

Zoning Ordinance

City of Dowagiac, Michigan

**January 2005
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**CHAPTER 1
DEFINITIONS**

SECTION 1.0 SHORT TITLE

This Ordinance shall be known and may be cited as the “City of Dowagiac Zoning Ordinance.”

SECTION 1.1 CONSTRUCTION OF LANGUAGE

The following rules apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The word “person” includes an individual, a corporation, a partnership, an incorporated association, government or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them.
- I. When computing a period of days, the first day is not counted and the last day is counted.
- J. The word “lot” includes the words “plot”; “parcel”; and “condominium unit/building site”.

- K. The word “erected” or “erection” as applied to any building or structure shall be construed to include the words “built”, “constructed”, “reconstructed”, “moved upon”, or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed, or moved upon, such as excavation, filling, drainage or the like.

SECTION 1.2 DEFINITIONS - A

ABUTTING (LOT OR PARCEL)

A lot or parcel which shares a common border with the subject lot or parcel.

ACCESSORY BUILDING

A subordinate building on the same premises with a main building or portion of a main building and occupied or devoted to an accessory use; for example, a private garage or storage shed.

ACCESSORY USE, OR ACCESSORY

A use which is clearly incidental to the principal use of the lot and customarily found in connection with the principal use. An accessory use shall be located on the same lot as the principal use. When “accessory” is used in this text, it shall have the same meaning as accessory use.

ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE

- A. A commercial establishment that, as one of its business purposes or services, offers for sale or rental for any form of consideration, any one (1) or more of the following:
1. Books, magazines, periodicals, or other printed and/or electronic or digital matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas.
 2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- B. A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in paragraphs (1) or (2) above, and still be categorized as an Adult Bookstore, Novelty Store, or Video Store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if such materials occupy twenty percent (20%) or more of the floor area of visible inventory within the establishment or derives a significant or substantial portion of their revenues from such materials.

ADULT FOSTER CARE FACILITY

A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. Such facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.

ADULT FOSTER CARE FAMILY HOME

A private residence in which the licensee is a member of the household and an occupant, providing foster care for five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.

ADULT FOSTER CARE LARGE GROUP HOME

An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

ADULT FOSTER CARE SMALL GROUP HOME

An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.

FOSTER FAMILY GROUP HOME

A private residence in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

FOSTER FAMILY HOME

A private residence in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

ADULT LIVE ENTERTAINMENT THEATER

A building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."

ADULT MOTION PICTURE THEATER

A building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for observation by patrons therein.

ALLEY

Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

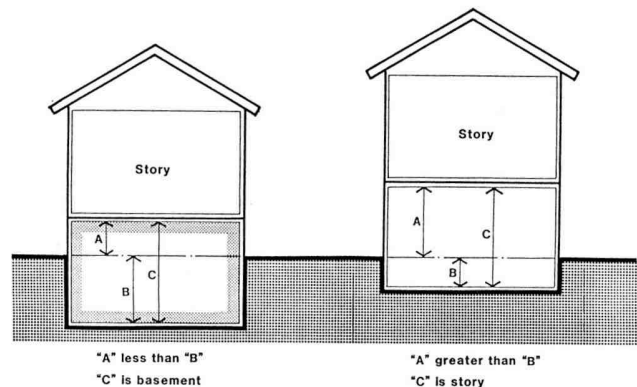
ALTERATIONS

Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders.

SECTION 1.3 DEFINITIONS - B

BASEMENT

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



BED AND BREAKFAST ESTABLISHMENT

A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast, and access to bathing and lavatory facilities in return for payment.

BERM

A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

BLOCK

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

BUFFER STRIP

A strip of land required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier or to block noise, light, and other impacts.

BUILDING

An independent structure, temporary or permanent, having a roof supported by columns, walls, or any other support.

BUILDING CODE

The code or codes governing the erection and maintenance of buildings as currently adopted by the City of Dowagiac.

BUILDING OFFICIAL

The person designated by the City Council to administer the provisions of the adopted Building Codes for the City of Dowagiac.

BUILDING SITE

This term shall be used in connection with site condominiums and shall mean either:

- A. The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or
- B. The area within the condominium unit (as described above), taken together with any contiguous and appurtenant limited common element.

SECTION 1.4 DEFINITIONS - C

CANOPY TREE

A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

CERTIFICATE OF OCCUPANCY

A document signed by an authorized City official as a condition precedent to the commencement of a use which acknowledges that such use, structure or building complies with the provisions of the Zoning Ordinance.

CHILD CARE CENTER OR DAY CARE CENTER

A facility, other than a private residence, licensed by the Family Independence Agency, in which one (1) or more preschool or school age children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

Child care center does not include a Sunday school, a vacation Bible school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than four (4) hours, while persons responsible for the children are attending religious classes or services.

CHILD CARING INSTITUTION

A child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home, that is described as a small child caring institution owned, leased, or rented by a licensed agency providing care for more than 4 but less than 13 minor children. Child caring institution also includes institutions for mentally retarded or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged, a boarding school, a hospital or facility operated by the state or licensed under the mental health code, or an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, in which a child has been placed.

CITY COUNCIL, OR COUNCIL

The City Council of the City of Dowagiac.

CLEARING LAND

The removal of vegetation from any site, parcel or lot except when land is cleared and cultivated for bona fide agricultural or garden use in a district permitting such use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

CLUB

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

COLOCATION

The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider.

COMPREHENSIVE PLAN

The long-range Comprehensive plan currently adopted by the City of Dowagiac, including graphic and written proposals, indicating the general location for streets, parks, schools, public facilities, and all physical development of the municipality, and includes any unit or part of such plan and any amendment to such plan.

CONDOMINIUM PROJECT

A plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978), as amended or a successor act.

CONDOMINIUM PROJECT (SUBDIVISION)

A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended, or successor act.

CONDOMINIUM SUBDIVISION PLAN

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

CONDOMINIUM UNIT

Is defined as that portion of a condominium project or condominium subdivision project which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure.

Any "condominium unit" consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of a condominium subdivision project with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

CONDOMINIUM DOCUMENTS

The master deed, recorded pursuant to the Condominium Act, P.A. 59 of 1978 as amended, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner of the condominium.

CONSERVATION EASEMENT

A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

COMMERCIAL STORAGE WAREHOUSE

A building or buildings used primarily as a commercial business for the storage of goods and materials.

CONVALESCENT OR NURSING HOME

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

CUL-DE-SAC

A dead end public street, generally short in distance, which terminates in a circular or semi-circular section of street allowing for vehicle turnaround.

SECTION 1.5 DEFINITIONS - D

DAY CARE CENTER

See “Child Care Center.”

DEED RESTRICTION

A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

DISTRICT

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

DRIVE-THROUGH BUSINESS

A business establishment so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

DWELLING UNIT

A room, or rooms connected together, constituting a separate, independent housekeeping establishment for one family occupancy, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities. In no case shall a motor home, trailer, automobile chassis, tent, or portable building be considered a dwelling. In the case of mixed occupancy, the part of a building occupied as a dwelling shall be deemed the dwelling unit and shall comply with all applicable provisions of this Ordinance for dwellings.

DWELLING, MULTIPLE-FAMILY

A building containing three or more separate dwelling units.

DWELLING, SINGLE FAMILY DETACHED

A building containing only one dwelling unit.

DWELLING, TWO-FAMILY

A building on a single lot containing two separate dwelling units.

SECTION 1.6 DEFINITIONS - E

EASEMENT

A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, driveways, roads, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage or access purposes.

ERECTED

Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission,

distribution, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings, substations, and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. The term “essential services” shall not include wireless communications towers, unless located on public property and used as part of a municipal communications network.

EXCAVATION

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

SECTION 1.7 DEFINITIONS - F

FAMILY

- A. One or more persons related by blood, or marriage occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or
- B. A collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary and seasonal in character or nature.

FAMILY DAY CARE HOME

A private home in which one (1) but less than seven (7) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day-care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

FENCE

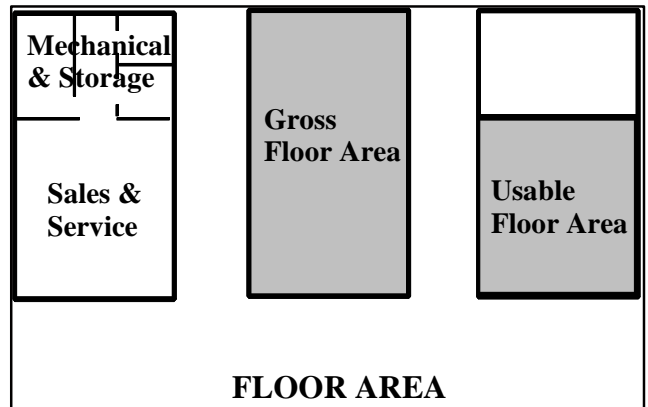
An accessory structure artificially constructed as a barrier and made of wood, metal, stone, brick, or any manufactured materials erected for the enclosure of yard areas.

FLOOR AREA, GROSS

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FLOOR AREA, USABLE (For the purposes of computing parking)

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



FRONTAGE

The continuous linear distance of that portion of a parcel abutting upon a public street right-of-way.

SECTION 1.8 DEFINITIONS - G

GRADE

The gradient, the rate of incline or decline expressed as a percent. For example, a rise of twenty-five (25) feet in a horizontal distance of one hundred (100) feet would be expressed as a grade of twenty-five percent.

GRADE, AVERAGE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

GREENBELT

A strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance. (See also BERM and BUFFER STRIP).

GROUP DAY CARE HOME

A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home that gives care to unrelated minor children for more than four (4) weeks during a calendar year.

SECTION 1.9 DEFINITIONS - H

HEIGHT

The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof; to the deck line of mansard roofs; and to the midpoint between the eaves and ridge for gable, hip, and gambrel roofs.

HOME OCCUPATION

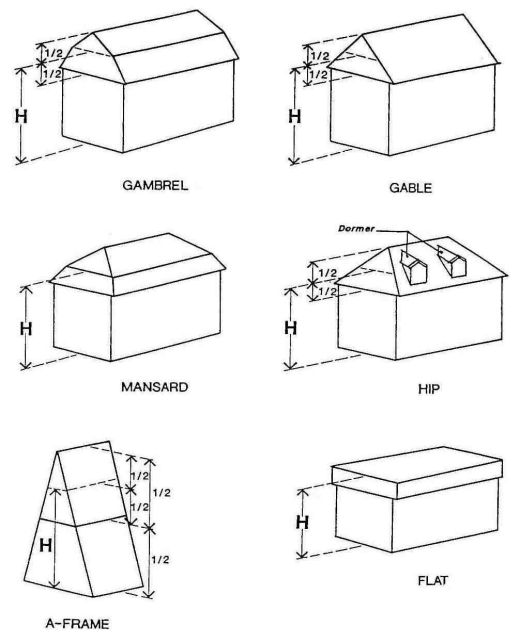
An occupation or profession carried on within a portion of a dwelling unit that is clearly a customary, incidental, and secondary use of the residential dwelling unit.

HOTEL/MOTEL

A facility offering lodging accommodations to the general public for a daily rate and which may or may not provide additional services, such as restaurants, meeting rooms, and recreational facilities.

HOUSING FOR THE ELDERLY

A residential facility that provides room, board and supervised care to unrelated, non-transient individuals 60 years of age or older or couples where either the husband or wife is 60 years of age or older. Such facility shall be licensed as a "home for the aged" by the State Department of Public Health under Article 17 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20101 et seq., MSA 14.15 (20101)), as amended. This does not include a development that contains convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.



SECTION 1.10 DEFINITIONS - I

INOPERABLE VEHICLE

A motor vehicle which is unlicensed or can no longer propel itself.

SECTION 1.11 DEFINITIONS - J

JUNK

Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

JUNK or SALVAGE YARD

An open area where waste, discarded, surplus, or salvaged materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junk yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

SECTION 1.12 DEFINITIONS - K

KENNEL, COMMERCIAL

Any lot or premise on which four (4) or more dogs, cats, or other household pets, six (6) months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred or sold for commercial purposes.

