railroad sidings, outside truck berths and other accessory uses, shall occupy in excess of 75 percent of any lot or tract.

Section 9.02. - I-2 general industrial district.

1. *Purpose.* The I-2 general industrial district is established to provide areas in which a wide variety of intensive industrial concerns may be located; to provide performance standards that will adequately protect the community; to provide regulations to ensure adequate open space between uses, and between the boundaries of the I-2 general industrial district and other established uses.

2. *Permitted uses.* The following uses are permitted:

Any use permitted in the I-1 limited industrial district.

Production, processing, cleaning, servicing, testing and repair, including the following uses and manufacturing of the following products:

Bottled gas;

Electric central station, power and steam generating plants;

Fertilizers;

Film, photographic;

Flour, feed and grain—milling and processing;

Furniture—metal, wood and plastic;

Glass products;

Metal finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing and heat treatment;

Planing mills;

Plastic products;

Public utility, electric substations and distribution centers, gas regulation centers and underground gas holder stations;

Rubber (synthetic or natural);

Stamping and fabrication;

Storage of flammable liquids, fats or oil, but only after the location and protective measures have been approved by local governing officials;

Storage—goods used in or produced by manufacturing activities permitted in this district.

3. *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of article XVII:

Any use which may be allowed as a special use in the I-1 limited industrial district unless already permitted in this district;

Cemeteries;

Manure, peat and topsoil;

Petroleum and petroleum products;

Sanitary landfills.

4. *Off-street parking and loading.* [Off-street parking and loading] shall be as permitted or required in article XII.

5. *Conditions of use.* Permitted uses are subject to the following conditions:

- a) All local, county, state and federal laws, rules and regulations must be strictly adhered to as to the emission of

odor, dust, smoke, gas, noise, vibration and the like.

- b) Within 100 feet of a residence district, production, processing, servicing and fabrication shall take place or be within completely enclosed buildings or structures unless otherwise specified. All exterior storage within 150 feet of a residence district shall be enclosed with a solid wall or fence to a height of such stored materials. Off-street parking and off-street loading facilities may be unenclosed except for such screening and improvements as may be required under the provisions of article XII.

6. *Yard areas.* All yard areas shall be the same as required in the I-1 limited industrial district.

## ARTICLE X. - SPECIAL DISTRICTS

### Section 10.01. - Floodplain overlay district.

1. *Purpose.* It is the purpose of this district to significantly reduce hazards to persons and damage to property as a result of flood conditions in the City of Watervliet requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent additions, amendments and deletions, and the rules and regulations promulgated in furtherance of this program by the United States Department of Housing and Urban Development, Federal Insurance Administration, as published in the Federal Register, Vol.41, No. 807, Tuesday, October 26, 1976, together with subsequent additions, amendments and deletions.
2. *Delineation of floodplain overlay district.*
  - a) The floodplain district shall overlay existing zoning districts delineated on the official City of Watervliet zoning map. The boundaries of the floodplain overlay district shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood boundary in the report entitled, "The Flood Insurance Study, City of Watervliet," (date), with accompanying flood insurance rate, flood boundary and floodway maps. The boundaries designate a regulatory floodplain and shall coincide with the 100-year flood boundary indicated on the flood boundary and floodway map. The study and accompanying maps are adopted by reference, appended and declared to be a part of this ordinance. The term "floodplain district," as used in this ordinance, shall mean the floodplain overlay district and shall be the designated regulatory floodplain.
  - b) Where there are disputes as to the location of a floodplain overlay district boundary or the limits of the floodway, the zoning board of appeals shall resolve the dispute in accord with the following rules:
    - (1) Where disputes arise as to the location of the floodplain overlay district boundary or the limits of the floodway, the zoning board of appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.
    - (2) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the zoning board of appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.
    - (3) All parties to a map dispute may submit technical evidence to the zoning board of appeals.
  - c) In addition to other requirements of this ordinance applicable to the development on the underlying zoning district, compliance with the requirements of this article shall be necessary for all development occurring within the floodplain overlay zone. Conflicts between the requirements of this article and other requirements of this

ordinance or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article. In such cases the more stringent requirement shall be applied.

3. *Permitted uses.* Notwithstanding any other provisions of this ordinance, no building or structure shall be erected, converted or structurally altered and no land and/or structure shall be used in the floodplain district except for one or more of the following uses:
  - a) Gardening, horticulture, open recreational uses such as parks, playgrounds, playfields, athletic fields, golf courses, bridle paths and nature paths.
  - b) In the area outside the 100-year floodplain, uses permitted by the zoning district otherwise established for the lot, subject to the regulations of such district: provided, however, [that] the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least three feet above the elevation of the nearest point of the 100-year floodplain designated in section 10.01, 2.
  - c) In the area within the 100-year floodplain, land may be used to supply open space or lot area requirements of a lot partially located outside, provided, however, no building or structure shall be located within the 100-year floodplain.
4. *Accessory uses.* Within the 100-year floodplain area, off-street parking is permitted as a use accessory to a principal use outside the 100-year floodplain on the same lot. However, no building, structure, or equipment other than boundary monuments are permitted within the 100-year floodplain as an accessory use.
5. *Special uses.*
  - a) In the area within the 100-year floodplain, dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable state regulations are met.
  - b) In the area within the 100-year floodplain, the construction or location of bridges, outdoor play equipment, bleachers and similar outdoor equipment and appurtenances is prohibited unless such elements would not cause an increase in water surface elevation, obstruct flow or reduce the impoundment capacity of the floodplain. In addition, all equipment shall be anchored to prevent flotation and lateral movement. Approval of a special use permit for any of the above shall be subject to an engineering finding by a registered engineer that the above requirements are satisfied, also subject to approval by the city engineer.
6. *Construction.* No building or structure shall be erected, converted or structurally altered or placed and no land filled or structure used in a floodplain district, unless a permit therefor shall have first been obtained from the City of Watervliet zoning administrator after due compliance is shown with all city ordinances, state statutes and federal regulations.
7. *Utilities.* All on-site new and replacement water and sewer systems and appurtenances in the floodplain shall be designed to minimize infiltration of floodwaters and so constructed so as to avoid impairment that might otherwise result from flooding.
8. *Alteration of watercourses.* No alteration of any watercourse in the floodplain district shall be undertaken unless and until neighboring communities and the Michigan Department of Natural Resources shall have first been notified and provided with detailed plans and specifications prepared by a registered engineer. Such plans shall show full compliance with local ordinances, state statutes, state regulatory agencies and federal regulations and shall make provisions for maintaining the full carrying capacity of the altered watercourse.
9. *Penalties.* Any building or structure which is erected, altered, maintained or changed in violation of any provision of this ordinance is hereby declared to be a nuisance, per se. The city commission and the duly authorized attorney for

the City of Watervliet and the prosecuting attorney for the county may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use of lands in the floodplain district.

10. *Disclaimer of liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this section shall not be considered a guarantee or warranty or 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 Watervliet or any officer or employees thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## ARTICLE XI. - SIGNS

### Section 11.01. - Intent.

The purpose of this section is to regulate and limit the construction or reconstruction of signs and billboards to protect the public peace, morals, health, safety and general welfare of the residents of the township and to preserve, improve and enhance the scenic beauty consistent with the provisions of section 131 of title 23 of USC, as amended, and to preserve property values and encourage and promote business and industry, including the tourist industry. Such signs as will not, by reason of their size, location, construction or manner of display, endanger the life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare, shall be permitted. Further, the regulation of such permitted signs and billboards are meant to prevent them from causing annoyance or disturbance to the residents of the City of Watervliet. For purposes of this section, the word "sign" shall, unless specifically stated otherwise, also include within its meaning the words "advertising signs."

### Section 11.02. - Definitions.

As used in this section, the following words shall have the meaning hereinafter set forth in this section:

1. *Signs.* A name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.
2. *Advertising signs.* A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered.
3. *Illuminated signs.* A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.
4. *Election campaign signs.* Signs not exceeding five square feet of display area advertising candidates or soliciting votes in support of or against any proposition or issue at any general, primary, special, school or any other election.
5. *Identification signs.* A sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.
6. *Off-premises signs.* A sign whose message relates to a business, service, commodity, or profession lawfully being conducted, sold, or offered on premises other than that upon which the sign is located.

7. *On-premises signs.* A sign whose message relates to a business, service, commodity, or profession lawfully being conducted or offered on premises other than that upon which the sign is located.
8. *Pole signs.* A sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and having a sign area not more than 100 square feet on a side, and a clear space of at least nine feet from the ground to the bottom of the sign.
9. *Projecting signs.* A sign which projects from and is supported by a wall of a building and does not extend beyond the minimum required setback line or into and over street right-of-way, and not less than nine feet, at its lowest point, above sidewalk or ground level.
10. *Portable signs.* A freestanding sign not permanently anchored or secured to either a building or the ground such as, but not limited to, "A" frame, "T" shaped, or inverted "T" shaped sign structures.
11. *Real estate signs.* A sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease.
12. *Temporary sign.* A display, informational sign, banner or other advertising device with or without a structural frame and intended for a period not to exceed 90 days of display, including seasonal produce sales, decorative displays for holidays, or public demonstrations.
13. *Marquee sign.* An identification sign attached to a marquee, canopy or awning projecting from and supported by the building, and not less than nine feet at its lowest point above sidewalk level.
14. *Wall sign.* A sign which is attached directly to a building wall and which does not extend more than 18 inches therefrom nor above the roofline, with the exposed face of the sign in a plane parallel to the building wall.
15. *Roof sign.* Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support of the roof structure.
16. *Institutional bulletin board.* A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its institutional services or activities.

Section 11.03. - Signs prohibited.

All off-premises signs prohibited. Any sign not expressly permitted is prohibited.

Section 11.04. - Signs permitted.

Signs are permitted according to the district in which they are located or intended to be located. Certain types of signs are permitted in certain districts according to the following regulations:

1. *Residence district.* The following types of signs are permitted:
  - a) Identification sign: One per dwelling unit not exceeding two square feet in area.
  - b) Temporary sign: One per premises advertising produce raised on said premises; not exceeding 32 square feet in area; set back from any right-of-way at least 15 feet, and removed from view during seasons when said produce is not normally considered in season.
  - c) Institutional bulletin board: One per public or semipublic institution, located on-premises, and not exceeding 32 square feet in area; provided, however, that the zoning board of appeals is given the specific authority to permit an institutional bulletin board of not to exceed 150 square feet where, in its discretion, the same will cause no adverse effect to vehicular or pedestrian traffic.
  - d) Real estate sign: One per premises or building and located on same premises or building only while said real



estate is actually on the market for sale, rent or lease, provided that the same does not exceed seven square feet in area; and further provided, however, that a temporary sign may be approved by the zoning board of appeals up to 100 square feet in area for a period not to exceed 12 months for signs proposed to be located on unimproved or undeveloped parcels of real estate.

- e) Election campaign signs: Provided such signs may be placed and kept in place only during the period commencing on the 30th day prior to an election and ending on the tenth day following an election.

#### Section 11.05. - General standards.

1. No sign shall block any required accessway or window.
2. No sign shall be attached to a tree or utility pole.
3. The following signs are exempt from the permit required and from the regulations of section 11.00:
  - a) Memorial signs and tablets displayed on private property, not to exceed five square feet;
  - b) Address numerals.
4. The following signs are exempt from the permit requirements but must comply with all other regulations of section 11.00:
  - a) Signs permitted by section 11.07.1, paragraphs a) and b);
  - b) Signs permitted by section 11.07.2, paragraph a).

#### Section 11.06. - Permitted signs; all districts.

1. Highway directional signs and markers which shall be made and installed in accordance with the specifications of the City of Watervliet announcing the location of or directing traffic to given locations which include, but are not limited to, the following:
  - a) Service areas: automobile, food, lodging;
  - b) Public and quasipublic information signs;
  - c) Business or business districts.
2. Parking area signs.
  - a) One sign per parking area or lot, designating the conditions of use or identity of such parking area and limited to a maximum size of nine square feet, shall be permitted. On a corner lot, two such signs, one facing each street, shall be permitted.
  - b) Signs designating parking area entrances or exits are limited to one sign for each such entrance or exit and to a maximum size of two square feet each.
3. The city may permit tourist-oriented directional signs as defined by MCL 247.401 within its jurisdictional boundaries as provided by and pursuant to MCL 247.403(7).
  - a. An operator of a tourist-oriented activity who wishes to participate in a directional sign program under 1996 PA 299, as amended, and is applying for a sign that would reside within the boundaries of the City of Watervliet in accordance with the provisions of Section 2 of 1996 PA 299 (MCL 247.402) shall submit the application for review by the city commission or its designee.
  - b. The city commission or its designee may approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this ordinance.
  - c. The city commission may appoint a designee by resolution to approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this ordinance.

- d. Any person violating any of the provisions of this ordinance, or who installs or causes to be installed a tourist-orient directional sign without the approval of the Watervliet City Commission, shall be guilty of a municipal civil infraction punishable by a civil fine of not more than \$100.00, plus costs, and if applicable, damages and expenses as provided. Any municipal civil infraction action brought for any violation of this ordinance shall be guilty of a municipal civil infraction punishable by a civil fine of not more than \$100.00, plus costs, and if applicable, damages and expenses as provided. Any municipal civil infraction action brought for any violation of this chapter shall follow the procedures set forth in Pub 12 of 1994 (MCL 600.8701 et seq.), and a defendant charged with a municipal civil infraction violation shall have all the rights, duties, responsibilities and obligations set forth therein.

(Res. No. 11-2011, 6-30-2011)

#### Section 11.07. - Permitted signs; residential districts.

In all residential districts, the following classes of signs are permitted in accordance with the regulations set forth herein:

1. *Nonflashing, nonilluminated accessory signs.*

a) Nameplates and identification signs, subject to the following:

- (1) For one- and two-family dwellings, there shall be not more than one nameplate, not exceeding two square feet in area for each dwelling unit indicating the name or address of the occupant or a permitted occupation.
- (2) For multiple-family dwellings, for apartment hotels and for buildings other than dwellings, a single identification sign not exceeding nine square feet in area and indicating only the name of the management thereof, may be displayed.
- (3) In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding 25 square feet in area; on corner lots two such signs, one facing each street shall be permitted. Said signs shall be removed by the person or persons erecting same within two weeks after completion of the structure indicated.
- (4) Height: No sign shall project higher than one story or 15 feet above curb level, whichever is lower.
- (5) Projection: No sign shall project beyond the property line into the public way.

b) For sale and to rent signs, subject to the following:

- (1) Area and number: No sign shall exceed a total of seven square feet in area. Additional auxiliary or satellite signs in conjunction with the main sign shall be considered in the computations of the total sign area allowable. Only one sign per zoning lot shall be permitted.
- (2) Projection: No sign shall project beyond the property line into the public way.
- (3) Height: No sign or post or standard shall project higher than 5.5 feet above ground level.
- (4) Width: Signs and supports shall not exceed 4.5 feet in width.

#### Section 11.08. - Permitted signs; business district.

In all business districts, the following signs are permitted, subject to the requirements set forth hereinafter:

1. All signs and nameplates that are permitted in the residential districts.
2. Signs on marquees, canopies and awnings: Restrictions imposed hereinafter on the projection of signs across property lines into the public way shall not apply, except in residential districts to signs located on a marquees or canopies, provided that any sign located on a marquee or canopy shall be affixed flat to the surface thereof and,

further, no sign shall extend vertically or horizontally beyond the limits of said marquee or canopy, except that individual, freestanding letters may project to a height not exceeding 18 inches above [the] same. Restrictions imposed here on the projection of signs across property lines into the public way shall not apply except in residence districts to signs located on awnings, provided that any sign located on an awning shall be affixed flat to the surface thereof, shall be nonilluminated and nonflashing, and shall indicate only the name and address of the establishment of the premises. Further, no such sign shall extend vertically or horizontally beyond the limits of said awning.

3. Signs relating only to the name and use of buildings or premises upon which they are placed.
4. Signs, clocks or other advertising devices erected upon standards or separate support shall be placed so as to be entirely within the property lines of the premises upon which it is located and no part of the sign or standard shall have a total height greater than 50 feet above the level of the street upon which the sign faces or above the adjoining ground level, nor shall the surface of any such sign exceed an area of 141 square feet.
5. For an integrated planned business development in single ownership and management or under unified control, an additional sign may be erected not exceeding 100 square feet in area advertising only the name and the location of the integrated shopping center. Such sign shall be placed so as to be entirely within the property lines of the premises upon which it is located, and the bottom edge of such sign shall be at least eight feet above the level of the ground, and the overall height shall not exceed 20 feet above curb level is above the street level.
6. No sign may be painted, pasted or similarly posted directly on the surface of any wall. Nor shall any sign be permitted to be placed on any wall, fence or standard facing the side of any adjoining lot located in a residence district.
7. No illuminated sign shall be of the flashing or intermittent type, except that advertising devices denoting the time, temperature and other similar information shall not be considered a flashing sign for the purpose of this ordinance. Signs which may be in conflict with public traffic signs shall not be permitted. Illuminated signs shall be shaded so as to shine on adjacent residential properties or public ways.
8. Traffic or directional signs designating entrances, exits and conditions of use of parking facilities, accessory to the main use of the premises may be maintained, provided they are located within the property lines of the subject lot.
9. In all business districts, the permitted signs are subject to the following:
  - a) *Area*. The gross area of a sign or signs on the front or rear wall of any principal building shall not exceed one-tenth of the area of the front face (including doors and windows) of the principal building. The gross area of a sign or signs on a side wall of a principal building shall not exceed one-tenth of the area of the side wall (including doors and windows) of the principal building.
  - b) *Location*. The sign or signs may front on the front, side or rear walls or wall of the principal building.
  - c) *Projection*. Signs suspended from any building shall not project more than 12 inches beyond the front of the building and the bottom of such signs shall not be less than ten feet above the finished grade of the sidewalks. Any sign projecting or suspending from a building shall not exceed ten feet in height, subject to approval of the building inspector.
  - d) *Height*. No sign shall project higher than 25 feet above curb level, and in no case shall a sign project higher than four feet above the roofline. Any proposed sign in excess of 25 feet in height shall be erected only with the approval of the City of Watervliet planning commission.
  - e) *Illumination*. Signs shall be shaded whenever necessary to avoid casting bright light upon property located in any residential district or public way.

- f) *Materials and construction.* The facing of all signs placed on state primary highways shall be constructed of plastic. The finish of the sign shall not be pasted to the surface.
10. Signs accessory to automobile service stations. The following signs accessory to automobile service stations are permitted:
- a) Racks for the orderly display of cans of engine oil for convenience in dispensing said oil, may be located on or at the ends of pump islands (limit of two to each island).
  - b) Two open portable tire racks (not more than seven feet in height, including signs, and six feet in length) on casters for the purpose of displaying new tire casings, shall be permitted for each gasoline or tire service station.
  - c) Items for sale on the premises may be openly displayed within ten feet of the principal building. Products may be displayed under pump island canopies or between pumps within the area of the pump island base.
  - d) A sign may be painted on the inside and outside front door of the closed tire rack but shall not be painted on the sides or rear.

(Mo. of 12-12-2000, § 11.08.4)

#### Section 11.09. - Permitted signs; industrial districts.

The following nonflashing signs are permitted and shall be governed as follows:

1. All signs and nameplates which are permitted in the business districts.
2. Advertising signs having a sign area not exceeding 275 square feet.
3. All signs shall be set back from the street line a distance of the minimum building setback requirements of the district or greater, if specifically required herein.
4. The minimum distance between any two advertising signs located on the same side of a street or highway shall be no less than four feet for every one square foot of the total area of the two signs.
5. The gross area in square feet of all signs on a zoning lot shall not exceed six times the lineal feet of frontage of such zoning lot.
6. No sign shall project higher than 25 feet above the ground level beneath it.
7. No advertising sign shall be located within 500 feet of any public park of more than five acres in area, or any freeways, expressways, and toll roads designed as such in the records of the governing authorities.
8. No advertising sign shall be located within 100 feet of any residence district.