SECTION 1.13 DEFINITIONS - L

LOADING SPACE

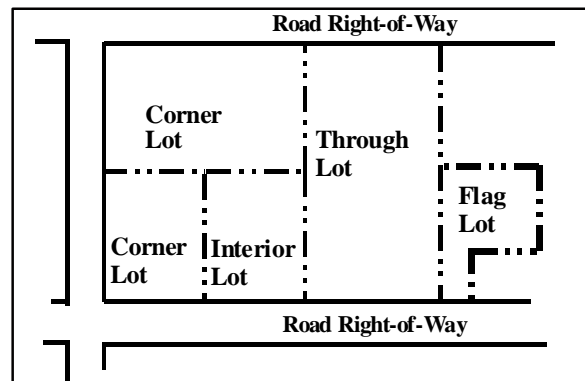
An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

LOT

A parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for principal and accessory use(s) together with yards and open spaces required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may consist of any of the following, or a combination of any of the following, excluding any portion of property subject to a public right-

of-way, and provided that in no case shall a division or combination of properties create a residual lot which does not meet the requirements of this ordinance:

- A. A platted lot, or a portion of a platted lot;
- B. A parcel of land described by metes and bounds, or a portion of a parcel of land described by metes and bounds; or
- C. A building site as defined in this ordinance in connection with a subdivision project.



LOT, CORNER

Any lot having at least two (2) contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

LOT, FLAG

A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.

LOT, INTERIOR

A lot other than a corner lot, flag lot, or through lot.

LOT AREA

The total horizontal area within the lot lines.

LOT COVERAGE

The part of the lot occupied by any building, including accessory buildings.

LOT DEPTH

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

LOT LINES

The lines bounding a lot as defined herein:

A. FRONT LOT LINE

In the case of an interior lot, it is the line separating the lot from the street right-of-way or easement. In the case of a through lot, it is that line separating said lot from either street right-of-way or easement.

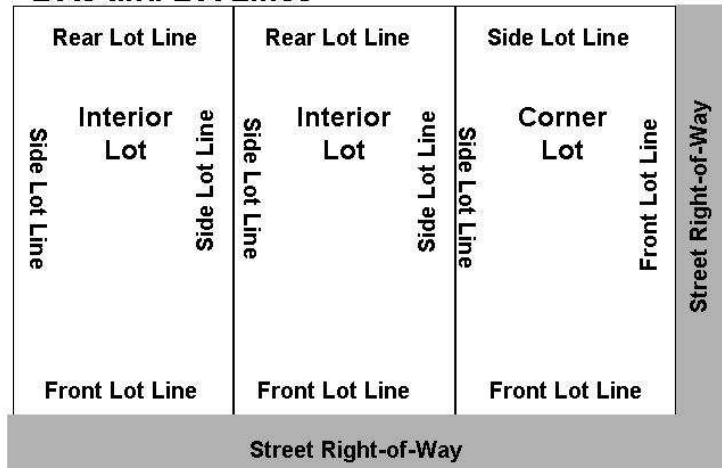
B. REAR LOT LINE

That lot line opposite and most distant from the front lot line. In the case of a lot which is pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.

C. SIDE LOT LINE

Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lots and Lot Lines



LOT, THROUGH

Any interior lot having frontage on two parallel streets. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.

LOT OF RECORD

A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by municipal or county officials, which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH

The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

SECTION 1.14 DEFINITIONS - M

MAIN BUILDING

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

MANUFACTURED HOME

A transportable, factory-built home, designed to be used as a year-round residential dwelling.

MANUFACTURED HOME COMMUNITY

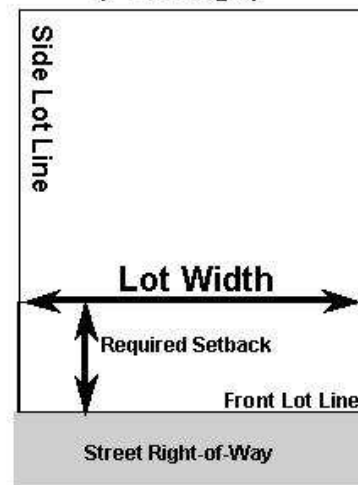
A parcel or tract of land under the control of a person upon which two (2) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

MASSAGE PARLOR

Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;

**Lot Width
(Frontage)**



- C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,
- D. A current occupational license from another state.

MASTER DEED

The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan and all other documents required by law to be attached or incorporated.

MODULAR (PRE-MANUFACTURED) HOUSING UNIT

A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported to a site where they are assembled on a permanent foundation to form a dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

MONOPOLE

A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

SECTION 1.15 DEFINITIONS - N

NATURAL FEATURES

Natural features shall include soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, topography, vegetative cover, and geologic formations.

NONCONFORMING BUILDING OR STRUCTURE

A building or structure, the size, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present requirements of the zoning district in which it is located.

NONCONFORMING LOT

A lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present lot requirements of the zoning district in which it is located.

NONCONFORMING USE

A use or activity that was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present use regulations of the zoning district in which it is located.

NURSING HOME

A nursing care facility licensed as a “nursing home” by the State Department of Public Health under article 17 of the public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20101 et seq., MSA 14.15(20101) et seq.), as amended. A “nursing home” as defined by this section shall include extended care facility and convalescent home.

SECTION 1.16 DEFINITIONS - O

OFF-STREET PARKING LOT

A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three (3) vehicles.

OPEN AIR BUSINESS

Retail sales establishments operated substantially in the open air, including:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair or rental services.
- B. Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.

OPEN SPACE, COMMON

Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

OPEN SPACE DEVELOPMENT

A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

OWNER

The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessor, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

SECTION 1.17 DEFINITIONS - P

PARKING SPACE

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

PERSONAL SERVICE ESTABLISHMENT

A commercial business conducting services that are performed primarily on the premises.

PLANNED UNIT DEVELOPMENT (PUD)

A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PLANNING COMMISSION, OR COMMISSION

The City of Dowagiac Planning Commission.

PORCH

A covered entrance to a building, projecting from the wall.

PRINCIPAL BUILDING

The main building on a lot in which the principal use exists or is served by.

PRINCIPAL USE

The main use to which the premises are devoted.

PUBLIC UTILITY

A person, firm, or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state or municipal regulations, gas, steam, electricity, sewage disposal, communication (excluding wireless communications), transportation, or water;

provided this definition shall not include any person, firm, or corporation engaged in radio or television broadcasting.

SECTION 1.18 DEFINITIONS - R

RECREATIONAL VEHICLE OR EQUIPMENT

Vehicles or equipment used primarily for recreational purposes. For the purpose of this Ordinance, recreational vehicle shall mean:

- A. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;
- B. Boats and trailers designed to transport boats;
- C. Snowmobiles and trailers designed to transport snowmobiles;
- D. Off-road vehicles and trailers designed to transport off-road vehicles;
- E. Pop-up tent and camper trailers;
- F. Other similar vehicles deemed by the Zoning Administrator to be a recreational vehicle. This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

RECYCLING CENTER

A building or premises where used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

REPLACEMENT COST

Cost of replacing a structure or building at current costs at the time of the loss, identical to the one that was destroyed, without application of depreciation.

RESIDENTIAL DISTRICT

The R-1, R-2, R-3, and R-4 Districts.

RIGHT-OF-WAY

A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

SECTION 1.19 DEFINITIONS - S

SALVAGE YARD

An open space where waste, surplus, discarded, or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including house wrecking and structural steel materials and equipment and automobile wrecking.

SATELLITE DISH ANTENNA

An apparatus capable of transmitting to or receiving communications from an orbiting satellite.

SECONDARY STREET

For a corner lot, the street that is not considered for the determination of the front yard.

SECURE INSTITUTION

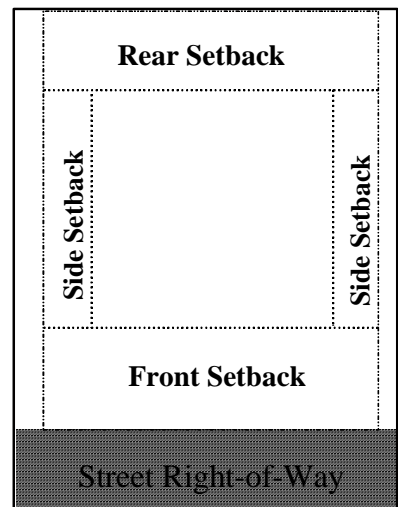
An institution, facility, or portion thereof, other than a behavior management room, used to retain residents in custody. Outside doors and individual sleeping rooms usually have locks preventing egress from the building.

SETBACK

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

SEXUALLY ORIENTED BUSINESS

An adult bookstore, video store, or novelty store, adult cabaret, adult motion picture theater, or a commercial establishment that regularly features the sale, rental, or exhibition for any form of consideration, of books, films, videos, DVDs, magazines, or other visual representation of live performances which are characterized by an emphasis on the exposure of display of specified sexual activities or specified anatomical areas. For purposes of this Ordinance, an adult physical culture business shall also be considered as a sexually oriented business.



SIGN

A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public. (See also Section 19.4-B.)

SIGHT DISTANCE

The length of an unobstructed view from a particular access point to the farthest visible point of reference on a street. Used in this ordinance as a reference for unobstructed street visibility.

SITE PLAN

A plan showing all salient features of a proposed development and adjoining properties, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

SMALL OPEN CHILD CARING FACILITY

A child caring institution which houses not less than 7 nor more than 15 residents and which is not a secure facility.

SPECIAL LAND USE

A use of land whose characteristics may create nuisance-like impacts on adjoining lands unless carefully sited according to standards established in this Ordinance. Approval for establishing a special land use is indicated by issuance of a Special Use Permit.

SPECIFIED ANATOMICAL AREAS

- A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal
- B. Acts of human masturbation, sexual intercourse or sodomy
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STATE LICENSED RESIDENTIAL FACILITY

A residential care facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care, but does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to correctional institutions.

- A. A State Licensed Residential *Family* Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A State Licensed Residential *Group* Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

STORY

That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

STORY, HALF

An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches. For the purpose of this Ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

STREET, ARTERIAL

An arterial roadway as designated in the City of Dowagiac Comprehensive Plan.

STREET, COLLECTOR

A collector as designated in the City of Dowagiac Comprehensive Plan. A street that conducts and distributes traffic between other residential streets of lower order in the street hierarchy.

STREET, PUBLIC

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

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground; provided play structures, light fixtures, and flag poles shall not be considered structures for setback purposes.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the replacement cost of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences,

whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

STRUCTURAL ALTERATIONS

Any change in the supporting members of a building such as the bearing walls, columns, beams or girders, or any change in the dimensions or configuration of the roof, exterior walls or foundation.

SWIMMING POOL

Means any structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing.

SECTION 1.20 DEFINITIONS - T

TRUCK TERMINAL

A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi trailers, including tractor and/or trailer units and other trucks, are parked or stored.

SECTION 1.21 DEFINITIONS - V

VEHICLE SERVICE STATION

Building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and other similar motor vehicle accessories and may include the customary space and facilities for the installation of such commodities, including storage, minor repair, and servicing but not including major vehicle repair as defined herein.

VEHICLE REPAIR

- A. Major Vehicle Repair: General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers; collision service, including body frame, or fender straightening or repair; overall painting or paint shops; vehicle steam cleaning.
- B. Minor Vehicle Repair: Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks not exceeding one and one-half (1-1/2) ton capacity, but not including any operation specified under "major automobile repair".

VEHICLE WASH

A building or portion thereof, the primary purpose of which is that of washing motor vehicles.

VARIANCE

A modification of the literal provisions of the zoning ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the ordinance would cause unnecessary hardship or practical difficulty for the property owner due to circumstances unique to the property.

SECTION 1.22 DEFINITIONS - W

WIRELESS COMMUNICATIONS TOWER, COMMERCIAL

A structure designed and constructed to support one (1) or more antennas used for licensed telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services marketed to the general public.

SECTION 1.23 DEFINITIONS - Y

YARDS

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

A. FRONT YARD

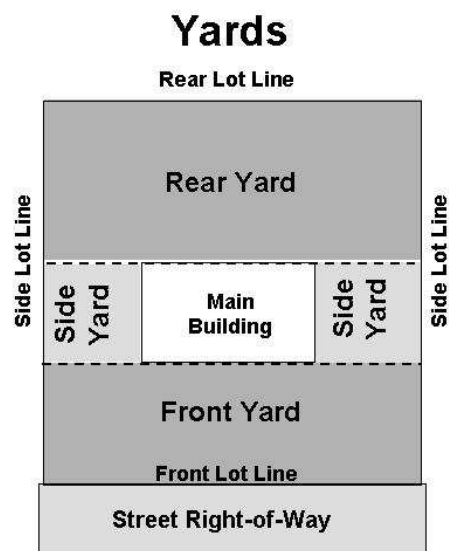
An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.

B. REAR YARD

An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

C. SIDE YARD

An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building line of the main building.



D. YARD, REQUIRED

The required yard shall be that set forth as the minimum yard setback requirement for each district measured from the respective lot line.

SECTION 1.24 DEFINITIONS - Z

ZONING ACT

Act 207 of the Michigan Public Acts of 1921, as amended.