#### Section 11.10. - Sign permits.

No person shall construct, alter, rebuild, enlarge, erect or place a sign without first filing with the building inspector a written application and obtaining a permit therefor. Such application shall be in duplicate and shall contain all such information and drawings as may be required by the building inspector, at least the name of the property owners, the name of the person in charge of the sign and drawings of the sign or structure showing type, size, location and method of attachment. The Inspector may require that all plans be drawn by a registered architect or structural engineer licensed by the State of Michigan. The fee for such permit shall be as established by the city commission.

#### ARTICLE XII. - OFF-STREET PARKING AND LOADING

--- (5) ---

**Cross reference**— *Streets, sidewalks and other public places, ch. 38.*

## Section 12.01. - Purpose.

The purpose of this section is to alleviate or prevent the congestion of the public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use to which property is put.

## Section 12.02. - General provisions; parking and loading.

1. *Scope of regulations.* The off-street parking and loading provisions of this ordinance shall apply as follows:
  - a) For all buildings and structures erected and all uses of land established after the effective date of this ordinance, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of the ordinance and provided that construction is begun within one year of such effective date and diligently prosecuted to completion, parking and loading facilities, as required hereinafter, need not be provided;
  - b) When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other unit of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected or use lawfully established prior to the effective date of this ordinance shall be required to provide such additional parking or loading facilities unless and until the aggregate increase in units of measurement existing upon the effective date of this ordinance, in which event parking or loading facilities as required herein shall be provided for the total increase;
  - c) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or 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 in this ordinance.
2. *Existing parking and loading facilities.* Accessory off-street parking or loading facilities which are located on the same lot as the building or use served which were in existence on the effective date of this ordinance or were provided voluntarily after such effective date of this ordinance 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.
3. *Permissive parking and loading facilities.* Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design, improvement and operation of such facilities are adhered to.
4. *Damage or destruction.* For any conforming or legally nonconforming building or use which is in existence on the effective date of this ordinance, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause and which reconstructed, reestablished or repaired, off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction, shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this ordinance for equivalent new uses or construction.
5. *Control of off-site parking facilities.* When required parking facilities are provided on land other than the zoning lot on which the building or use served by such facilities is located, they shall be and remain in the same possession or

ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. No such off-site parking facilities shall be authorized and no occupancy permit shall be issued where the plans call for parking facilities other than on the same zoning lot until and unless the city board of appeals has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot and the site of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or building.

6. *Submission of plot plan.* Any application for a building permit or for a certificate of occupancy where no building permit is required, shall include therewith a plot plan—drawn to scale and fully dimensioned—showing any parking or loading facilities to be provided in compliance with this ordinance.

Section 12.03. - Additional regulations; parking.

1. *Use of parking facilities.* Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this section shall be used for the parking of passenger automobiles owned by occupants of the dwelling structures to which such facilities are accessory or by guests of said occupants. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants, visitors or customers of business or manufacturing establishments.
2. *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 constituent 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.
3. *Computation.* When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, any fraction of one-half shall be counted as one parking space.
4. *Size.* A required off-street parking space shall be at least ten feet in width and at least 20 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven feet.
5. *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. No driveway across public property nor curb cut shall exceed a width of 30 feet.
6. *In yards.* Off-street parking spaces may be located in any yard except the required front yard in residential and commercial districts, but shall not be closer than five feet to the lot line and not less than 25 feet in an industrial district where it abuts a residential district.
7. *Street right-of-way.* No person, firm or corporation shall park, deposit, leave or store any motor vehicle or tangible personal property of any type or description at any time within the right-of-way of any street within the city.
8. *Overnight parking.* No vehicle shall be parked on public streets between the hours of 2:00 a.m. and 6:00 a.m.
9. *Design and maintenance.*
  - a) *Open and enclosed parking spaces.* Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed in a building. Accessory parking spaces located in a residence district elsewhere than on the same lot occupied by the use served shall be open to the sky except when otherwise allowed as a special use.
  - b) *Surfacing.* All open off-street parking areas and driveways shall be improved with a compacted macadam base,

not less than four inches thick, surfaced with asphaltic concrete or some comparable all weather dustless material.

- c) *Screening and landscaping.* All open automobile parking areas containing more than five parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district or any institutional premises by a wall, fence or densely planted compact hedge not less than four feet nor more than six feet in height. Such required screening shall conform with the front and side yard setback requirements of the district in which the parking is located.
- d) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as to create a nuisance.
- e) *Signs.* Accessory signs are permitted on parking areas.
- f) *Repair and service.* No motor vehicle repair work of any kind shall be permitted in conjunction with accessory off-street parking facilities provided in a residence district. In addition, the sale of gasoline and motor oil in conjunction with accessory off-street parking facilities are not permitted in any residence district.

#### Section 12.04. - Location of accessory off-street parking facilities.

The location of off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

1. *For uses in a residence district.* Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to or directly across a street or alley from the lot occupied by the use served, but in no case at a distance in excess of 300 feet from such use.
2. *For uses in business and industrial districts.* All required parking spaces shall be within 1,000 feet of the use served, except for spaces accessory to dwelling units, which shall be within 300 feet of the use served. However, no parking spaces accessory to a use in a business or manufacturing district shall be located in a residence district, except that private, free, off-street parking accessory to such uses and municipal parking lots may be allowed by special use permit in accordance with the administrative section within 200 feet of and adjacent to any business or industrial district.

#### Section 12.05. - Schedule of parking requirements.

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

1. Residential uses [shall be] as follows:
  - a) One-family dwellings and two-family dwellings: Two parking spaces shall be provided for each dwelling unit.
  - b) Multiple-family dwellings (including apartment hotels): Two parking spaces shall be provided for every dwelling unit. For lodging rooms located in an apartment hotel, one parking space shall be provided for each two lodging rooms. One parking space shall be provided for each employee.
  - c) Motels, inns and auto courts: One parking space shall be provided for each guest or sleeping room or suite, plus one additional space for the owner or manager and each employee.
  - d) Hotel: One parking space for each dwelling unit and one parking space for each lodging room shall be provided. One parking space shall be provided for each employee.

- e) Lodging[house], rooming[house] and boardinghouse: One parking space shall be provided for each lodging room plus one parking space for the owner or manager and each employee.
  - f) Private clubs and lodges (with sleeping facilities for guests): One parking space shall be provided for each lodging room plus parking spaces equal in number to ten percent of the capacity in persons (exclusive of lodging room capacity) of such club or lodge. One parking space shall be provided for each employee.
  - g) Mobile home park: Two parking spaces shall be provided for each mobile home space and for each employee.
2. Retail and service uses [shall be] as follows:
- a) Retail stores and banks: One parking space shall be provided for each 200 square feet of floor area in excess of 2,000 square feet. Drive-in banks or other similar drive-in establishments shall provide three stacking spaces per teller or customer service window, in addition, one parking space shall be provided for each employee.
  - b) Automobile service stations: One parking space shall be provided for each employee.
  - c) Automobile-laundry: 20 stacking spaces shall be provided for each wash rack, plus one parking space for each employee.
  - d) Bowling alleys: Five parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses: bars, restaurants and the like. One parking space shall be provided for each employee.
  - e) Establishments dispensing food or beverages for consumption on the premises: One parking space shall be provided for each 200 square feet of floor area. One parking space shall be provided for each employee.
  - f) Furniture and appliance stores, household equipment or furniture repair shops: One parking space shall be provided for each 600 square feet of floor area in excess of 2,000 square feet plus one parking space for each employee.
  - g) Motor vehicle sales and machinery sales: One parking space shall be provided for each 300 square feet of floor area, in addition one parking space shall be provided for each employee.
  - h) Theaters (indoor): One parking space shall be provided for each four seats, in addition one parking space shall be provided for each employee.
  - i) Undertaking establishments, funeral parlors: One parking space for each 50 square feet of gross floor area or part thereof plus one space for each employee and funeral vehicle kept on the premises.
3. Offices—business professional and governmental: One parking space shall be provided for each 200 square feet of floor area, in addition one parking space shall be provided for each employee.
4. Medical or dental clinics: Eight parking spaces shall be provided for each doctor or professional person, in addition one parking space shall be provided for each employee.
5. Wholesale establishments (but not including warehouses and storage buildings other than accessory): One parking space shall be provided for each 600 square feet of floor area in excess of 4,000 square feet, in addition one parking space shall be provided for each employee.
6. Manufacturing uses or any establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods or products: One parking space shall be provided for each employee, plus one parking space for each vehicle used in the conduct of the enterprise.
7. Warehouses and storage buildings: One parking space shall be provided for each employee plus one space for each vehicle used in the conduct of the enterprise.



8. Community service uses [shall be] as follows:
  - a) Auditoriums: One parking space shall be provided for each three 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.
  - b) Colleges, universities, and business, professional and trade schools: One parking space shall be provided for each three employees and one parking space shall be provided for each four students based on the maximum number of students attending classes on the premises at any one time during any 24-hour period.
  - c) Health centers, government-operated: Eight parking spaces shall be provided for each doctor or professional person, in addition one parking space shall be provided for each employee.
  - d) Hospitals: One parking space shall be provided for each two hospital beds, plus one parking space for each employee (other than staff doctors) plus one parking space for each doctor assigned to the staff.
  - e.) Libraries, art galleries and museums—public: One parking space shall be provided for each 1,000 square feet of gross floor area.
  - f) Schools—nursery and elementary: One parking space shall be provided for each employee.
  - g) Schools—high, public or private: One parking space for each seven students based on the maximum number of students that can be accommodated with such design capacity of the building.
9. Places of assembly [shall be] as follows: Stadiums, arenas, auditoriums, (other than church, college or institutional schools), convention halls, exhibition halls, skating rinks and other similar places of assembly): parking spaces equal in number to 40 percent of the capacity in persons shall be provided, in addition one parking space shall be provided for each employee.
10. Miscellaneous uses [shall be] as follows:
  - a) Institutions for the care of the insane or feeble minded: One parking space shall be provided for each staff doctor, plus spaces adequate in number—as determined by the zoning administrator—to serve the visiting public.
  - b) Private clubs, lodges (without sleeping facilities for guests): Parking spaces equal in number to 25 percent of the capacity in persons shall be provided.
  - c) Rest homes and nursing homes: One parking space shall be provided for each four beds, plus one parking space for each two employees, (other than staff doctors), plus one parking space for each doctor assigned to the staff.
  - d) Sanitariums, convalescent homes or institutions for the aged or for children: One parking space shall be provided for each four beds plus one parking space for each employee (other than staff doctors), plus one parking space for each doctor assigned to the staff.
  - e) Theatres—automobile drive-in: Reservoir parking space equal to ten percent of the vehicle capacity of such theatres shall be provided.
  - f) For the following uses—parking spaces shall be provided in adequate number—as determined by the board of appeals, to serve persons employed or residing on the premises as well as the visiting public:
    - Airports or aircraft landing fields, heliports;
    - Convents and monasteries;
    - Crematories or mausoleums;
    - Fraternal or religious institutions;

Municipal or privately owned recreation buildings or community center;

Outdoor amusement establishments: fairgrounds; permanent carnivals; kiddie parks; and other similar amusement centers;

Rectories and parish houses;

Swimming pools;

Tennis courts.