ZONING ADMINISTRATOR

The person designated by the City Council to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS

The City of Dowagiac Zoning Board of Appeals created under Act 207 of the Public Acts of 1921, as amended.

ZONING ORDINANCE

The City of Dowagiac Zoning Ordinance.

**CHAPTER 2
GENERAL PROVISIONS**

**SECTION 2.1 NON-CONFORMING LOTS, BUILDINGS AND STRUCTURES,
AND USES**

A. Intent

1. It is recognized that there exist within zoning districts certain lots, buildings and structures, and uses which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance. It is the intent of this Ordinance to permit such legal non-conforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.
2. Non-conforming lots, buildings and structures, and uses are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located. It is the intent of this Ordinance that these non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.
3. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.
4. Nothing in this Ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a structure or premises in violation of zoning regulation in effect at the time of the adoption of this Ordinance.”

B. Non-Conforming Lots of Record

1. Where a residential lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located, provided that any building or structure constructed on the lot complies with all other yard setback requirements.
2. If two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes

compliance with lot width and area requirements established by this Ordinance. If such a lot is used, it shall lose its legal nonconforming status.

C. Non-Conforming Uses

1. No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance.
2. No part of any non-conforming use shall be moved unless such movement eliminates the non-conformity.
3. If a non-conforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A non-conforming use shall be determined to be abandoned if one or more of the following conditions exist, and which shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - b. The property, buildings, and grounds, have fallen into disrepair;
 - c. Signs or other indications of the existence of the non-conforming use have been removed;
 - d. Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
 - e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.
4. A non-conforming use may be changed to another non-conforming use provided that all of the following determinations are made by the Board of Appeals:
 - a. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous non-conforming use. Hours of operation, traffic, noise, odor and similar characteristics of the use shall be considered in making such determination.
 - b. The proposed non-conforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous non-conforming use.

- c. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
- d. The non-conforming use of a structure may not be resumed if changed to a conforming or more conforming use.

D. Non-Conforming Buildings and Structures

- 1. Where a lawful building or structure exists at the effective date of this Ordinance, or an amendment thereto, that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, height, or yards, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is non-conforming by fifty (50) percent or less of the distance required by this Ordinance. Only in these cases may the non-conforming setback be extended along the same plane as the existing non-conforming setback, provided that in so doing, the setback itself is not further reduced.
 - b. Should a non-conforming building or structure be destroyed to an extent of more than fifty (50) percent of its replacement cost (see definition), exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance.
 - c. Should a non-conforming building or structure be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this Ordinance.
- 2. None of the provisions of this Section are meant to preclude normal repairs and maintenance on any non-conforming building or structure that would prevent strengthening or correcting of any unsafe condition of the building or structure.

- E. The City may acquire, through purchase or condemnation, private non-conforming, buildings, structures, or land. The City Council may make this purchase of private property in the manner provided for by law.

SECTION 2.2 ACCESSORY BUILDINGS, STRUCTURES, AND USES

For purposes of this Section, an accessory building is considered to be detached from the main building unless it is an integral part of the main building or is attached by a fully enclosed breezeway of not more than ten (10) feet in length. All accessory buildings shall be subject to the following regulations, as applicable:

- A. Accessory buildings shall not be erected in any front yard, or required side yard unless otherwise provided in this Section. In the case of corner lots, both sides abutting the street right-of-way shall be considered front yards. This Subsection, however, shall not apply to carports or rows of garages located within multiple family housing developments. Guard stations within the industrial districts may be erected in any yard.
- B. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform with, all regulations of this Ordinance applicable to the main building.
- C. No detached accessory building shall be located closer than ten (10) feet to any main building.
- D. The eave line of a detached accessory building shall not be located closer than three (3) feet to any side or rear lot line, unless otherwise provided in this Section.
- E. In the R-2 RESIDENTIAL and R-3 zone districts, the eave line of a detached accessory building shall not be located closer than three (3) feet to any side or rear lot line, unless otherwise provided in this Section.
- F. No accessory building shall be used in any part for residential dwelling or sleeping purposes.
- G. Any accessory building with an area greater than two hundred (200) square feet shall be permanently constructed on a concrete foundation and shall conform to all applicable building and other similar codes for such a structure. The architectural character of all such accessory buildings shall be compatible with, and similar to, the main building with respect to materials, scale, design, and aesthetic quality as determined by the Zoning Administrator.
- H. Satellite dishes over twenty-four inches (24") in diameter shall be considered accessory structures. The setback placement of satellite dishes shall be measured from the outermost edge of the dish.
- I. No accessory building shall be permitted on any lot which does not contain a main building.
- J. No accessory building shall occupy any portion of a required green belt or buffer in any district.
- K. The maximum height of a detached accessory buildings in all commercial and residential zones shall be determined as follows:
 - 1. The maximum height of an accessory building shall not exceed fourteen (14) feet.
 - 2. The roof shall have a pitch no steeper than the pitch of the existing main building.

- L. In all but the industrial districts, no more than two (2) detached accessory buildings shall be permitted on any lot less than two (2) acres in area. If, however, the main building has an attached garage, then not more than one (1) detached accessory building shall be permitted. The total floor area permitted for all detached accessory buildings on a lot shall not exceed that amount outlined in subsection M, below.
- M. The total floor area of all detached accessory buildings in all residential districts shall be limited as follows:
 - 1. Lots less than two (2) acres in area: eight hundred sixty four (864) square feet if the main building does not have an attached garage; five hundred seventy six (576) square feet in area if the main building has an attached garage for one (1) motor vehicle; and three hundred thirty six (336) square feet in area if the main building has an attached garage for two (2) or more motor vehicles.
 - 2. Lots of two (2) acres or greater in area: twelve hundred ninety-six (1,296) square feet.
 - 3. In commercial and residential districts the maximum floor area for detached accessory buildings shall not exceed thirty (30) percent of the rear yard, regardless of the permitted sizes in subsections M, 1 and 2 above.
- N. Any accessory building larger than six hundred twenty-five (625) square feet shall meet the minimum side yard setback, and one-half (½) the rear yard setback requirements for a main building in the zoning district in which the lot is located.
- O. Any accessory building larger than eight hundred sixty-four (864) square feet shall meet the minimum setback requirements for a main building in the zoning district in which the lot is located.

SECTION 2.3 FENCES

- A. Fences in side and rear yards of residential districts shall not exceed six (6) feet in height, measured from the surface to the uppermost portion of the fence. Fences erected on a corner lot shall maintain a fifteen (15) foot setback along the street side unless a chain-link fence is utilized.
- B. Fences erected within the front yard in any residential or commercial lot or district shall not exceed forty-two (42) inches in height. Fences within the front yard shall be of a type which is not more than fifty (50) percent solid.
- C. In efforts to promote historical significance, decorative fence structures, which consist mainly of antique wrought iron fencing or historical reproductions thereof, may exceed the forty-two (42) inch height limit and may be no less than one foot to the property line (with a waiver of liability and approved limited site plan). Each decorative structure exceeding the forty-two (42) inch maximum height and/or setback required, must be reviewed and approved prior to installation, by the Dowagiac Planning Commission.

Decorative fence structures shall be constructed of uniform materials consisting of decorative wrought iron, painted; decorative aluminum, anodized or painted; machined lumber, decorative or picket-style, either pressure-treated, stained, or painted; or wooden hewn-post and split-rail. No portion of a decorative fence structure shall contain woven wire or wire mesh

- D. In Residential Districts, the finished side of the fence shall face the abutting property.
- E. Fences shall not be erected within any public right-of-way in any district.
- F. Fences shall not be erected or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection (see Section 2.25).
- G. Fences shall not be erected within two (2) feet from a sidewalk, where the sidewalk is within the public right-of-way.
- H. In commercial or industrial districts, a wall, fence or yard enclosure may be up to eight (8) feet in height behind the required front yard.
- I. No person shall place, string or maintain barbed wire, razor wire, or other similar material as part of any fence or structure in any zoning district unless approved by the Planning Commission. No barbed wire shall be permitted in any historic district.
- J. No fence or wall shall be erected which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department.

SECTION 2.4 REQUIRED ACCESS FRONTAGE AND LOT WIDTH TO DEPTH RATIOS

- A. Any lot created shall have frontage upon a public street equal to that required by the zone district in which it is located.
- B. The depth of lot(s) or parcel(s) created in all zoning districts after the effective date of this Ordinance shall not be more than three (3) times longer their width.

SECTION 2.5 STORAGE OF RECREATION EQUIPMENT

Recreational equipment may be parked outside of an enclosed building on any lot within a residential district provided that the following requirements are met:

- A. If located within the rear yard.

- B. Notwithstanding the provisions of this Section, recreational equipment may be parked within any yard, but not within the required setback area, for cleaning, loading, or unloading purposes for not more than forty-eight (48) hours within any seven (7) day period.
- C. Recreational equipment may not be used for living or housekeeping purposes.

SECTION 2.6 MAIN BUILDING OR USE

No more than one main building or use may be located on a parcel, except for groups of related industrial or commercial buildings, or multiple family dwellings contained within a single, integrated complex, sharing parking and access.

SECTION 2.7 PROJECTIONS INTO YARDS

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than four (4) feet into a required front, rear, or side yard.
- B. Any open porch, deck, balcony or window awning may project up to no further than ten (10) feet into a required front yard, up to fifteen (15) feet into a required rear yard, but shall not project into a required side yard. In no case shall a porch, deck, balcony or awning be placed closer than five (5) feet to any front or rear lot line, with the exception of the C-2 Central Business District where the porch, deck, balcony or awning may extend to the lot line.

SECTION 2.8 ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; it being the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this Ordinance.

SECTION 2.9 BUILDING HEIGHT EXCEPTIONS

The building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, flag poles, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances, radio or TV antenna that serve the occupants of the individual use that do not exceed seventy-five (75 feet), subject to Section 2.19.

SECTION 2.10 REQUIRED AREA OR SPACE

- A. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements

of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.

- B. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages, attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building, for the purpose of determining compliance with the provisions of this Ordinance concerning required yards.

SECTION 2.11 STORAGE AND REPAIR OF VEHICLES

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district or lot shall be conducted entirely within the interior of a building.
- B. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.
- C. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district or lot to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction being conducted on such lot.

SECTION 2.12 SWIMMING POOLS

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains twenty-four (24) inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, which means shall be approved by the Zoning Administrator. Such side walls, fence or enclosure, including the gates, shall not be less than four (4) feet or greater than (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children.
- B. Swimming pools, spas, hot tubs and similar devices shall not be located less than ten (10) feet from any lot line.
- C. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard, but may be allowed in a non-required side yard. For corner lots, screening shall be required for any pool, spa, hot tub or similar device located in a non-required side yard.

- D. No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the zoning administrator.
- E. No lights shall be erected, operated or maintained in connection with a swimming pool or hot tub in such a manner as to create an annoyance to surrounding properties.
- F. Service drop conductors and any other open overhead wiring shall not be installed above a swimming pool or hot tub. New pools shall not be located underneath existing overhead wiring.

**SECTION 2.13 REGULATIONS APPLICABLE TO DWELLINGS OUTSIDE
MANUFACTURED HOME PARKS**

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

- A. If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Official or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the City, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by City codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Official.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height requirements of the zoning district in which it is located. In no case shall any living space located in a basement be counted toward the required residential floor area for the district in which it is located.
- D. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.
- E. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as

required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches.

- F. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.
- G. The dwelling unit shall have a minimum horizontal dimension across any front, side, or rear elevation of twenty (20) feet and shall be no greater in length than two and one-half (2½) times its width.
- H. Storage area shall be provided within a building, with an area of no less than one hundred twenty (120) square feet. This storage area may consist of a basement, closet area, attic or attached garage in a main building, or in a detached accessory building which is in compliance with all other applicable provisions of Section 2.2.
- I. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade.
- J. The dwelling unit shall have no less than two (2) exterior doors, with one being in either the rear or the side of the dwelling unit.
- K. The exterior finish of the dwelling unit shall not cause reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
- L. Where the home design involves a roof pitch, it shall be at a minimum pitch of 5/12, that is, for every twelve inches (12") of lateral run, the roof shall rise five inches (5").
- M. The roof shall have a snow load rating of forty (40) pounds per square foot.
- N. Roof drainage in the form of a roof overhang of at least twelve inches (12") shall be provided to direct storm or meltwater away from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.
- O. All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7½) feet in all living space.
- P. A structure with a front elevation view of over 40 linear feet shall have a design offset including but not limited to; bay windows, covered porches, or structural offsets from the principal plane of the building.

- Q. Garage doors may not comprise more than fifty percent (50%) of the front face of the structure.
- R. The dwelling unit shall contain no additions of rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- S. All dwellings shall contain a minimum floor area in accordance with the following:
 - 1. Single family - 1,000 sq. ft., with at least 600 sq. ft. on the ground floor
 - 2. Two-family - 1,000 sq. ft. per unit, with at least 600 sq. ft. on the ground floor
 - 3. Multi-family:
 - a. 1 bedroom - 500 sq. ft.
 - b. 2 bedroom - 600 sq. ft.
 - c. 3 bedroom - 750 sq. ft.
 - d. 4 bedroom - 900 sq. ft.
- T. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of residential dwellings located outside of manufactured home parks within three hundred (300) feet of the subject dwelling.

SECTION 2.14 ILLEGAL DWELLINGS

The use of any portion of a garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited, unless otherwise permitted as a Special Land Use. Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the City building code and other applicable regulations.

SECTION 2.15 TEMPORARY BUILDINGS AND STRUCTURES

Temporary uses, buildings and structures may be placed on a lot or parcel and occupied only under the following conditions as authorized by a permit issued by the Zoning Administrator.

- A. Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
 - 1. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation

facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.

2. No construction building or structure shall be used as a dwelling unit.
3. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot.

B. Sales offices or model homes may be placed on a lot, provided:

1. The location of the office shall be specified in the permit.
2. The permit shall be valid for a period of up to one (1) year. A temporary permit may be renewed by the Zoning Administrator for up to two (2) successive one (1) year periods or less, at the same location if such office is still incidental and necessary.
3. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be permitted.

C. Outdoor Christmas Tree/Fireworks Sale, provided:

1. The display and sale of trees or fireworks on an open lot shall be allowed for a period not to exceed forty-five (45) days.
2. No fresh cut tree or firework sales shall be conducted from within a building.
3. All unsold trees must be removed from the property by December 31st of each calendar year.
4. All unsold fireworks must be removed from the property by July 10th of each calendar year.
5. Fireworks sales shall be conducted pursuant to the Fire Code.

D. Special Events such as food vendors, event offices, dressing rooms, carnival-type games, midways, t-shirt or souvenir sales, art/craft fairs, or other similar uses, provided:

1. The use is restricted to the property(ies) where the event is taking place.

E. Administration of Temporary Uses

1. The Zoning Administrator may require a performance guarantee pursuant to Section 22.4 in an amount equal to the estimated cost of removing any temporary structure permitted.
2. All temporary uses shall meet the following standards:
 - a. The nature of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
 - b. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
 - c. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure and hours of operation.
 - d. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
 - e. Signs shall conform to the provisions of this Ordinance.
 - f. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
 - g. An appeal of a decision by the Zoning Administrator relative to denial of a temporary use, building or structure or of a temporary zoning permit or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section 21.3 of this Ordinance.

SECTION 2.16 TIMELY COMPLETION OF CONSTRUCTION REQUIRED

Following the initiation of the construction, erection, reconstruction, modification, expansion or enlargement of any building or other structure authorized under the provisions of this Ordinance, completion of such work shall be diligently pursued and completed in a timely manner, consistent with building permit requirements.

SECTION 2.17 PERMITTED FRONT SETBACK REDUCTIONS

- A. Where the established front yards for existing main buildings within two hundred (200) feet of the side lot line of, and in the same zoning district as, a subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of

the street and entirely or partially within two hundred (200) feet of the side lot lines of the subject lot, subject to subsections B and C, below.

- B. The front yard reduction permitted in subsection A, above shall only be permitted if there are two (2) or more lots occupied by main buildings within the area described for computing the average front yard.
- C. In no case shall the front yard setback resulting from the application of these provisions, be less than fifteen (15) feet.

SECTION 2.18 KEEPING OF ANIMALS

- A. The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any Residential District. However, no more than two (2) dogs or cats, six (6) months of age or older, in any combination thereof, shall be kept or housed in or at one (1) dwelling unit.
- B. The keeping of animals not normally considered household pets, including, but not limited to, wild animals, horses, pigs, sheep, cattle, and poultry is prohibited in all zoning districts.
- C. Any area where such permitted animals are kept shall be maintained in a safe and sanitary condition.

SECTION 2.19 MECHANICAL APPURTENANCES

- A. Except in the C-2 Central Business District, mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, shall be placed not closer than twelve (12) feet to any lot line.
- B. Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar apparatus, located on the roof of any building shall comply with the following standards:
 - 1. Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.
 - 2. The apparatus and enclosure shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall not occupy greater than fifteen (15) percent of the total area of the roof of the building on which it is placed.

SECTION 2.20 WATER AND SANITARY SEWER SERVICE

No permit shall be issued for the construction of a building or structure which is not served by both adequate public water and sewer facilities, or a private system approved by the County Health Department.

SECTION 2.21 CORNER LOTS

- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line based on traffic patterns for the safest driveway location and the access management standards of this ordinance.

- B. Setback and Width Determination
 - 1. The required front setback shall be met on both the principal and secondary streets.

 - 2. Where the lot contains an existing main building in a commercial or industrial district the front setback from the secondary street may be reduced by ten (10) feet.

 - 3. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which in the case of a corner lot, shall be the lot line opposite the principal front lot line.

 - 4. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

SECTION 2.22 LAND DISTURBANCES

- A. Unless associated with a bona fide public works project, it shall be unlawful for any person, individual, partnership, corporation, association or other legal entity to engage in land clearing, including the stripping and removal of topsoil, from any site, parcel, or lot within the City without first receiving zoning approval.

- B. In order to protect adjacent properties, public roads, public watercourses, and to provide for adequate drainage of surface water, in addition to adhering to adopted soil erosion and storm water management requirements of the City, the following rules shall apply to all construction activities pursuant to this Ordinance.
 - 1. The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flows away from the building or structure and is managed in a manner which prevents:

- a. Increased flow onto adjacent properties or public roads
 - b. Erosion or filling of a roadside ditch
 - c. Blockage of a public watercourse or drain
 - d. Creation of standing water, other than in an approved detention or retention pond
 - e. Direct discharge into surface water
2. Filling a parcel of land with earth or other materials to an elevation above the established grade of adjacent developed land is prohibited without obtaining approval from the City Engineering Department.

SECTION 2.23 WITHHOLDING OR CONDITIONING OF APPROVAL

The Planning Commission or City Council may withhold granting of approval of any use, site plan, or other approval required by this Ordinance pending approvals which may be required by county, state or federal agencies or departments, or may approve subject to obtaining such approvals.

SECTION 2.24 HOME OCCUPATIONS

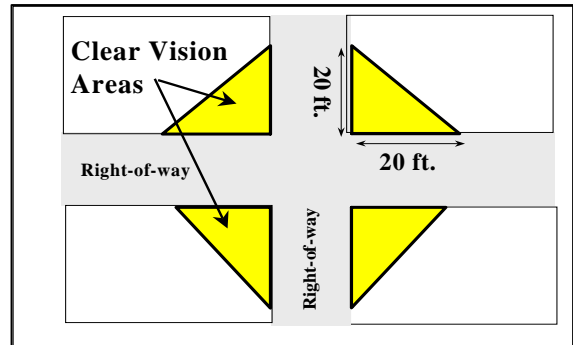
- A. Home occupations shall be approved by the Zoning Administrator, who may issue an approval upon receipt of an application. Permissible home occupations include, but are not limited to the following:
 1. Art and craft studios, lessons may be given to one client at a time.
 2. Hair and nail salons, limited to one client at a time.
 3. Dressmaking and tailoring.
 4. Tutoring, limited to one student at a time.
 5. Typing or clerical services
 6. Teaching of music or dancing or similar instruction, limited to one client at a time.
 7. Offices located within the dwelling for a writer, consultant, member of the clergy, lawyer, physician, architect, engineer or accountant, limited to one client/family at a time.

- B. Only members of the immediate family residing on the premises shall be engaged in the home occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25%) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the main building.
- E. The home occupation shall be operated entirely within the principal dwelling and not within any detached accessory building or structure, and shall not involve any retail sales.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.
- G. No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the boundaries of the property on which the home occupation is conducted. In 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 cause fluctuation in line voltage off the premises.
- H. The home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings.
- I. The home occupation shall not involve the routine use of commercial vehicles for delivery of materials to and from the premises. There shall be no commercial vehicles associated with the home occupation, nor parking of more than one (1) business car, pickup truck or small van on the premises.
- J. Activities specifically prohibited as home occupations include, but are not limited to:
 - 1. A service or repair of motor vehicles, appliances and other large equipment.
 - 2. A service or manufacturing process which would normally require industrial zoning.
 - 3. A commercial food service requiring a license.
 - 4. A limousine service.

5. A lodging service including a bed and breakfast.
6. A tattoo parlor
7. An animal hospital or kennel
8. A lawn service

SECTION 2.25 CLEAR VISION

In any zone district on any corner lot, no fence, structure or planting over thirty (30) inches in height shall be erected or maintained within an area formed by the street property lines and a line connecting them at points twenty (20) feet from the intersection of the street lines.



SECTION 2.26 WIRELESS COMMUNICATION ANTENNAS

A commercial wireless communication antenna (WCA) may be permitted within any zoning district if:

- A. The antenna is mounted on an existing commercial wireless communication tower (as regulated in Section 20.6 KK.) or a publicly-owned tower or elevated storage tank.
- B. Placed on or attached to any existing structure at least sixty feet (60') in height which constitutes a principal use where the height of said existing pole or other structure is not increased more than twenty (20) feet.
- C. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
- D. A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.
- E. Abandoned or unused WCAs and any associated structures or equipment shall be removed, within twelve (12) months of the cessation of operations.

SECTION 2.27 STORAGE OF FIREWOOD

Firewood, not exceeding one (1) cord (one hundred twenty-eight (128) cubic feet), or six (6) feet in height, may be stored in any residential lot for the personal use of the owner or tenant. This

wood may not be stored closer to the principal building than fifteen (15) feet, or to any lot line than four (4) feet, except that not any more than eight (8) cubic feet may be stored by any entrance.

**CHAPTER 3
ZONING DISTRICTS - GENERAL**

SECTION 3.1 DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the City of Dowagiac is hereby divided into the following Zoning Districts:

CURRENT DISTRICT DESIGNATION	
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	Multi-Family Residential District
R-4	Manufactured Home Park District
O-S	Office Service District
C-1	Neighborhood Business District
C-2	Central Business District
C-3	General Business District
I-1	Light Industrial District
I-2	Heavy Industrial District
I-3	Industrial Park District
PUD	Planned Unit Development District
FP	Floodplain Overlay District

SECTION 3.2 DISTRICT BOUNDARIES

A. Boundaries

The boundaries of the districts listed in Section 3.1 are hereby established as shown on the City of Dowagiac Zoning Ordinance Map, which is part of this Ordinance.

B. Interpretation of District Boundaries

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

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines shall be construed to follow such center lines.

2. Boundaries indicated as approximately following platted lot lines or City limits shall be construed as following such lot lines or City limits.
3. Boundaries indicated as parallel to or extensions of features indicated in Section 3.2-B-1&2, shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
4. Boundaries following the shoreline of streams, shall be construed to follow such shoreline, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, or canals, shall be construed to follow such centerlines.
5. Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this Section, the Zoning Administrator shall interpret the district boundaries.

SECTION 3.3 ZONING OF ANNEXED AREAS

Whenever any area is annexed to the City of Dowagiac, one of the following rules shall apply:

- A. Land zoned previous to annexation shall be a district of the class to which it most nearly conforms under this Ordinance. The Planning Commission shall recommend the classification to the City Council, who shall determine by resolution the zoning classification into which the property will be placed.
- B. Land not zoned prior to annexation shall be automatically classified as R-1 until a Zoning Map for the area has been adopted by the City Council. The Planning Commission shall recommend appropriate zoning districts for such area within three (3) months after City Council has referred the matter to the Commission.

SECTION 3.4 ZONING OF VACATED AREAS

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two (2) different Districts, the area is divided along a line half way between them according to the adjacent zone, unless the City Council shall otherwise designate.

CHAPTER 4
R-1 RESIDENTIAL DISTRICT

SECTION 4.1 INTENT

This District is intended to provide areas primarily designed for residential use consisting of low-density single-family dwellings to foster stable, high quality neighborhood. The intent of the district is to provide for one-family, low-density dwelling sites and residentially related uses in keeping with the Comprehensive Plan for residential development in the city. The Principal Permitted Uses and Special Land Uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic noises.

SECTION 4.2 PERMITTED USES

No land and/or buildings in the R-1 Residential District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Single-family detached dwellings
- B. Family Day Care Homes
- C. Home Occupations
- D. State licensed residential family care facilities provided that such facility is not located closer than one thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- E. Accessory buildings, structures, and uses
- F. Public recreation areas

SECTION 4.3 SPECIAL LAND USES

Land and/or buildings in the R-1 Residential District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Community recreation centers
- B. Churches (including schools and day care centers)
- C. Golf courses or country clubs (including uses such as restaurants without drive-through windows, lounges, pro shops, lodging facilities, and similar uses when accessory to and operated as an integral part of the golf course or country club).