11. Mixed uses: When two or more uses are located on the same zoning lot within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking spaces or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the city's board of appeals.
12. Other uses: 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 uses, or as determined by the board of appeals.

#### Section 12.06. - Additional regulations; off-street loading.

For every building or addition to an existing building hereafter erected to be occupied by manufacturing, storage, display of goods, retail stores or block of stores of over 10,000 square feet, wholesale stores, markets, hotels, hospitals, funeral homes, laundromats, dry cleaners, restaurants or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided off-street loading spaces.

1. *Location.* All required loading spaces shall be located on the same zoning lot as the use served. No loading space for vehicles over two tons capacity shall be closer than 50 feet to any property in a residence district unless completely enclosed by a building, wall or a uniformly painted solid fence or wall or any combination thereof, not less than six feet in height. No permitted or required loading space shall be located within 25 feet of the nearest point of intersection of any two streets.
2. *Number.* Off-street loading spaces shall be required in relation to floor area as follows:
  - a) Up to 20,000 square feet—1 space;
  - b) 20,001 - 50,000 square feet—2 spaces;
  - c) 50,001 - 100,000 square feet—3 spaces;
  - d) One additional space for each additional 100,000 square feet or fraction thereof.
3. *Size.* Unless otherwise specified, a required loading space shall be at least ten feet in width by at least 60 feet in length, exclusive of aisles and maneuvering space, and shall have a vertical clearance of at least 14 feet.
4. *Access.* Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
5. *Surfacing.* All open off-street loading spaces shall be improved with a compacted macadam base, not less than eight inches thick, surfaced with not less than three inches of asphaltic concrete of some comparable all-weather dustless material.
6. *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence or business districts.
7. *[Space requirements.]* Space allocated to any off-street loading space shall not, while so allocated, be used to

satisfy the space requirements for any off-street parking facilities or portions thereof.

8. *[Special uses.]* For special uses other than prescribed for herein, loading spaces adequate in number and size to serve such uses, as determined by the zoning board of appeals, shall be provided.
9. *[Off-street loading space.]* Uses for which off-street loading spaces are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities off any adjacent alley, service drive, or open space on the same lot which is accessible by motor vehicle.

#### ARTICLE XIII. - ADMINISTRATION

*Footnotes:*

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**Cross reference**— *Administration, ch. 2.*

#### Section 13.01. - Administrative officer.

The building inspector, as zoning administrator, shall be in charge of the administration and enforcement of this ordinance.

1. *Duties.* The building inspector shall:
  - a) Receive applications required, issue permits and furnish certificates, all in his judgement and discretion as authorized;
  - b) Examine premises for which permits have been issued and make necessary inspections to determine compliance;
  - c) When requested by the city commission or when the interest of the city so requires, make investigations and render written reports;
  - d) Issue such notices or orders as may be necessary;
  - e) Keep careful and comprehensive records of applicants, permits, certificates, inspection, reports, notices, orders and all localized actions of the city commission and shall file the same permanently by street address.
  - f) Keep all such records open to public inspection, at reasonable hours, but not for removal from his office.
  - g) Report to the city commission at least once each month as to permits and certificates issued and orders promulgated;
  - h) Request and receive the assistance and cooperation of the police department, the legal department and other city officials;
  - i) Inform the city commission of all violations and all other matters requiring prosecution or legal action;
  - j) Be entitled to rely upon any opinion of the legal department as to the interpretation of this ordinance or the legal application of this ordinance to any factual situation;
  - k) Discharge such other duties as may be placed upon him by this ordinance.

**Cross reference**— Officers and employees, § 2-61 et seq.

#### Section 13.02. - Zoning certificates.

1. No permit as required by the building inspector of the City of Watervliet shall be issued by the building inspector for the construction of a building, structure or land improvement or an alteration or enlargement of an existing building,

- structure or land improvement and the uses thereof, until the building inspector has certified in such permit that the application for a permit with accompanying plans and specifications conforms with the regulations of this ordinance.
2. When a permit is not required by the building ordinance of the City of Watervliet for an improvement and the use thereof requiring conformance with the regulations of this ordinance, an application for a zoning certificate shall be filed with the building inspector. A zoning certificate shall be issued only when the application shows conformance with the regulations of this ordinance.
  3. All applications for building permits or zoning certificates shall be accompanied by a plat in duplicate, drawn to scale showing the actual dimensions of the lot or lots to be built upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats shall be kept in the office of the building inspector. The building inspector shall, in writing, approve or disapprove all building permits or zoning certificates within 30 days after submission thereof; failure to act shall be deemed approval thereof.

#### Section 13.03. - Occupancy certificate.

1. No building or addition thereto, constructed after the effective date of this ordinance and no addition to a previous existing building shall be occupied, and no land vacant on the effective date of this ordinance shall be used for any purpose until an occupancy certificate has been issued by the building inspector. No change in a use in any district shall be made until an occupancy certificate has been issued by the building inspector. Every occupancy certificate shall state that the use of occupancy complies with all the provisions of this ordinance.
2. Every application for a building permit shall also be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or building where no building permit is required shall be made to the building inspector.
3. No occupancy certificate for a building or addition thereto, constructed after the effective date of this ordinance, shall be issued until construction has been completed and the premises have been inspected and certified by the building inspector to be in full and complete compliance with the plans and specifications upon which the zoning certificate was based. No addition to a previously existing building shall be occupied, and no new use of a building in any district shall be established until the premises have been inspected and certified by the building inspector to be in full compliance with all the applicable standards of the zoning district, in which it is located. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed six months from its date during the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than 14 days after the building inspector is notified, in writing that the building or premises is ready for occupancy.

#### Section 13.04. - Certificate of occupancy of nonconforming uses.

Certificates for the continued occupancy nonconforming uses existing at the time of passage of this ordinance or made nonconforming by this ordinance, shall state that the use is a nonconforming one and does not conform with the provisions of this ordinance. The building inspector shall notify the owners of the property being used as a nonconforming use and shall furnish said owner with a certificate of occupancy for such nonconforming use.

#### ARTICLE XIV. - ZONING BOARD OF APPEALS

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**Cross reference**— *Boards, commissions and authorities, § 2-271 et seq.*

**State Law reference**— *Zoning board of appeals, MCL 125.585 et seq.*

#### Section 14.01. - Creation and membership.

1. A city board of appeals is hereby established. The word "board" when used in this section shall be construed to mean the board of appeals. The board shall consist of five members as provided by section 18 of Act 184 of the Public Acts of 1943 [See now MCL 125.585], as amended. The first member of such board of appeals shall be a member of the city planning commission. The remaining members of the board of appeals shall be selected from the electors of the city residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the city. One member may be a member of the city commission. No elected officer of the city shall not serve as chairman of the board of appeals. An employee or contractor of the city commission may not serve as a member or an employee of the city board of appeals. The total amount allowed the board of appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the city commission. Members of the board of appeals shall be removable by the city commission for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.
2. The term of each member shall be for three years, except that of the members first appointed, two shall serve for two years and the remaining members for three years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
3. Meetings of the city board of appeals shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the city clerk and shall be a public record.

#### Section 14.02. - Jurisdiction and authority.

The board of appeals shall have the following powers and duties and shall act upon all questions as they may arise in the administration of the zoning ordinance, including the interpretation of the zoning map, and may fix rules and regulations to govern its procedures sitting as a board of appeals.

1. *Appellate jurisdiction.* To hear and decide appeals from and review any order, requirements, decision or determination made by the building inspector charged with the enforcement of this ordinance or made by the city commission in the issuance, approval or disapproval of special use permits.
  - a) *Appeals; filing.* Appeals to the board of appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any office, department, board or bureau of the city, county, or state affected by any decision of the building inspector. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by filing with the board of appeals a notice of appeal specifying the grounds thereof. The building inspector from whom the appeal is taken shall forthwith transmit to the board of appeals all material in his hands relating to action taken by him constituting the record upon which the action appealed from was taken.