- D. Public and private K-12 schools
- E. Cemeteries
- F. Site condominiums for single-family homes
- G. Accessory dwelling units within an existing building (e.g., carriage house).

SECTION 4.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks, and other similar features.
- C. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with City standards. The City Council may authorize an alternate walkway or pathway, if deemed appropriate.
- D. All improved lots or parcels shall be served by public water and sewer.
- E. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- F. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

CHAPTER 5
R-2 RESIDENTIAL DISTRICT

SECTION 5.1 INTENT

This District is intended to provide a medium density residential living environment comprised mainly of single-family dwellings, and to foster stable, high quality neighborhoods in older areas of the City. At the same time, the regulations for this District recognize the need to preserve existing housing stock, allow infill development within older subdivisions, and provide housing that is affordable for the present and future residents of Dowagiac. Non-residential uses are only allowed to the extent that they serve to further the preservation of stable residential neighborhoods.

SECTION 5.2 PERMITTED USES

No land and/or buildings in the R-2 Residential District may be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Single-family detached dwellings
- B. Two family dwellings
- C. Family Day Care Homes
- D. State licensed residential family care facilities provided that such facility is not located closer than one thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- E. Public recreation areas
- F. Accessory buildings, structures, and uses

SECTION 5.3 SPECIAL LAND USES

Land and/or buildings in the R-2 Residential District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Community recreation centers
- B. Churches (including schools and day care centers)
- C. Golf courses or country clubs (including uses such as restaurants without drive-through windows, lounges, pro shops, lodging facilities, and similar uses when accessory to and operated as an integral part of the golf course or country club).

- D. Public and private K-12 schools
- E. Cemeteries
- F. Bed and breakfast establishments
- G. Licensed Residential Group Facility
- H. Dwelling units within an existing accessory building

SECTION 5.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks, and other similar features.
- C. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with City standards.
- D. All improved lots or parcels shall be served by public water and sewer.
- E. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- F. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

CHAPTER 6
R-3 MULTI-FAMILY RESIDENTIAL

SECTION 6.1 INTENT

This District is intended to provide a moderate to high density residential living environment and to foster stable, high quality, livable neighborhoods while providing for additional variety in housing opportunities and choices. Non-residential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

SECTION 6.2 PERMITTED USES

No land and/or buildings in the R-3 Multi-family Residential District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Two-family dwellings
- B. Multiple family dwellings
- C. Family Day Care Homes
- D. State licensed residential family care facilities; provided that such facility is not located closer than one thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- E. Public recreation areas
- F. Accessory buildings, structures, and uses

SECTION 6.3 SPECIAL LAND USES

Land and/or buildings in the R-3 Multi-family District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Boarding houses.
- B. Convalescent or nursing homes.
- C. Bed and Breakfast establishments.
- D. Community recreation centers.
- E. Churches (including schools and day care centers).

- F. Golf courses or country clubs (including uses such as restaurants without drive-through windows, lounges, pro shops, lodging facilities, and similar uses when accessory to and operated as an integral part of the golf course or country club).
- G. Public and private K-12 schools
- H. Licensed Residential Group Facility
- I. Adult Foster Care Large Group Home
- J. Small Open Child Caring Facility
- K. Cemeteries.

SECTION 6.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. No structure shall have an open or covered stairway outside the regular framework of the house, except those which provide access to patios, exterior decks, and other similar features.
- C. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with City standards.
- D. All improved lots or parcels shall be served by public water and sewer.
- E. A maximum of ten (10) dwelling units per net acre shall be permitted. Net acreage shall be the total site area, exclusive of any dedicated public right-of-way for either interior or abutting streets. No building shall exceed an overall length of one hundred eighty (180) ft. There shall be a minimum distance between ends of contiguous buildings equal to the height of the taller building or twenty-five (25) ft., whichever is greater.

- F. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- G. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

CHAPTER 7
R-4 MANUFACTURED HOME COMMUNITY DISTRICT

SECTION 7.1 INTENT

Consistent with the City’s goal to provide a mix of housing styles, types, and densities to accommodate the residential needs of all groups, the Manufactured Home Community District is intended to provide regulations for manufactured home residential developments to provide for additional variety in housing opportunities and choices consistent with the level of quality available in all other residential zoning districts.

SECTION 7.2 PERMITTED USES

No land and/or buildings in the R-4 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Manufactured homes located in a state-licensed manufactured home community
- B. Manufactured home communities in accordance with the requirements of Section 7.5
- C. Family Day Care Homes
- D. State licensed residential family care facilities; provided that such facility is not located closer than one thousand five hundred (1,500) feet from an existing or proposed similar state licensed residential facility, including group care facilities, but not including state licensed residential facilities caring for four (4) or less minors.
- E. Accessory buildings, structures, and uses

SECTION 7.3 SPECIAL LAND USES

Land and/or buildings in the R-4 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. State Licensed Residential Group Home Care Facilities.

SECTION 7.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

SECTION 7.5 LICENSED MANUFACTURED HOME COMMUNITIES

- A. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended.
- B. The parking of more than one manufactured home on a single parcel of land or on two or more adjoining parcels of land under common ownership shall be illegal in the City of Dowagiac, irrespective of the requirements of any other Ordinance of the City of Dowagiac, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this Article.
- C. All applications to establish a Manufactured Home Park District must be approved by the City Council, upon the recommendation of the Planning Commission.

D. **Manufactured Home Sales**

The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home park may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or used manufactured home by a resident of the manufactured home development provided the development permits the sale.

CHAPTER 8
O-S OFFICE SERVICE DISTRICT

SECTION 8.1 INTENT

The O-S Office Service District is intended to accommodate office uses, office sales uses and basic personal services, and to provide a transition and buffer between more intense zoning districts, and neighborhood areas. The Intent of the District is to foster areas of uses that are less intensive than retail areas; yet provide commerce opportunities close to neighborhoods. The preference in this area is to rehabilitate existing structures rather than demolition for new construction, as an extremely important part of the Intent of the O-S District is maintaining the residential character of the area. Stricter design standards may also be utilized in this District than seen in other areas. Complementary uses are also provided to enhance the character of the District.

SECTION 8.2 PERMITTED USES

No land and/or buildings in the O-S District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Office buildings for any of the following occupations:
 - 1. Executive, administrative, professional, real estate, accounting, drafting, and other similar professional activities.
 - 2. Medical and dental offices, including clinics, but not veterinary offices.
- B. Banks, credit unions, savings and loan associations, and other similar uses, exclusive of drive-through facilities.
- C. Personal service establishments conducting services on the premises, including barber and beauty shops, travel agencies, photographic studios, interior design studios, and other similar uses.
- D. Child Care Centers
- E. Municipal buildings, and public utility offices, but not including storage yards, transformer stations, exchanges or substations.
- F. Public parks
- G. Single-family or multi-family dwellings.
- H. Mixed residential and office or business uses.
- I. Accessory buildings, structures, and uses

SECTION 8.3 SPECIAL LAND USES

Land and/or buildings in the OS District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20.

- A. Funeral homes and mortuary establishments
- B. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, having drive-through facilities.
- C. Churches
- D. Colleges and Universities
- E. Demolition of an existing structure.

SECTION 8.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. All improved lots or parcels shall be served by public water and sewer.
- C. The outdoor storage of goods or materials is prohibited.
- D. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with City standards.
- E. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- F. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be

connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

- G. The essential residential character of an existing structure in the O-S District shall be maintained and may not be altered.
- H. Any side of a building facing a public road shall be:
 - 1. Comprised of at least thirty (30%) percent windows on each floor.
 - 2. Comprised of at least fifty percent (50%) of the following materials for the remaining portions of the building:
 - a. Brick
 - b. Decorative concrete block
 - c. Cut stone
 - d. Horizontal clapboard siding
 - e. Commercial grade horizontal vinyl siding (at least .44 gauge.)
 - 3. In no case shall vertical siding, sheet metal, cement board, or Efface be considered an acceptable building cover.

CHAPTER 9
C-1 NEIGHBORHOOD BUSINESS DISTRICT

SECTION 9.1 INTENT

This District is intended to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. All business establishments dealing directly with consumers. The uses established in this District are intended to be of a low intensity nature, of appropriate scale and appearance to be compatible with adjacent neighborhoods.

SECTION 9.2 PERMITTED USES

No land and/or buildings in the C-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Office buildings for any of the following occupations:
 - 1. Executive, administrative, professional, real estate, accounting, drafting, and other similar professional activities.
 - 2. Medical and dental offices, including clinics, but not veterinary offices.
- B. Banks, credit unions, savings and loan associations, and other similar uses, exclusive of drive-through facilities.
- C. Personal service establishments conducting services on the premises, including barber and beauty shops, travel agencies, photographic studios, interior design studios, and other similar uses.
- D. Retail sales, including drug store, hardware, bakery, meat market, delicatessen, and gift shops provided that an individual use occupies no more than five thousand (5,000) square feet total floor area.
- D. Child Care Centers
- E. Municipal buildings, and public utility offices, but not including storage yards, transformer stations, exchanges or substations.
- F. Public parks
- G. Health and physical fitness clubs
- H. Accessory buildings, structures, and uses

SECTION 9.3 SPECIAL LAND USES

Land and/or buildings in the C-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20.

- A. Retail uses from 5,001-20,000 square feet total floor area
- B. Funeral homes and mortuary establishments
- C. Restaurants, exclusive of drive-through facilities
- D. Banks, credit unions, savings and loan associations, and other similar uses as determined by the Zoning Administrator, having drive-through facilities.
- E. Churches
- F. Dwelling units on the upper floors of buildings with non-residential uses on the main level.

SECTION 9.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. All improved lots or parcels shall be served by public water and sewer.
- C. The outdoor storage of goods or materials is prohibited.
- D. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with City standards.
- E. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.

- F. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

CHAPTER 10
C-2 CENTRAL BUSINESS DISTRICT

SECTION 10.1 INTENT

This District is intended to accommodate offices, personal services, civic and cultural functions for the residents of Dowagiac and visitors to the community within a central activity area. The uses established in this District are intended to complement one another to provide a concentration of specialty retail and service uses with cultural and social activities to support a high level of activity in the downtown.

SECTION 10.2 PERMITTED USES

No land and/or buildings in the C-2 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Offices of executive, administrative, professional, real estate, accounting, drafting, and other similar professional activities provided they are located on the upper floors of buildings with non-residential uses on the main level.
- B. Banks, credit unions, savings and loan associations, and other similar uses, exclusive of drive-through facilities.
- C. Personal service establishments conducting services on the premises, including barber and beauty shops, travel agencies, photographic studios, interior design studios, and other similar uses.
- D. Specialty retail sales, including drug store, hardware, bakery, meat market, and delicatessens.
- E. Child Care Centers.
- F. Municipal buildings, and public utility offices, but not including storage yards, transformer stations, exchanges or substations.
- G. Health and physical fitness clubs.
- H. General retail businesses catering to the needs of the community such as, but not limited to, grocery stores, furniture stores, clothing, and dry goods.
- I. Commercial schools including, but not limited to, dance, music, trade, or martial arts provided they are located on the upper floors of buildings with non-residential uses on the main level.
- J. Restaurants, excluding drive-ins.

- K. Dry-cleaning establishments or pick-up stations
- L. Establishments serving alcoholic beverage and which may provide live entertainment, but not sexually-oriented businesses.
- M. Art galleries, libraries, museums, performing arts auditoriums, and similar cultural facilities.

SECTION 10.3 SPECIAL LAND USES

Land and/or buildings in the C-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Indoor recreational and entertainment facilities, such as theaters, bowling lanes, billiard parlors, skating rinks, and similar uses.
- B. Banks, credit unions, savings and loan associations, and other similar uses, having drive-through facilities.
- C. Outdoor patio/seating area in conjunction with a permitted use.
- D. Outdoor merchandise display.
- E. Hotels or Motels.
- F. Dwelling units on the upper floors of buildings with non-residential uses on the main level.

SECTION 10.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. The outdoor storage of goods or materials is prohibited.

- C. Sidewalks shall be constructed on all sides of the property abutting a public street, in accordance with City standards.
- D. All lots or parcels shall be served by public water and sewer.
- E. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- F. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.
- G. Structures or additions to structures shall be compatible with surrounding development.
- H. Any side of a building facing a public road shall be:
 - 1. Comprised of at least thirty (30%) percent windows on each floor.
 - 2. Comprised of at least fifty percent (50%) of the following materials for the remaining portions of the building:
 - a. Brick
 - b. Decorative concrete block
 - c. Cut stone
 - d. Horizontal clapboard siding
 - e. Commercial grade horizontal vinyl siding (at least .44 gauge.)
 - 3. In no case shall vertical siding, sheet metal, cement board, or Efface be considered an acceptable building cover.

CHAPTER 11
C-3 GENERAL BUSINESS DISTRICT

SECTION 11.1 INTENT

The District primarily caters to the motoring public and is intended to accommodate a variety of commercial uses which provide goods and services to the residents of Dowagiac and surrounding area in an integrated and cohesive arrangement. Permitted uses in this District are intended to be of an appropriate scale, appearance, and arrangement to maximize compatibility with adjoining uses and minimize conflicts with traffic on adjacent streets.

SECTION 11.2 PERMITTED USES

No land and/or buildings in the C-3 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. Banks, credit unions, savings and loan associations, and other similar uses, exclusive of drive-through facilities.
- B. Personal service establishments conducting services on the premises, including barber and beauty shops, travel agencies, photographic studios, interior design studios, and other similar uses.
- C. Specialty retail sales, including drug store, hardware, bakery, meat market, delicatessen, and gift shops.
- D. Child Care Centers.
- E. Municipal buildings, and public utility offices, but not including storage yards, transformer stations, exchanges or substations.
- F. Public parks.
- G. Health and physical fitness clubs.
- H. General retail businesses catering to the needs of the community and surrounding area such as, but not limited to, grocery stores, pharmacies, furniture stores, clothing, dry goods, notions, or hardware.
- I. Indoor recreational and entertainment facilities, such as theaters, bowling lanes, billiard parlors, skating rinks, and similar uses.
- J. Commercial schools including, but not limited to, dance, music, trade, martial arts.
- K. Restaurants or taverns.

SECTION 11.3 SPECIAL LAND USES

Land and/or buildings in the C-3 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Offices and showrooms of plumbers, electricians, decorators, or similar trades.
- B. Vehicle service stations, or vehicle repair.
- C. Vehicle wash establishments.
- D. Drive-in businesses (including banks, restaurants, pharmacies, and similar uses).
- E. Pawn shops
- F. Tattoo and Piercing Parlors
- G. Open air businesses
- H. Plant nurseries and greenhouses.
- I. Building supply and equipment establishments, including lumber yards.
- J. Outdoor storage yards.
- K. Veterinary clinics, not including kennels.
- L. Medical and dental offices and clinics.
- M. Commercial Storage warehouse facilities.
- N. Dwelling units on the upper floors of buildings with non-residential uses on the main level.

SECTION 11.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2

Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. Sidewalks may be required on all sides of the property abutting a public street, in accordance with City standards.
- C. All lots or parcels shall be served by public water and sewer.
- D. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- E. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

CHAPTER 12
I-1 LIGHT INDUSTRIAL DISTRICT

SECTION 12.1 INTENT

This District permits most light industrial uses such as wholesale, warehousing, manufacturing, and storage, as well as some intensive commercial uses. The intent of the District is to provide a specific location for these uses and prevent their potentially negative impacts such as heavy traffic, continuous operation, noise, odor, or visual obtrusiveness from encroaching into areas or Districts where they would be incompatible.

SECTION 12.2 PERMITTED USES

No land and/or buildings in the I-1 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. The manufacture, compounding, processing, assembly, packaging, warehousing, or treatment of such products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, pharmaceuticals, pottery or other ceramic products, musical instruments, toys, furniture, molded rubber products, electrical appliances, electronic instruments, signs, light sheet metal products, hardware, tool, die, gauge, and machine shops, excluding stamping operations.
- B. The manufacture, compounding, processing, assembly, packaging, warehousing, or treatment of products from the following previously prepared materials: aluminum, bone, brass, cellophane, canvas, cloth, copper, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stone, shell, rubber, tin, iron, steel, tobacco, wood, or yarn.
- C. Corporate offices.
- D. Research and development facilities, including production activities.
- E. Warehousing, distribution, and wholesale establishments.
- F. Laboratories (experimental, film, or testing).
- G. Dry-cleaning and laundry establishments performing cleaning operations on the premises, excluding retail/service operations.
- H. Trade or industrial schools, except truck driving schools.
- I. Utility and public service buildings, including storage yards.
- J. Contractor's showrooms and storage yards.

- K. Printing and publishing
- L. Bottling Plants
- M. Accessory buildings, structures, and uses.

SECTION 12.3 SPECIAL LAND USES

Land and/or buildings in the I-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Vehicle repair.
- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. Commercial storage warehouses.
- E. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- F. Recycling centers.
- G. Salvage Yards.
- H. Sexually-oriented businesses.
- I. Outdoor storage, display area, and sale of farm implements and commercial construction equipment.
- J. Production, refining, or storage of petroleum or other flammable liquids.
- K. Municipal water and wastewater treatment facilities.
- L. Veterinary clinics and kennels.
- M. Outdoor storage yards.
- N. Manufacture and processing of leather goods, including tanneries.
- O. Wireless communication towers.
- P. Billboards
- Q. Child Care Centers.

SECTION 12.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

B. Sidewalks may be required to be constructed on all sides of the property abutting a public street, in accordance with City standards.

C. All lots or parcels shall be served by public water and sewer.

CHAPTER 13
I-2 HEAVY INDUSTRIAL DISTRICT

SECTION 13.1 INTENT

The I-2 General Industrial Districts are established primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations whose external physical effects may be felt to some degree by surrounding districts. The I-2 District is so structured as to permit, in addition to I-1 Light Industrial District uses, the manufacturing, processing and compounding of semi finished or finished products from raw materials.

SECTION 13.2 PERMITTED USES

No land and/or buildings in the I-2 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. All permitted uses in the I-1 district.
- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. Commercial storage warehouses.
- E. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- F. Veterinary clinics and kennels.
- G. Accessory buildings, structures, and uses.

SECTION 13.3 SPECIAL LAND USES

Land and/or buildings in the I-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Vehicle repair.
- B. Recycling centers.
- C. Salvage yards.
- D. Sexually-oriented businesses.
- E. Truck terminals.

- F. Outdoor storage, display area, and sale of farm implements and commercial construction equipment.
- G. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of Paris.
- H. Production, refining, or storage of petroleum or other flammable liquids.
- I. Municipal water and wastewater treatment facilities.
- J. Outdoor storage yards.
- K. Manufacture and processing of leather goods, including tanneries.
- L. Wireless communication towers.
- M. Billboards

SECTION 13.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

- B. Sidewalks may be required on all sides of the property abutting a public street, in accordance with City standards.
- C. All lots or parcels shall be served by public water and sewer.

CHAPTER 14
I-3 INDUSTRIAL PARK DISTRICT

SECTION 14.1 INTENT

The I-3 Industrial Park District is designed to provide for the development or redevelopment of larger parcels of land as an industrial subdivision. The I-3 District is located to permit the development of industrial uses consistent with surface transportation and utility service availability, and to protect both the industrial park and the surrounding areas against the encroachment or intrusion of incompatible uses. The I-3 District is so structured as to exclude certain uses which would function more effectively in other districts and would interfere with the operation of industrial park activities and the purpose of this District.

SECTION 14.2 PERMITTED USES

No land and/or buildings in the I-3 District shall be used, erected, altered or converted, in whole or in part, except for the following purposes by right:

- A. All permitted uses in the I-1 district.
- B. Power plants, provided that the height of the stacks does not exceed one hundred fifty (150) feet.
- C. Accessory buildings, structures, and uses.

SECTION 14.3 SPECIAL LAND USES

Land and/or buildings in the I-3 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 20:

- A. Power plants with stacks higher than one hundred fifty (150) feet.
- B. Metal plating, buffing, and polishing.
- C. Recycling centers.
- D. Outdoor storage yards.
- E. Wireless communication towers.
- F. Billboards.
- G. Child Care Centers.

SECTION 14.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

A. Supplemental Regulations

Setbacks, Height, Area, & Lot Dimension Requirements	See Chapter 17
Special Land Uses, Site Plan Review	See Chapter 19, Section 19.1
Landscaping	See Chapter 19, Section 19.2
Parking	See Chapter 19, Section 19.3
Signs	See Chapter 19, Section 19.4

B. Sidewalks may be required on all sides of the property abutting a public street, in accordance with City standards.

C. All lots or parcels shall be served by public water and sewer.

CHAPTER 15
PUD - PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 15.1 INTENT

Planned Unit Developments in the City of Dowagiac may be established as distinct zoning districts when approved by the City Council in accordance with the procedures specified herein. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; to provide for mixed uses and to create better integrated living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the relaxation of the conventional requirements found in other Zoning Districts. The use of land and the construction and use of buildings and other structures as Planned Unit Development shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter.

SECTION 15.2 QUALIFYING CONDITIONS

Any development which fails to meet all of the following qualifying conditions, at a minimum, shall not be considered for the PUD District:

- A. The PUD site shall be not less than two (2) acres in area. Recreational amenities such as golf courses and health clubs, and ancillary commercial activities such as club houses and pro shops, shall not be considered non-residential uses for purposes of this Section.
- B. All PUDs shall be served by public water and sanitary sewer facilities.
- C. The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all properties.
- D. The proposed uses of the PUD must be consistent with the City of Dowagiac Comprehensive Plan for the subject property.
- E. The PUD development shall contain open space in an amount equal to at least twenty (20) percent of the total PUD site. Such open space shall not include required yards or buffers, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, and structures. Such open space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the City; or, if agreed to by the City Council, the open space may be conveyed to the City for the use by the general public.

SECTION 15.3 PERMITTED USES

Any use permitted by right or special approval in the R-1, R-2, or R-3, O-S, Districts and all permitted uses in the C-1, C-2, or I-1 Districts may be permitted within a PUD.

SECTION 15.4 OPTIONAL PRE-APPLICATION CONFERENCE

- A. A pre-application conference may be held with the Planning Commission for the purpose of determining the eligibility of the request for consideration as a PUD.
- B. A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time with the Planning Commission. As part of the pre-application conference, the applicant shall submit ten (10) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.
- C. The Planning Commission shall advise the applicant of the conformance of the PUD concept with the intent and objectives of PUD in the City of Dowagiac, whether it qualifies under the minimum requirements of Section 15.2, and whether the general concept is consistent with the City's Comprehensive Plan. In no case, shall any representations made by the Planning Commission be construed as an endorsement of the PUD or an approval of the concept.

SECTION 15.5 PUD APPLICATION AND PRELIMINARY DEVELOPMENT PLAN

Applicants seeking approval of a PUD District shall submit a complete application for review and a preliminary development plan to the Zoning Administrator. Such application shall include the following:

- A. A completed application form, supplied by the Zoning Administrator.
- B. Payment of a fee, as established by the City Council.
- C. A narrative statement describing:
 - 1. The objectives of the PUD and how it relates to the Intent of the PUD District, as described in Section 15.1.
 - 2. The relationship of the PUD to the City of Dowagiac Comprehensive Plan.
 - 3. Phases of development and approximate time frame for each phase.
 - 4. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
 - 5. Anticipated start and completion of construction.

6. Location, type, and size of areas to be dedicated for common open space.
- D. Fifteen (15) copies of a preliminary development plan. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the following:
1. Name of development, applicant's name, name and address of firm and individual who prepared the plan, scale, and north arrow.
 2. Property lines, dimensions of all property lines, and size of the PUD (and individual phases) in acres.
 3. Existing zoning and land use of all abutting properties.
 4. Existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes, and similar features.
 5. Existing buildings on the site.
 6. Proposed uses and their approximate locations.
 7. Right-of-way and pavement edges of existing streets abutting the PUD.
 8. Approximate locations of proposed access drives and streets within the PUD.
 9. Proposed method of providing water, sanitary sewer, and stormwater drainage facilities.
 10. Layout and typical dimensions of proposed lots.
 11. Approximate phases of development.
 12. Proposed residential density by area or phase.

SECTION 15.6 NOTICE AND PUBLIC HEARING FOR PUD

- A. Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the City and Village Zoning Act requirements for an ordinance amendment. The notice shall:
1. Describe the nature of the proposed PUD.
 2. Describe the property which is the subject of the PUD application, by both legal description and street address.
 3. State the time, date, and place of the public hearing.

4. State when and where written comments will be received concerning the application.
- B. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

SECTION 15.7 PLANNING COMMISSION RECOMMENDATION

Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the standards of Section 15.13; and shall make a recommendation to the City Council to approve, approve with conditions, or deny the PUD zoning. In its recommendation to the Council, the Planning Commission shall include the reasons for such recommendation, specifically citing appropriate standards and sections of the Ordinance and identifying those specific conditions, if any, it considers necessary.