- b) *Hearing.* The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice to the parties to decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
  - c) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the zoning administrator from whom the appeal is taken certifies to the board of appeals after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the zoning administrator from whom the appeal is taken and on due cause shown.
2. *Variations.* The board of appeals shall decide variations of the provisions of this ordinance in harmony with its general purpose and intent, and shall vary then only in the specific instances hereinafter set forth where the city board of appeals shall have made a finding of fact based upon the standards hereinafter prescribed that there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this ordinance.
- a) *Initiation.* An application for a variation may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request application for a building permit, zoning certificate or occupancy certificate.
  - b) *Processing.* An application for a variation shall be filed with the city clerk. The city clerk shall forward such application to the city board of appeals for processing in accordance with applicable statutes of the State of Michigan and the provisions of this ordinance. No variation shall be made by the city board of appeals except after a public hearing before the board of appeals, of which there shall be a notice which shall be given by two publications in a newspaper of general circulation in the city. The first to be printed not more than 30 days nor less than 20 days and the second not more than eight days before the date of such hearing.
  - c) *Decisions.* All final administrative decisions and findings of the board of appeals on variations arrived at after the hearing shall be accompanied by findings of facts specifying the reason or reasons for approving or disapproving the variation and shall be final and subject to judicial review only in accordance with applicable statutes of the State of Michigan.
  - d) *Standards.*
    - (1) The board of appeals shall not vary the provisions of this ordinance as authorized in the section, unless it shall have made findings based upon the evidence presented to it in the following cases:
      - (a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which is located;
      - (b) That the plight of the owner is due to unique circumstances; and
      - (c) That the variation, if granted, will not alter the essential character of the locality.
    - (2) A variation shall be permitted only if the evidence in the judgement of the board of appeals sustains each of the three conditions enumerated above.
    - (3) For the purpose of supplementing the above standards, the board of appeals in making this determination whenever there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:
      - (a) That the particular physical surroundings, shape or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;

- (b) That the conditions upon which the petition for variation is based would not be applicable generally to the same zoned classification;
  - (c) That the purpose of the variation is not based exclusively upon a desire to make more money out of the property;
  - (d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the property;
  - (e) That the granting of the variation will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located; or
  - (f) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger, the public safety or substantially diminish or impair property values within the neighborhood.
- (4) The board of appeals may require each condition and restriction upon the premises benefitted by a variation as may be necessary to comply with the standards set forth in this section to reduce or minimize the effect of such variation upon other property in the neighborhood, and to implement the general purpose and intent of this ordinance.
- e) *Authorized variations.* Variations from the regulations of this zoning ordinance shall be granted by the board of appeals only in accordance with the standards set out in this section, and may be granted only in the following instances, and in no others:
- (1) To permit up to a 20 percent reduction in the front, side or rear yard required by this ordinance.
  - (2) To permit the use of a lot or lots for a use otherwise prohibited solely because of insufficient area or width of the lot or lots but in no event shall the respective area and width of the lot be less than 90 percent of the required area and width. The percentage set forth in this subparagraph is not to be reduced by any other percentage for minimum lot width and area set forth in this ordinance.
  - (3) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided the substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week.
  - (4) To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space or 20 percent of the applicable regulations, whichever number is greater.
  - (5) To increase by not more than 20 percent, the gross area of any sign.
  - (6) To increase by not more than ten percent the maximum gross floor area of any use so limited by the applicable regulations.
  - (7) To exceed any of the authorized variations allowed under this section, when a lot of record or zoning lot, vacant or legally used on the effective date of this ordinance, is by reason of the exercise of the right of eminent domain, by any authorized governmental body or by reason of a conveyance under threat of an eminent domain proceeding reduced in size so that the remainder of said lot does not conform with one or more of the regulations of the district in which said lot of record or zoning lot or structure is located.
- f) *Other variations.* Variations other than those listed above may be granted by the city commission but only after a public hearing as set forth herein for an authorized variation and a report from the board of appeals recommending the variation.
3. *Board of appeals has powers or zoning administrator on appeals; reversals.*
- a) In exercising the above mentioned powers, the board of appeals may, so long as such action is in conformity

with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The board of appeals may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the zoning administrator or city commission in reference to special use decisions from whom the appeal is taken under appellate jurisdiction.

- b) The concurring vote of three members of the board of appeals shall be necessary to reverse and order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance.

#### Section 14.03. - Appeals from the board of appeals.

Any person, firm, corporation or department, board or bureau of the city aggrieved by any decision of the board of appeals may seek review by a court of record of such decision in the manner prescribed by the laws of the State of Michigan.

#### Section 14.04. - Duties of zoning administrator, board of appeals, township board, and courts on matters of appeal.

1. It is the intent of this ordinance that all questions under appellate jurisdiction shall be presented to the board of appeals only on appeal from the decision of the zoning administrator or city commission on special use permits. Requests for variances, constituting matters under original jurisdiction of the board of appeals shall be filed with the board of appeals via the city clerk and shall not be construed as an appeal from the decision of the zoning administrator. Recourse from the decisions of the board of appeals shall be to the courts as provided by the laws of the State of Michigan.
2. It is further the intent of this ordinance that the duties of the city commission in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this ordinance. Under this ordinance, the city commission shall have only the duties of:
  - (1) Considering and adopting or rejecting proposed amendments, considering the approval or rejection of special use permits, or the repeal of this ordinance, as provided by law;
  - (2) Establishing a schedule of fees and charges as stated in article XX; and
  - (3) Appointing members of the board of appeals and the zoning administrator.

#### ARTICLE XV. - PLANNING COMMISSION

##### *Footnotes:*

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**Cross reference**— *Boards, commissions and authorities, § 2-271 et seq.*

#### Section 15.01. - Jurisdiction.

The planning commission of the City of Watervliet which has been duly established, is the planning commission referred to in this ordinance, and shall have the following duties under this ordinance:

1. To hear all applications for amendments and special uses and hereafter submit reports of findings and recommendations thereon to the city commission in the manner prescribed in this section for amendments and special uses;



2. To initiate, direct and review, from time to time, studies of the provision of this ordinance and to make reports of its recommendations to the city commission not less frequently than once each year;
3. To hear and decide all matters upon which it is required to pass under this ordinance, or by law; and
4. To review site plans for major industrial, commercial and residential projects.

#### Section 15.02. - Meetings and rules.

All meetings of the planning commission shall be held monthly or at the call of the chairman, and at such times as the planning commission may determine. All hearings conducted by said planning commission under this ordinance, shall be in accordance with Michigan statutes. In all proceedings of the planning commission, provided for in this ordinance, the chairman and in his absence the vice-chairman, shall have the power to administer oaths. All testimony by witnesses at any hearing provided for in this ordinance shall be given under oath. The planning commission shall keep minutes of its proceedings, and shall also keep records of its hearings and other official actions. A copy of every rule or regulation, every amendment and special use, and every recommendation, order, requirement, decision or determination of the planning commission under this ordinance shall be filed in the office of the township clerk and shall be public record. The planning commission shall adopt its own rules and procedures, not in conflict with this ordinance or with applicable Michigan statutes.

#### ARTICLE XVI. - AMENDMENTS

*Footnotes:*

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**State Law reference**— *Amendments, MCL 125.584.*

#### Section 16.01. - Authority.

The regulations imposed and the districts created under the authority of this ordinance may be amended from time to time, by ordinance in accordance with applicable statutes of the State of Michigan. An amendment shall be granted or denied by the city commission only after a public hearing before the planning commission and a report of its findings and recommendations has been submitted to the city commission.

#### Section 16.02. - Initiation of amendment.

Amendments may be proposed by the city commission, by the planning commission, the city board of appeals, other governmental bodies, or by any resident or owner of property within the jurisdictional limits of this ordinance.

#### Section 16.03. - Content.

All petitions for amendments to this ordinance, without limiting the right to file additional material, shall contain the following:

1. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the zoning map, a site plan prepared in accordance with article XIX, a legal description of such land, the present zoning classification of the land, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land

under consideration.

4. If the proposed amendment would require a change in the zoning map, the names and addresses of the owners, according to the current tax roll, of all land within 300 feet of the perimeter of the area to be changed by the proposed amendment.
5. The alleged error in this ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the same.
6. The changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
7. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

#### Section 16.04. - Processing.

An application for an amendment shall be filed with the city clerk and thereafter reviewed by the city commission. Such an application shall be forwarded from the city commission to the planning commission, with a request to hold a public hearing.

#### Section 16.05. - Public hearing.

Before submitting its recommendations on the petition to amend, the planning commission shall hold at least one public hearing notice of which shall be given by two publications in a newspaper of general circulation in the city, the first to be printed not more than 30 days nor less than 20 days and the second not more than eight days before the date of such hearing. In addition, the following procedures shall be required:

1. Not less than 20 days' notice of the time and place of such hearing shall be given by mail to each electric, gas, pipeline and telephone public utility company which registers its name and mailing address with the city planning commission for the purpose of receiving such notice, and to each railroad operating within the district or zone affected. An affidavit of mailing shall be maintained.
2. If an individual property is proposed for rezoning, the planning commission shall give a notice of public hearing thereof to the owner of the property in question, to all persons to whom any real property within 300 feet of the premises in question is assessed, and to the occupants of all single- and two-family dwellings within 300 feet. Such notice shall be given at least eight days prior to the hearing. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the planning commission prior to the hearing.
3. All notices of public hearing shall state the time, date, place and purpose of such public hearing.
4. Following the public hearing, the planning commission shall submit the proposed amendment to the county planning commission for approval. The approval of the county planning commission shall be conclusively presumed unless the county planning commission within 30 days of receipt notifies the city clerk of its disapproval.
5. The city planning commission shall then refer the proposed amendment to the city commission along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefor.
6. A public hearing conducted by the city commission shall not be necessary unless a request is made in writing by a property owner. If a hearing is requested, notice of the public hearing must be published not less than five days or more than 15 days before the hearing.
7. Thereafter at any regular meeting or any special meeting called therefor the city commission may adopt and

enact the proposed amendment, in accordance with Act 207, P.A. 1921 (MCL 125.581 et seq.), as amended, being the City and Village Zoning Act.

Section 16.06. - Enactment.

Upon enactment, the zoning ordinance, as well as subsequent amendments or supplements, shall be filed with the city clerk, and one notice of ordinance adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

1. In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city commission of the City of Watervliet."
2. In the case of an amendment to an existing ordinance, a summary of the regulatory effect of the amendment including the geographic area affected.
3. The effective date of the ordinance.
4. The place and time where a copy of the ordinance may be purchased or inspected.

Section 16.07. - Official filing and map change.

Within seven days after publication, the amendment to the zoning ordinance shall be filed in the official ordinance book of the city with a certification of the city clerk stating the vote on passage and when published and filed. If the amendment requires a change on the official zoning map, such change shall be made on the map in accordance with provisions of article I of this ordinance within ten days after enactment of the amendment.

ARTICLE XVII. - SPECIAL USES

*Footnotes:*

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**State Law reference**— *Special uses, MCL 125.584a.*

Section 17.01. - Purpose.

The development and execution of the zoning ordinance is based upon the division of the city into districts, within any one of which the use of land and buildings and the bulk and location of buildings or structures, as related to the land, are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case of the impact of those uses upon neighboring lands and upon the public need for the particular use of the particular location. Such special uses fall into two categories:

1. Uses operated by a public agency or publicly regulated utilities, or uses traditionally affected with a public interest.
2. Uses entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

Section 17.02. - Authority.

Special uses shall be authorized or denied by the city commission in accordance with the provisions of this ordinance applicable to amendments of this ordinance and the regulations and conditions set forth in this ordinance for special uses. No application for a special use shall be acted upon by the city commission until after:

1. A written report is prepared and forwarded to the city commission by the planning commission.
2. A public hearing has been held by the planning commission after due notice by publication as prescribed in section 17.05 and the findings and recommendations of the planning commission have been reported to the city commission.

Section 17.03. - Initiation.

An application for a special use may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request a building permit or occupancy certificate.

Section 17.04. - Application.

Applications for special use permits shall be submitted through the city clerk to the city commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the city commission to cover the costs of processing the application. No part of any fee shall be refundable.

1. *Required information.* Three copies of an application for a special use permit shall be presented to the city clerk and accompanied by the following documents and information:
  - a) A special use permit application form supplied by the city clerk which has been completed in full by the applicant;
  - b) A site plan in conformance with article XIX of this ordinance;
  - c) A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in section 17.03 and other standards imposed by this ordinance affecting the special use under consideration.
2. *Incomplete application.* An application which is incomplete or otherwise not in compliance with this ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.
3. *Copy of the application to planning commission.* The city clerk shall forward a copy of the application for the special use request to the city planning commission within seven days of receiving the request. The planning commission may review the application and make recommendations within 30 days following the date of the public hearing on each application, unless it is withdrawn by the petitioner. All comments or recommendations shall be advisory and submitted in writing to the city commission. A summary of the public hearing shall also be included in the report to the city commission.

Section 17.05. - Hearing.

After a preliminary review of the site plan and an application for a special use permit, the city planning commission shall hold a hearing on the site plan and the special use request. Notice of the hearing shall be given by mail or personal delivery to the owners of property for which special use permit approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Notice of the public hearing shall also be published in a newspaper of general distribution in the city. Public notice shall be given not less than five nor more than 15 days before the date of the public hearing on the application. 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 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice.

In the case of a single structure containing more than four 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. Each notice given under this section shall:

1. Describe the nature of the special use request;
2. Indicate the property which is the subject of the special use request;
3. State when, where and at what time the public hearing on the special use request will be considered; and
4. Indicate when and where written comments will be received concerning the request.

Section 17.06. - Review and approval.

The review of an application and site plan requesting a special use permit shall be made by the city commission in accord with the procedures and standards specified in this ordinance. If a submitted application and site plan do not meet the requirements of the ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a special use permit shall be approved if they comply in all respects with the requirements of this ordinance and other applicable county, state or federal laws, rules or regulations. Approval and issuance of a special use permit shall signify prior approval of the application and site plan therefor, including any modification and any conditions imposed where necessary to comply with this ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the special use permit and shall be enforceable as such. The decision to approve or deny a request for a special use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify the basis for the decision, any changes to the originally submitted application and site plan necessary to ensure compliance with the ordinance, and any conditions imposed with approval. Once a special use permit is issued, all site development and use of land on the property affected shall be consistent with the approved special use permit, unless a change conforming to ordinance requirements receives the mutual agreement of the landowner and the city commission and is documented as such.

Section 17.07. - Issuance of a special use permit.

Upon approval by the city commission the zoning administrator shall issue a special use permit to the applicant. It shall be the responsibility of the zoning administrator to monitor compliance with the terms, conditions and restrictions of any special use permit and take any enforcement action necessary in the event of a violation of the special use permit.

Section 17.08. - Appeal.

Appeal of a decision on a special use request may be taken to the board of appeals in accord with section 14.02.1. All decisions of the city commission and board of appeals relating to special use applications, including the findings supporting any decision, shall be recorded in written form and retained as permanent records on file with the zoning administrator and a copy in the office of the city clerk.

Section 17.09. - Basis of determinations.

Prior to approval of a special use application and required site plan, the city commission shall ensure that the standards specified in this section 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 city commission shall review the particular circumstances of the special use request under consideration in terms of the following standards, and shall approve a special use request only upon a finding of compliance with 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 inappropriately change the essential character of the surrounding area.
  - c) The special use shall not interfere with the general enjoyment of adjacent property.
  - d) The special use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
  - e) 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, odor, fumes or glare.
  - f) The special use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
  - g) The special use shall not place demands on public services and facilities in excess of current capacity.
  - h) The special use shall be consistent with the intent and purpose of this ordinance and the objectives of any currently adopted master plan.
2. *Conditions.* The city commission may impose conditions with the approval of a special use application and site plan which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this or other applicable city ordinances and regulations. Such conditions shall be considered an integral part of the special use permit and approved site plan and shall be enforced by the zoning administrator. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
3. *Performance guarantee.* In authorizing a special use permit, the city commission may require that a cash deposit, certified check, or irrevocable bank letter of credit be furnished by the developer to ensure compliance with an approved site plan and the special use permit requirements. Such guarantee shall be deposited with the city clerk at the time of the issuance of the special use permit. In fixing the amount of such performance guarantee, the city commission shall limit it to reasonable improvements required to meet the standards of this ordinance and to protect the natural resources of the city and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Act No. 288 or 1967 (MCL 560.101 et seq.), as amended. The city commission and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the special use permit.

The special use permit shall become effective when the application has been approved by the city commission.

1. A building permit shall not be issued until approval of such special use permit by the city commission.
2. Until a building permit has been granted pursuant to the special use permit, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such special use permit.
3. Land subject to a special use permit may not be used or occupied for purpose of such special use until after a certificate of occupancy for same has been issued pursuant to the provisions of this ordinance.

Section 17.11. - Permit validity.

1. Approval of a special use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
2. In instances where development authorized by a special use permit has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the city commission shall review the permit in relation to the applicable standards and requirements of this ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this ordinance applicable to the special use permit under review, such that the permit is no longer in conformance with the requirements of this ordinance, the permit shall become null and void. Where it is determined that such permits are in conformance with the provisions of this ordinance and there has not been a change in conditions affecting the validity of the permit, the special use permit shall remain valid, subject to periodic review in accord with the provisions of this subsection.

Section 17.12. - Requirements for compliance; penalties.

It shall be the duty and obligation of the owner(s) and occupant(s) of land and uses subject to a special use permit and approved site plan therefor, that the continued use of such land shall at all times be in compliance with the use requirements of this ordinance. Failure thereof shall be a violation of this ordinance and subject to the penalties and remedies provided in sections 21.03 and 21.04, and the continuance thereof is declared to be a nuisance per se.

Section 17.13. - Once granted a special use permit, the use is a permitted use.

Any use for which a special use permit has been granted shall be deemed a conforming use permitted in the district in which such use is located, provided [that]:

1. Such permit was issued in conformity with the provisions of this ordinance; and
2. Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the special use permit shall have been explicitly granted; and
3. Such permit authorizes a use which is subsequently built, operated and maintained in compliance with the ordinance, the special use permit, and all conditions established with its approval.

ARTICLE XVIII. - PLANNED UNIT DEVELOPMENT

*Footnotes:*

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**State Law reference**— *Planned unit development, MCL 125.584b.*

## Section 18.01. - Purpose.

[The purpose of the planned unit development is] to encourage the most orderly development of properties through advance planning and thus ensure adequate standards for the development of residential neighborhoods; provide regulations to encourage a variety of dwelling types; ensure adequate open space; protect residential areas from undue traffic congestion, protect residential areas from the intrusion of business, industrial and other land uses that may create an adverse effect upon the living environment; and thus promote the general welfare of the community.

## Section 18.02. - Provisions.

The basic provisions and requirements concerning planned unit development are as follows: the subdivision, development and use of land containing three or more acres as an integral unit, combining more than one primary land use and which may provide for single-family residential, multifamily residential, education, business, commercial, industrial, recreations, park and common use areas may be described as a planned unit development.

1. In its establishment and authorization as a special use, in addition to the foregoing provisions, the following procedures, requirements, restrictions, standards and conditions shall be observed.
2. The planned unit development may be excluded from the provisions of the subdivision regulations and of the zoning ordinance of the City of Watervliet to the extent specified in the final authorization of the planned unit development.

## Section 18.03. - Procedure.

1. The applicant shall request the city commission by letter addressed to the city clerk with the appropriate fee, to call a meeting of the planning commission for a preliminary discussion of the proposed planned unit development, and the planning commission shall call such meeting, which may be continued from time to time. The applicant shall present such exhibits and written information as may be necessary to fully acquaint the planning commission with the proposed development which shall include, but not necessarily be limited to, the following:
  - a) A tentative sketch plan, which may be in freehand sketch form, showing the location and extent of the types of land uses proposed;
  - b) The existing topography at five foot contour intervals which may be taken from USGS information;
  - c) Existing streets surrounding the subject property;
  - d) Existing utilities including storm drainage facilities.
  - e) The following shall be provided by either graphic exhibits or written statements:
    - The density of residential uses and the number of dwelling units by type;
    - The ancillary and nonresidential uses to be provided in a residential planned unit development;
    - The off-street parking and other service facilities proposed;
    - The exceptions or variations to the city zoning or subdivision requirements being requested as part of the planned unit development application.
2. Within 30 days after final adjournment of the meeting, the planning commission shall submit to the city commission its report in writing containing recommendations.
3. The formal petitions for a planned unit development shall be addressed to the city commission and shall be filed with the city clerk; ten copies of the petitions shall be filed with the city clerk, attached to each copy shall be copies of



the supporting documents and exhibits hereinafter provided for.

4. A filing fee in an amount of \$2.00 per dwelling unit or \$10.00 per gross acre, whichever is greater, shall be paid to the city clerk at the time of such filing.
5. The city commission shall refer the petition to the planning commission who shall set a hearing date which shall be not less than 30 nor more than 60 days after the filing of the petition. The petitioner shall cause notice of the hearing to be published at least once, not more than 15 days nor less than five days before said hearing date in one or more newspapers of general circulation in the city.
6. The city clerk shall forward a copy of the petition to the Supervisor and each member of the city commission and members of the planning commission.
7. The petition shall be heard by the planning commission and its report to the city commission of its findings and recommendations shall be accompanied by such plats, exhibits and agreements as shall have been presented by the petitioner; each identified for reference by letter or number, together with any suggested changes therein.
8. The city commission may grant a special use for a planned unit development which shall be by specific ordinance and which shall contain or to which shall be appended all terms and conditions of the grant, including covenants and agreements, guarantees, performance bonds, plats and the like.