SECTION 15.8 CITY COUNCIL ACTION

After receiving the recommendation of the Planning Commission, the City Council shall review the application package, preliminary development plan, the record of the Planning Commission proceedings, and the recommendation. The Council shall then make its findings based on the standards of Section 15.13 as to approval, approval with conditions, or denial. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary development plan to the City Council. Upon receipt by the City Council of the applicant's written acceptance of conditions and a revised preliminary development plan incorporating all required changes and conditions, the rezoning shall become effective.

SECTION 15.9 FINAL DEVELOPMENT PLAN APPLICATION

Within twelve (12) months of the City Council's approval of the PUD district and the preliminary development plan, the applicant shall submit a request for final PUD approval. Such application shall consist of the following:

- A. A completed application form, supplied by the Zoning Administrator.
- B. Payment of a fee, as established by the City Council.
- C. A written response to the findings, review comments, and conditions, if any, from the Planning Commission and City Council's review of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
- D. A site plan containing all of the information required in Section 19.1-C-3&4. For developments consisting of three (3) or more phases, a plan meeting the requirements of Section 15.5-D may be submitted for the overall PUD and a detailed plan as required for final development plan may be submitted for the first phase. Each subsequent phase shall be reviewed in the same manner.

SECTION 15.10 PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN

- A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and the conditions, if any, of the PUD district approval. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 15.6-15.8 of this ordinance.
- B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the criteria of Section 15.13.
- C. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- D. The decision of the Planning Commission may be appealed to the City Council which shall review the record of the proceedings, along with all materials submitted, and shall make its decision in accordance with the standards of Section 15.13.
- E. The Zoning Board of Appeals shall not have authority to hear any variance request or waive any requirement related to Planned Unit Developments.

SECTION 15.11 SUPPLEMENTAL DESIGN STANDARDS

- A. Outdoor common areas and associated amenities for employees, customers and/or residents shall be provided as appropriate and may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees, bus stop turn-outs, and similar facilities.
- B. In order to ensure public safety, special pedestrian measures such as crosswalks, and other such facilities may be required for a development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.
- C. The height restrictions shall be determined by the City Council upon recommendation of the Planning Commission, as part of the preliminary development plan approval. In no case shall any structure exceed a height of sixty (60) feet.
- D. The parking requirements of the underlying district may be decreased up to thirty (30%) percent if shared or public parking opportunities are available.

SECTION 15.12 DENSITY FOR RESIDENTIAL ELEMENTS OF PUDs

A. The applicant shall prepare a site plan under the conventional zoning district site development requirements to be called the “parallel plan”. This plan shall be prepared using the minimum lot size for the conventional zoning district(s), with all lots being buildable. The number of dwelling units which can be built under the parallel plan will be the minimum number of units allowed under the PUD, with additional units being possible using the bonus criteria herein. The permitted base density for each type of dwelling unit shall be:

Dwelling Unit Type	Base Units Per Acre
Single-family	4 units per acre
Duplex	6.5 units per acre
Multi-family	10 units per acre

B. A density bonus option shall be based on an aggregate of one (1) or more of the following elements for which the Planning Commission and the City Council determines the PUD qualifies; provided the total density bonus shall not exceed a maximum of fifty (50) percent:

1. A high level of clustered development with common open space exceeding the requirements of Section 15.12(A) may qualify for density bonuses in accordance with the following:
 - a. Twenty-five (25) percent of open space: five (5) percent density bonus.
 - b. Thirty-five (35) percent open space: fifteen (15) percent density bonus.
 - c. Fifty (50) percent open space: twenty-five (25) percent density bonus.
2. Inclusion of an integrated mixture of housing types, such as detached housing with attached housing or multiple-family dwellings may qualify for a five (5) percent density bonus; provided no housing type comprises less than twenty (20) percent of the total dwelling units.
3. Including a restriction in the PUD prohibiting the removal of tree cover beyond a fifty (50) foot distance from a dwelling unit will qualify for up to a five (5) percent bonus.
4. Providing active recreational facilities such as a golf course, baseball diamond, tennis court, basketball court or community clubhouse will qualify for up to a five (5) percent density bonus.
5. Cleanup of site contamination consistent with a baseline environmental assessment (BEA) approved by the Michigan Department of Environmental Quality may qualify for up to a ten (10) percent density bonus.

6. Combining multiple parcels under different ownership for the PUD project will qualify for up to a ten (10) percent density bonus.
7. Preserving natural features such as wooded areas, wetlands, floodplains, and unique vegetation areas will qualify for up to a five (5) percent bonus, depending on the degree of preservation and preservation plan.

SECTION 15.13 STANDARDS FOR APPROVAL

A PUD shall be approved only if it complies with each of the following standards:

- A. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 15.1 and represents a development opportunity for the community that could not be achieved through conventional zoning.
- B. The proposed PUD complies with all qualifying conditions of Section 15.2.
- C. The uses to be conducted within the proposed PUD are consistent with the City's Comprehensive Plan.
- D. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- E. The proposed PUD will not contain uses or conditions of use that would be injurious to the public health, safety, or welfare of the community.
- F. The proposed PUD meets all the review standards of Section 19.1-G.
- G. If applicable, the provisions of Sections 15.11 and 15.12 shall be met.

SECTION 15.14 PUD AGREEMENT

Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the City in recordable form, setting forth the applicant's obligations with respect to the PUD. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the PUD approval by the City Council. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase. The agreement shall also establish the remedies of the City in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Cass County Register of Deeds.

SECTION 15.15 CHANGES TO AN APPROVED PUD

Changes to an approved PUD shall be permitted only under the following circumstances:

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - 1. Change in the building size, up to five percent (5%) in total floor area.
 - 2. Movement of buildings or other structures by no more than ten (10) feet.
 - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - 4. Changes in building materials to a comparable or higher quality.
 - 5. Relocation of a dumpster.
 - 6. Modification of up to 10% of the total parking area.
 - 7. Sign location.
 - 8. The addition of small accessory buildings of not more than one hundred twenty (120) square feet in area.
 - 9. Changes in floor plans or building elevations which do not alter the character of the use.
 - 10. Changes required or requested by the City, Cass County, or other State, or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.

SECTION 15.16 TIME LIMIT FOR APPROVED PUD DISTRICT

Each development shall be under construction within one (1) year after the date of approval of the PUD final development plan, except as noted in this Section.

- A. The City Council may grant one (1) extension of up to an additional one (1) year period if the applicant applies for such extension prior to the date of the expiration of the PUD and provided that:
 - 1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - 2. The PUD requirements and standards, including those of the Zoning Ordinance and Comprehensive Plan, that are reasonably related to said development have not changed.

- B. Should neither of the provisions of Section 15.16-A be fulfilled, or an extension has expired without construction underway, the PUD approval shall be null and void.

CHAPTER 16
FP FLOODPLAIN OVERLAY DISTRICT

SECTION 16.1 INTENT

This overlay district is intended to control the placement of buildings and structures and the use of land in areas subject to predictable flooding in the floodplain areas of watercourses within the City so that their reservoir capacity shall not be reduced, thereby creating danger to areas previously not endangered by high water, or to impede, retard, accelerate or change the direction of the flow or carrying capacity of the watercourse or to otherwise increase the possibility of flood. These regulations, while permitting reasonable use of such properties, will help to protect human life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency, through public aid and relief efforts occasioned by the unwise occupancy of flood areas. This overlay district adds controls to the underlying zoning district but does not change the underlying zoning.

SECTION 16.2 LOCATION OF DISTRICT

The floodplain areas within the City of Dowagiac shall be determined and a record of the determination shall be kept in the office of the Zoning Administrator. In making the determination, the Zoning Administrator shall take into consideration the nature of the situation, past, present and future experiences, published reports, and information furnished by the Michigan Water Resources Commission, the U.S. Army Corps of Engineers, the Soil Conservation Services of the U.S. Department of Agriculture, and other responsible sources. Floodplain areas shall be restricted as to use and occupancy so human life is protected and further flood damage is minimized.

SECTION 16.3 PERMITTED USES

The following uses are permitted by right in this district:

- A. Residential supportive uses such as lawns, gardens, driveways or play areas.
- B. Open space uses allowed in the underlying zoning district.
- C. Private, non-commercial lands or docks for pleasure boats, provided there shall be no more than one (1) landing or dock for each such lot which abuts a body of water. Such landing or dock shall be for the exclusive use of the owner or occupant of the lot. A lot shall be determined to be a parcel of land which consists of the minimum lot area and lot width required for that zoning district in which the lot is located.
- D. Parks and playgrounds.
- E. Accessory buildings and uses, customarily incidental to any of the Permitted Uses or Special Land Uses in this district, as regulated in Section 2.2.

SECTION 16.4 SPECIAL LAND USES

The following uses are permitted in this District by obtaining approval from the Planning Commission as Special Land Uses, after all applicable standards of Chapter 20 are satisfied:

- A. Parking lots, loading areas, and storage areas for equipment and machinery easily moved or not subject to flood damage.
- B. Structures designed and constructed to accommodate a 100-year flood which might occur as calculated from available official data without material damage to the structure and without material obstruction of the floodplain to the detriment of other properties. Permissible construction hereunder shall include, among others, structures in which the lowest habitable floor area (including basement floors, manufactured home floors and attached garage floor, but excluding detached garages or storage buildings when constructed and designed in a floodproof manner) is above a documented base 100-year flood elevation. The Zoning Administrator is authorized and directed to determine the acceptability of any proposed construction hereunder, subject to appeal to the Zoning Board of Appeals by an aggrieved applicant, which Board shall be governed in its decision by the criteria that the proposed construction is not contrary to public health and safety, and would afford substantial justice to all parties involved, including the general public.

SECTION 16.5 DISTRICT REGULATIONS

Yard and lot requirements in the FP District shall be the same as set forth in the underlying zoning district.

SECTION 16.6 STATE COMPLIANCE

No new construction in the FP District shall be permitted until the same has received approval from the pertinent state agency or official under the provisions, where applicable, of the Shoreland Protection and Management Act (1970 PA 245), the Subdivision Control Act (1967 PA 288), the Water Resources Commission Act (1929 PA 245), or other applicable state statutes and any and all amendments thereto.

**CHAPTER 17
DISTRICT REGULATIONS**

SECTION 17.1 SCHEDULE OF REGULATIONS*

Unless specified elsewhere in this Ordinance, all uses, structures and buildings on all zoning lots shall conform to the Schedule of Regulations and accompanying footnotes shown on the following pages.

DISTRICTS	LOT AREA (SQ. FT.)	LOT WIDTH (FT.)	YARD SETBACKS (FT.)				HEIGHT		LOT COVERAGE (%)	
			Front	One Side	Total	Rear	Feet	Stories		
R-1 Low Density Residential	7,500	75	25	10 (d)	25	35	35	2 ½	30	
R-2 Medium Density Residential	6,000	50	25	6 (d)	20	25	35	2 ½	30	
R-3 High Density Resident.	Two Family	5,000	50	25	7 (d)	14	25	60	6	40
	Multiple Family	40,000	100	Setbacks shall equal the height of the building			50	3	50	
R-4 Manufactured Home Community	See Chapter 7									
O-S Office Service	none	none	none	(a)	none	(a)	60	5	none	
C-1 Neighborhood Business	none	none	25 (b)	10 (a)	25	35 (c)	35	2 ½	50	
C-2 Central Business	none	none	none	(a)	none	(a)	60 (e)	5 (e)	none	
C-3 General Business	none	none	30 (b)	10 (c)	25	35 (c)	45	3	50	
I-1 Light Industrial	none	none	50 (b)	25 (b)	50 (c)	50 (c)	28	2	50	
I-2 Heavy Industrial	none	none	50 (b)	40 (b)	100	50 (c)	60	6	60	
I-3 Industrial Park	None	None	50 (b)	25 (b)	50(c)	50 (c)	40	2	50	
PUD Planned Unit Development	See Chapter 15									
FP Floodplain Overlay	Same as requirements for underlying zoning district. See Chapter 16.									

*Footnotes are an integral part of these District Regulations and should be read in conjunction with the above schedule.

FOOTNOTES TO DISTRICT REGULATIONS

- (a) No setback shall be required, unless a side or rear yard abuts a Residential District, in which case a buffer shall be provided in accordance with Section 19.2.
- (b) The first twenty (20) ft. of the required front yard shall not be used for parking or aisles and shall be landscaped in accordance with Section 19.2.
- (c) If the side of rear yard abuts a Residential District, the minimum required setback distance shall be increased as necessary to meet the requirements of Section 19.2.
- (d) For all non-residential principal buildings, a minimum side yard of twenty (20) feet is required on each side in the R-1 and R-3 Districts and eighteen (18) feet in the R-2 District.
- (e) One (1) story buildings in the C-2 district shall have a minimum two (2) story façade.