#### Section 18.04. - Content of petition.

The formal petition shall contain, in addition to all other requirements, the following:

1. An outline plan of the planned unit development. This plan will be at a scale of not less than one inch = 100 feet which shall show all proposed streets (public and private) street classifications, rights-of-way, all principal and accessory buildings and their use, lot size, building lines, easements for utility services, off-street parking, service areas, open space, recreation facilities and any other information necessary to clearly show the proposed elements of the planned unit development.
2. Preliminary architectural plans for all residential buildings shall be submitted in sufficient detail to show the basic building planning, the number of units per building and the number of bedrooms per dwelling unit. Preliminary architectural plans are not required for business or other nonresidential buildings at the time of this application but must be submitted to the planning commission for its approval prior to filing an application for a building permit.
3. A topographic survey and boundary survey of the subject area, prepared and certified by a registered Michigan surveyor including a legal description.
4. A rendered plan of the planned unit development area, showing in contrasting colors or by other means, the respective location of all categories of land use.
5. A map of the City of Watervliet showing the planned unit development area and its relation to existing roads and streets and use districts within and immediately adjacent to the city.
6. Preliminary plans and outline specifications of the following improvements:
  - a) Roads, streets and alleys, including classifications, width of right-of-way, widths of paved surfaces and construction details;
  - b) Sidewalks, including widths of paved surfaces and construction details;
  - c) Sanitary and storm sewers systems (private);
  - d) Water supply system (private);
  - e) Street lighting and public area lighting system;

- f) Recommended installation for electric, gas and telephone facilities and distribution;
  - g) Sequence of phases or stages of development of the planned unit development;
  - h) A general landscape planting plan shall be prepared by a landscape architect and shall meet the approval of the planning commission.
7. Estimates of cost of installation of all proposed improvements confirmed by a registered Michigan engineer.
8. Petitioner's proposed covenants, restrictions and conditions to be established as a part of the planned unit development.

Section 18.05. - Construction of improvements.

The petitioner shall construct and install the required improvements and must post with the city a sum in cash or negotiable securities, or a surety bond running to the city in an amount sufficient to cover the full cost, including engineering and inspection fees and costs, plus ten percent of such total, to ensure the satisfactory installation of such improvements; the amount of such deposit or bond shall be based upon the confirmed estimate of cost hereinabove provided for; if a surety bond is submitted, it shall have good and sufficient surety thereupon and shall not be accepted until approved by the mayor and city commission. If the planned unit development is to be constructed and developed in stages or phases, the deposit of cash or securities or the bond posted shall be in an amount based upon the confirmed estimated cost of installation of improvements in the respective stage or phase as approved by the city commission.

Section 18.06. - Street classifications.

Street classifications, definitions and specifications shall be in accord with the regulations pertaining to same as established in the subdivision regulations of the City of Watervliet as may be amended from time to time.

Section 18.07. - Standards.

No planned unit development shall be authorized unless the planning commission shall find and recommend, in addition to those standards established herein for special uses that the following standards will be met:

1. *General.*

- a) The uses permitted by such exceptions as may be requested or recommended are necessary or desirable and appropriate to the purpose of the development.
- b) The uses permitted in such development are not of such nature or so located as to exercise an undue detrimental influence or effect upon the surrounding neighborhood.
- c) That any industrial park areas established in the planned unit development conform to all requirements therefor as set forth elsewhere in this ordinance.
- d) That all minimum requirements pertaining to commercial, residential, institutional or other uses established in planned unit development shall be subject to the requirements for each individual classification as established elsewhere in this ordinance, except as may be specifically varied in the ordinance granting and establishing a planned unit development use.
- e) When private street and common driveways are made a part of the planned unit development or private common open space or recreation facilities are provided, the applicant shall submit as part of the application the method and arrangement whereby these private facilities shall be operated and maintained. Such arrangements for operating and maintaining private facilities shall be subject to the approval of the city commission.

## f) Underground installation of utility wires.

*Findings.* The city commission hereby finds that overhead wires for electric, communication, or similar or associated services are hazardous to the public health and safety, adversely affect the value of property in the City of Watervliet, contribute to conditions of urban blight, are incompatible with major land use planning objectives and mar the natural beauty of the city.

*Intention.* It is the intention of the city commission over a period of years to eliminate overhead utility wires through police power, and other appropriate means.

*New plats and sites.* Within the area of a plat or site plan approved effective on adoption of this ordinance, all distribution lines for electric communication or similar associated services shall be placed underground in accordance with land development regulations adopted by the planning commission. Such regulations shall contain, among other things, reasonable exceptions for the authorized overhead main supply lines and overhead perimeter feed lines and necessary surface facilities. Those electric and communication facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All communication and electrical facilities shall be constructed in accordance with standards of constructing approval by the Michigan Public Service Commission. All underground utility installations which traverse privately owned property shall be protected by easements granted by the owner of such property.

*Subsection (3).* Subsection (3) of this section shall not apply to any plat or site plan which has received preliminary approval as of the effective date of this section.

*City commission may modify.* The city commission may, by resolution, waive or modify any of the above requirements for underground line installations with respect to a particular plat or site plan when the strict application of the above requirements would result in practical difficulties or unnecessary hardship. Prior to any such waiver or modification, all interested parties shall be notified and given an opportunity to be heard.

2. *Residential.*

- a) Residential density for a planned unit development shall not be greater than the recommended density, as shown on the master plan for the city nor shall any lot to be used for residential purposes be less in area or dimension than that required by the district regulations applicable to the district in which the planned development is located, except that the planning commission may recommend and the city commission may grant a reduction in such lot area and dimension, but not more than 15 percent when the planned unit development provides common open space equal to not less than ten percent of the gross area of the planned unit development.
- b) Business uses may be included as part of a planned residential development when the planning commission finds that such business uses are beneficial to the overall planned unit development and will not be injurious to adjacent or neighboring properties. Such business uses shall not be greater in area than ten percent of the planned unit development.
- c) The open areas provided in the part of a planned development containing only residential structures shall be preserved over the life of the planned unit development for use only by the residents of the planned development or dedicated to the City of Watervliet for school, playground or other public uses by an instrument or guarantee acceptable to the city park board.
- d) For that part of a planned development devoted to residential uses, the planning commission may recommend and the city commission may approve access to a dwelling by a driveway or pedestrian walk easement, and spacing between buildings of lesser width or depth than required by district regulations for

the district in which the planned development is located, provided [that]:

- (1) That adequate provisions are made which perpetuate during the period of the special use, access easements and off-street parking spaces for use by the residents of the dwellings served.
  - (2) The spacing between buildings shall be approved by the planning commission and shall be consistent with the application of recognized site planning principles for securing a unified development, and due consideration is given to the openness normally afforded by intervening streets and alleys. Minimum side yards between principal buildings within a part of a planned development where subsequent transfer of ownership is contemplated, shall be equivalent to side yards as would be required between buildings by district regulations for the district in which it is located; and
  - (3) The yards for principal buildings along the periphery of the development shall be not less in width or depth than required for permitted uses in the district regulations applicable to the districts in which the planned development is located, and the plan is developed to afford adequate protection to neighboring properties as recommended by the planning commission and approved by the city commission.
- e) Variations of minimum requirements.
- (1) Whenever the applicant proposes to provide and set out, by platting, deed, dedication, restriction or covenant, and land or space separate from single-family or multifamily residential districts to be used for parks, playgrounds, commons, greenways or open areas, the planning commission may consider and recommend to the city commission and the city commission may vary the applicable minimum requirements of the subdivision regulations and the zoning ordinance which may include but not necessarily be limited to the following:

rear yard	intensity of use
side yard	street width
lot area	sidewalks
bulk	public utilities
off-street parking	

3. *Business.*

- a) Business uses shall be as prescribed by the planning commission.
- b) All business and storage of materials shall be conducted or stored within a completely enclosed building.
- c) Not more than 30 percent of the lot area shall be covered by buildings or structures.
- d) At least ten percent of the lot shall be provided for landscape and open space purposes.
- e) No building more than 35 feet in height shall be approved by the planning commission.
- f) No dwellings shall be permitted in a planned business development.
- g) Off-street parking shall be provided and maintained on the same lot based upon three square feet of parking space for each square foot of gross floor area unless the planning commission recommends and the city

commission requires additional off-street parking space.

- h) Service and loading and unloading facilities shall be provided as recommended and approved by the planning commission.
- i) No building shall be located nearer than 50 feet to any street line.
- j) Business developments shall be adequately screened by fencing or landscaping or both along the boundaries of adjacent residential, public open space, schools, churches or other similar uses. The screen planting shall be prepared by a landscape architect and shall meet the approval of the planning commission.
- k) Outside lighting shall be so designed and placed so as to not be disturbing to adjacent residential areas.
- l) Signs shall comply with the regulations of the B-1 business uses permitted in this ordinance.

#### 4. *Industrial.*

- a) *Minimum area.* The owner of a tract of undeveloped land or land cleared for ten acres or more which is designated for industrial development on the land use plan, may submit to the city planning commission for its review, a preliminary plan for the use and development thereof for a planned industrial district, regardless of the zoning district in which such tract is located at the time said plan is filed.
- b) *Permitted uses.* The following uses may be permitted in a planned industrial district: Any use permitted in the I-1 limited industrial district, except retail and service business use, and except that there may be permitted the following attendant and accessory uses:

Offices accessory or attendant to the principal use on a zoning lot;

Accessory service uses which are necessary to conduct of the principal manufacturing use;

Research facilities;

Medical clinics;

Any other attendant or accessory use approved by the planning commission as part of the planned industrial development which the commission finds to be compatible with the plan and which will have no undue adverse effect upon surrounding properties.

- c) *Conditions of use.* All permitted uses are subject to the following conditions:

Any production, processing, cleaning, servicing testing, repair or storage of goods, materials or products shall conform with the standards set forth herein;

All business, production, servicing and processing shall take place within completely enclosed buildings unless otherwise specified;

Within 150 feet of a residence district, all storage shall be in completely enclosed buildings or structures and located elsewhere in this district, may be open to the sky but shall be enclosed by a solid wall or fence (including solid doors or gates thereto) at least eight feet high, but in no case lower than the enclosed storage and suitably landscaped. However, open off-street loading facilities and open off-street parking of motor vehicles under 1½ tons capacity may be unenclosed throughout the district, except for such screening of parking and loading facilities as may be required.

Uses established on the effective date of this ordinance and by its provisions are rendered nonconforming shall be permitted to continue, subject to the regulations of article V.

- d) *Commission findings.* It shall be the duty of the planning commission to ascertain that the proposed project

will comply with the following conditions:

*Integrated design.* That the plan provides for an industrial district consisting of several buildings or groups of buildings of efficient and harmonious design, together with properly arranged trafficways, parking and loading facilities and landscaping, so arranged as to create an attractive project readily integrated with and having no undue adverse effect on adjoining or surrounding areas and development.

*Thoroughfare access.* That the industrial district will abut a street on the major street plan which is a part of the official land use plan as a highway, primary or secondary thoroughfare or that direct access to such street is provided by means of an acceptable industrial service street.

- e) *General design standards and improvement requirements.* The following minimum design standards shall be observed and the owner or developer shall post with the City of Watervliet and adequate surety bond or furnish other kind of guarantee satisfactory to the commission, ensuring the installation at the expense of the owner or developer of improvements specified in the following:

*Right-of-way and pavements.* All interior streets shall have a right-of-way width of not less than 66 feet, and all culs-de-sac shall have a minimum radius of 70 feet. Said streets shall be provided with pavement and concrete curb and gutter. Pavement shall be concrete or asphalt equal to the Michigan Division of Highway Specification.

*Utilities.* All necessary utilities shall be installed, meeting city specifications and the subdivision regulations of the city to include underground utilities in new construction.

*Off-street parking.* Off-street parking shall be installed as required in article XII except that for employee parking, one space shall be provided for each two employees on the maximum shift. Customer or visitor parking—at least ten spaces shall be provided per plant.

*Loading facilities.* Loading facilities shall be installed in accordance with article XII. Loading docks shall not be placed along building fronts.

*Plant vehicle storage.* Such storage shall be sufficient to accommodate all plant vehicles off the street.

*Lot area.* [There shall be a] minimum of one acre.

*Maximum lot coverage.* The maximum area occupied by all buildings on any lot shall not exceed 45 percent of the total area of the lot.

*Yard requirements.* [Yard requirements shall be the] same as permitted in I-1 limited industrial district.

*Building height limit.* [The building height limit shall be the] same as permitted in the I-1 limited industrial district.

*Distance between buildings.* Principal buildings: 50 feet; accessory structures: 20 feet.

*Distance of buildings from project or tract boundary.* If adjoining a residence district, 100 feet; if adjoining a B-1 district, 50 feet; in all other cases, 35 feet.

*Landscaping of unsurfaced areas.* All unpaved areas shall be landscaped subject to commission approval.

*Greenbelts.* The project area shall be enclosed on all sides adjacent to a residential district by a planted strip at least 50 feet wide. The plant material, subject to commission approval, shall have initially a height and compactness of not less than 50 percent of the ultimately required height and compactness.

*Outdoor advertising.* Each industry may have one suitable identifying sign not to exceed 250 square feet in area. One sign may be erected, designating the name of the industrial park and a directory to access. No sign shall be erected to exceed a height of 25 feet.

*Illumination.* Exterior lighting fixtures shall be so installed as to reflect the light away from adjacent properties.

- f) *Final development plan.* Upon determination by the planning commission that the proposed planned industrial district, as shown in the preliminary plan, appears to conform to the requirements of this ordinance, the proponents shall submit a final development plan which plan shall incorporate any changes or modifications required by the commission, together with an application for the necessary appropriate changes in district classification of the site of the proposed planned industrial district.
- g) *Recommendation to the city commission.* If the final plan is found to be in compliance with the requirements herein, the commission shall hold a public hearing on both the plan and the proposed change in zoning district classification and submit said plan with its report and recommendation to the city commission.
- h) *Rezoning.* The city commission may modify the plan, consistent with the intent of this ordinance and may change the zoning of the site to the appropriate zoning district classification.
- i) *Adjustments authorized by commission.* After the final development plan has been approved by the city commission and in the course of carrying out the plan, minor adjustments and rearrangements of buildings, service areas and other features requested by the developers may be authorized by the planning commission.

#### ARTICLE XIX. - SITE PLAN

*Footnotes:*

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**State Law reference**— *Site plans, MCL 125.584d.*

#### Section 19.01. - Purpose.

The intent of requiring site plan submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this ordinance. It is further the intent to assist city officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in the City of Watervliet.

#### Section 19.02. - When required.

A site plan shall be prepared and submitted in accordance with sections 19.03 and 19.04 (below) with any application for a special use permit or variance not involving a single-family or two-family permitted principal use; other than for a special use permit for a home occupation, with any application for a rezoning, other than rezoning for the sole purpose of constructing a single-family or two-family permitted principal use.

#### Section 19.03. - Contents.

A required site plan shall be drawn at a scale of one inch equals 100 feet and shall contain the following information:

1. The boundary lines of the area included in the site plan, including angles, dimensions and reference to a section corner or point on a recorded plat, an arrow pointing north, and the individual lot areas and dimensions of included in the site plan.
2. Existing and proposed topography, drainage systems and structures, with topographic contour intervals of not more than two feet.
3. The shape, size and location of all structures that will remain on the lot including yard dimensions, height, floor area and ground coverage ratios and the finished ground and basement floor grades.
4. Natural features such as woodlots, trees of more than one foot in diameter, streams and lakes or ponds, and manmade features which are to be retained, and those which are to be removed or altered. Adjacent properties and their uses shall be identified.
5. Proposed streets, driveways, parking spaces, curb cuts, loading spaces and sidewalks, with indication of direction of travel for one-way streets and drives and the inside radius of all curves. The width of streets, driveways and sidewalks, and the total number and layout of parking spaces shall be shown.
6. The size and location of all existing and proposed public and private utilities and required landscaping.
7. A vicinity sketch showing location of the site in relation to the surrounding street system.
8. A legal description of the land and lots included in the site plan.
9. Any other information necessary to establish compliance with this and any other ordinances and the availability of adequate utility capacity.

Section 19.04. - Application; review process; approval.

Five copies of the site plan with five copies of a covering letter signed by the owner of the land and/or prospective developer giving a general explanation of and background information on the proposed development shall be filed with the city clerk along with all necessary fees and documents required by this ordinance. (All applicants are encouraged to confer informally with the planning commission before any documents for application are prepared.)

1. The site plan and any accompanying documents shall be forwarded to the planning commission for its consideration at its next regular meeting, provided such application has been received by the city clerk at least 15 days prior to the regular meeting of the planning commission. If not received within this time schedule, the site plan will be considered at the next following meeting.
2. The planning commission shall examine the site plan as to proper form and content and particularly as to compliance with all applicable requirements of this ordinance.
3. If the proposed development requires the issuance of a special use permit, the planning commission shall transmit its findings to the city commission along with one copy of the site plan and covering letter. The city commission shall follow the special use procedure as provided in article XVII. The proposer of the development shall be notified of the status of his requested site plan approval.
4. If the proposed development requires a rezoning of land, the planning commission shall transmit its findings to the city commission along with one copy of the site plan and covering letter. The city commission shall follow the amendment procedure as provided in article XVI. The proposer of the development shall be notified of the status of the requested site plan approval.
5. If the proposed development requires the issuance of a variance, the planning commission shall transmit its findings to the board of appeals along with one copy of the site plan and covering letter. The board of appeals shall follow the variance procedure as provided in section 14.02. The proposer of the development shall be



notified of the status of the requested site plan approval.

## ARTICLE XX. - SCHEDULE OF FEES, CHARGES, EXPENSES

### Section 20.01. - Fees.

The city commission may from time to time prescribe and amend, by resolution, a reasonable schedule of fees to be charged to applicants for planning commission and zoning board of appeals proceedings. At the time an application is filed, such fee shall be paid to the city clerk prior to the request being placed on any agenda for consideration. No part of such fee shall be returnable or waived. No property shall receive consideration by the planning commission, zoning board of appeals or any other body of the city if the property is delinquent in taxes, liens, assessments, or water and sewer utility bills.

( Ord. No. 12-12-06-A, 1-9-2007)

### Section 20.02. - Reserved.

**Editor's note**— Ord. No. 12-12-06-A, adopted Jan. 9, 2007, repealed § 20.02, which pertained to fee schedule and derived from the original 2004 codification.

## ARTICLE XXI. - GENERAL PROVISIONS

### Section 21.01. - Interpretation.

1. *Minimum requirements.* The provisions herein shall be held to be the minimum requirements for the promotion of public health, morals and welfare or as set by law.
2. *Relationship with other laws.* When the conditions imposed by any provision herein upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision herein or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.
3. *Effect of existing agreements.* This ordinance is not intended to abrogate any easement, covenant or another private agreement, provided that where the regulations of the ordinance are more restrictive, (or impose higher standards or requirements) than such easements, covenants or other private agreements, the requirements herein shall govern.

**State Law reference**— Conflicts with zoning ordinance, MCL 125.586.

### Section 21.02. - Separability.

It is hereby declared to be the intention of the City of Watervliet that several provisions of this ordinance are separable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions not specifically included in said judgment.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property, building or structure not specifically included in said judgment.

**Section 21.03. - Abatement of nuisance.**

Any use of land, dwelling, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of any provisions of this ordinance, or regulation lawfully adopted hereunder, is hereby declared to be a nuisance and the city commission, after resolution duly adopted, or any private citizen, may take action in any court of competent jurisdiction to cause the abatement of such nuisance and such remedy shall be in addition to the imposition of penalty for violation of the terms hereof as provided in section 21.04.

**State Law reference**— Violation as nuisance, MCL 125.587.

**Section 21.04. - Violation; penalty; enforcement.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10.00, nor more than \$100.00, and upon failure to pay such fine such person shall be imprisoned in the county jail of Berrien County, Michigan, for a period not exceeding 90 days. The continued violation of any provision of this ordinance shall be deemed to constitute a separate offense each and every day such violation shall continue.

**State Law reference**— Penalty authorized, MCL 117.3(k), 125.587.