CHAPTER 18
HISTORIC PRESERVATION OVERLAY DISTRICT (HPD OVERLAY DISTRICT)

SECTION 18.1 INTENT

The purpose of the Historic Preservation Overlay District is to provide a means to promote the cultural, economic, and general welfare of the public through the preservation and protection of structures and areas of historic and cultural interest within the City.

SECTION 18.2 HISTORIC COMMISSION

Pursuant to Act No. 169 of the Public Acts of Michigan of 1970 (MCL 399.201 et seq., MSA 5.3407(1) et seq.) as amended, a commission to be known as the City Historic Commission shall be created by resolution prior to City Council establishment of a Historic Preservation Overlay District (HPD) or at any time deemed appropriate by the City Council.

SECTION 18.3 HISTORIC COMMISSION RESPONSIBILITIES.

Historical preservation is a public purpose. To serve that purpose, the Historic Commission is hereby charged with the following responsibilities:

- A. Review proposals to establish an HPD overlay district to determine if the proposed area has historic and cultural significance and is suitable for preservation.
- B. Upon establishment of an HPD overlay district by the City Council to:
 - 1. Regulate the construction, alteration, repair, moving and demolition of only those structures in the historic districts which, by City ordinance, have been, or may in the future be, designated historic structures.
 - 2. In those instances where efforts of the commission to preserve a historic structure in the historic districts fail, or it is deemed that public ownership is most suitable, recommend that the City Council work toward acquisition of such property.
 - 3. The Historic Commission may:
 - a. Maintain public historic structures using its own funds, if not specifically earmarked for other purposes, or public funds committed to this use by the City Council.
 - b. Act as the agent of the City Council to accept and administer grants and gifts for historical preservation purposes in the historic districts.
 - c. Address any historic or cultural public policy they deem appropriate.

SECTION 18.4 COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS

The Historic Commission shall consist of seven members residing in the City. Members shall be appointed by the Mayor with the approval of the City Council. Appointments shall be for three-year terms, except the initial appointments shall provide for three three-year terms, two two-year terms, and two one-year terms, so that subsequent appointments shall not recur at the same time. All terms terminate on January 1, except that a member shall continue in office until a successor is appointed and takes office. Members shall be eligible for reappointment. If a vacancy on the Historic Commission occurs, an interim appointment shall be made by the Mayor, with the approval of the City Council, to complete the unexpired term.

SECTION 18.5 ELECTION AND TERMS OF OFFICERS

The Historic Commission shall elect from its membership a Chairman and such other officers as it deems advisable. The terms of the officers shall be for one year, and they shall be eligible for reelection.

SECTION 18.6 QUORUM; NUMBER OF MEMBERS REQUIRED FOR ACTION

A majority of the members of the Historic Commission shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters.

SECTION 18.7 RULES OF PROCEDURE

The Historic Commission shall propose rules of procedure for approval by the City Council.

SECTION 18.8 BOUNDARY AND IDENTIFICATION OF HPD OVERLAY DISTRICT

Upon the establishment of an HPD overlay district, according to the procedure set forth in this title, the exact boundary of the district shall be clearly noted on the official zoning map, as described in this chapter. This district shall be labeled as HPD, and a note shall be attached giving the official name of the historic neighborhood.

SECTION 18.9 ESTABLISHMENT OF HPD OVERLAY DISTRICT; PROCEDURE

- A. Established by ordinance of City Council. If it finds that an area of land is of historic and cultural significance and is suitable for preservation, the City Council may establish such area by ordinance as a Historic Preservation Overlay District (HPD). In the absence of provisions to the contrary in the book of standards described in Section 18.10 for any such HPD overlay district, all regulations of the underlying district within such area shall continue to apply. However the Historic Commission shall have the power to review work on, or the moving or demolition of, structures within this district according to the provisions of Section 18.12.

- B. Application; filing. Application for an HPD may be initiated as a request from the City Council to the Historic Commission, or as a petition either by the Planning Commission, Historic Commission, or by the owners of at least fifty-one (51) percent or more of the property covered by the petition. Petitions shall be filed with the Historic Commission and shall contain the necessary information as prescribed by the Historic Commission.
- C. Investigation by Historic Commission; report to Planning Commission; recommendation to City Council. Upon receipt of a petition or request to the Historic Commission, the Historic Commission shall investigate the property which is the subject of such application and shall prepare a written report within 30 days and transmit it to the Planning Commission. At the next regularly scheduled meeting of the Planning Commission, after two weeks' written notice to each property owner in the proposed district, the report of the Historic Commission and the application for a historic district shall be considered by the Planning Commission which shall recommend to the City Council either that such application be approved as submitted or as modified by the Planning Commission, or that such application be denied.
- D. Consideration by City Council; amendment. Thereafter, the City Council shall proceed with consideration of such proposed district in the same manner and subject to the same voting requirements as would apply to a zoning amendment, provided that the City Council may amend such proposed ordinance prior to its adoption in any manner it may deem necessary to accomplish the purposes of this chapter.

SECTION 18.10 ADOPTION OF A DISTRICT BOOK OF STANDARDS

As part of its written report described above in Section 18.9, the Historic Commission shall recommend a set of standards for that specific historic preservation overlay district. Such book shall contain all of the provisions different from those normally applicable to the underlying district and all additional architectural and site development standards to be followed within the historic district. The official name of the historic district shall be stated as part of the title of the book of standards. If the City Council shall approve a historic district, they shall also approve as submitted or modify the book of standards submitted by the Historic Commission. Amendments to the approved book of standards shall be made only by the City Council after review by the Historic Commission and a public hearing by the Planning Commission in the same manner as set forth in Section 18.9. All books of standards shall become part of this chapter.

SECTION 18.11 ESTABLISHMENT OF A LOCAL LANDMARK

In addition to the regulations and procedures of this division, the establishment of a local landmark may be approved by the City Council upon recommendation of the Historic Commission and the Planning Commission. A petition to establish a local landmark may be initiated by the owner of the property involved or by petition of the Historic Commission, Planning Commission, or City Council. The local landmark described may or may not be located within an existing or proposed HPD. Such landmarks may include restrictions and a separate book of standards or may be designated for strictly honorary purposes with not restrictions whatsoever. Local landmark designation will follow the same procedures outlined

for the establishment of a district in Section 18.9 and the adoption of a district book of standards in Section 18.10.

SECTION 18.12 APPROVAL OR REJECTION OF WORK ON OR MOVING OR DEMOLITION OF HISTRIC STRUCTRUES

- A. Permit application; referral to Historic Commission for review. The Building Official shall refer each application for a permit for any construction, alteration, repair, moving or demolition affecting the exterior appearance of a structure within a HPD, together with plans pertaining thereto, to the Historic Commission, and the Historic Commission shall review such plans and application. No permit shall be granted until the Historic Commission has issued a recommendation thereon.
- B. Review of plans; considerations. In reviewing plans, the Historic Commission shall give consideration to:
 - 1. The historical or architectural value and significance of the structure and its relationship to the historical value of the surrounding area.
 - 2. The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.
 - 3. The general compatibility of exterior design, arrangement, texture and materials proposed to be used.
 - 4. Any other factor, including aesthetics, which it deems to be pertinent.
- C. Exterior features considered; disapproval of applications. The Historic Commission shall pass only on exterior features of a structure and shall not consider interior arrangements, nor shall it issue a negative recommendation on an application, except in regard to the considerations set forth in subsection (b) of this section.
- D. Application for repair; approval. An application for repair or alteration affecting the exterior appearance of a historic structure, or for its moving or demolition, shall be recommended for approval by the Historic Commission, if any of the following conditions prevail, and if, in the opinion of the Historic Commission, the proposed changes will materially improve or correct these conditions:
 - 1. The structure constitutes a hazard to the safety of the public or the occupants.
 - 2. The structure is a deterrent to a major improvement program which will be of substantial benefit to the community.
 - 3. Retention of the structure would cause unnecessary financial hardship to the owner.

4. Retention of the structure would not be in the interest of the majority of the community.
- E. Approval or rejection; certificate; failure of Historic Commission to act. The Historic Commission shall file with the Building Official its recommendation of approval or denial of plans submitted to it for review. No work shall begin until the certificate is filed. The failure of the Historic Commission to act within 60 days after the date of application filed with it, unless an extension is agreed upon mutually by the applicant and the Historic Commission, shall be deemed to constitute approval.

SECTION 18.13 RECORDS

The Historic Commission shall keep a record of its resolutions, proceedings and recommendations. Such record shall be maintained in the office of the City Clerk and shall be available to the public.

SECTION 18.14 APPEALS

Any persons jointly or severally aggrieved by a decision of the Historic Commission shall have the same rights of appeal concerning the decision as is granted to an applicant aggrieved by a decision of the Building Official. Such appeal shall be heard by the Zoning Board of Appeals.

CHAPTER 19
SITE DEVELOPMENT REQUIREMENTS

SECTION 19.1 SITE PLAN REVIEW

A. Purpose

The purpose of this Article is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing or future uses and the environment in the general vicinity.

B. Site Plans Reviewed

1. In accordance with the provisions of this Article, a Site Plan Review by the Planning Commission shall be required prior to the creation of a use or the erection of a building in the Districts and conditions cited below, unless excepted by B, 2, below:
 - a. All uses permitted in the following districts:
 - i. R-3 – Residential District
 - ii. R-4 – Manufactured Home Park District
 - iii. O-S Office Service District
 - iv. C-1 – Neighborhood Business District
 - v. C-2 – General Business District
 - vi. C-3 – Highway Commercial District
 - vii. I-1 – Industrial District
 - viii. I-2 – Industrial District
 - b. Special Land Uses in all Zoning Districts.
 - c. Site condominiums in any District.
 - d. PUD Developments.
 - e. Any addition or exterior alteration that changes the total floor area of an existing building by more than ten (10) percent.
2. Site plan review and approval by the Planning Commission shall not be required for single-family detached dwellings (except as may be provided in a site condominium development), agricultural uses, family day care and foster care facilities, and accessory buildings and uses. Site plan review for these uses will be conducted by the Zoning Administrator.

C. Site Plan Review Requirements

1. Preliminary Site Plan Review.

If desired by the applicant, a preliminary site plan may be submitted for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

- a. Preliminary site plan submittal shall include the information as listed within subsection 3, below, unless deemed unnecessary by the Zoning Administrator. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100'). Fifteen (15) copies of the preliminary site plan shall be submitted.
- b. The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Section. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

2. Final Site Plan Review

- a. If submission of a preliminary site plan is not desired by the applicant, or following submittal of a preliminary site plan, fifteen (15) copies of a final site plan prepared by a professional engineer, architect, landscape architect or surveyor licensed to practice in the State of Michigan shall be submitted for review. Final site plans shall be at a scale not less than one inch equals twenty feet (1"=20') for property under three (3) acres and at least one inch equals one hundred feet (1"=100') for those which are three (3) acres or more.
- b. Applications for final site plan reviews shall include the information as listed within subsection 3, below, unless deemed unnecessary by the Zoning Administrator:

3. Required Site Plan Submission Requirements:

PRELIMINARY AND FINAL SITE PLAN REQUIREMENTS	
A completed application form.	
A location sketch showing at minimum, properties, streets and use of land within 1/2 mile of the area.	
Zoning of surrounding properties.	
Legal description of the subject property.	
The date, north arrow, and scale.	
Name and address of the property owner or petitioner.	
Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.	
Existing zoning and use of all properties abutting the subject property.	
All buildings, parking and driveways within 100 feet of all property lines.	
Narrative: Shown on the site plan or submitted separately, describing in general terms:	The overall proposed use and objectives of the proposed development.
	Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public streets and drives, and open space.
	Dwelling unit densities by type, if applicable.
	Proposed method of providing sewer and water service, as well as other public and private utilities.
	Proposed method of providing storm drainage.
Preliminary Site Plan Requirements	
Property lines and approximate dimensions.	
Existing adjacent streets and proposed streets.	
Parking lots and access points.	
Proposed buffer strips or screening.	
Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.	
Any signs not attached to the building(s).	
General topographical features at contour intervals no greater than 5 feet.	
Existing and proposed uses, buildings and structures.	

Final Site Plan Requirements
Seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
Property lines and required setbacks shown and dimensioned.
Dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems.
All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
Existing and proposed topographic contours - minimum 2-foot intervals.
Pavement width and right-of-way width of all roads, streets, and access easements within 100 feet of the subject property.
Location and size of all surface water drainage facilities.
Location of all solid waste disposal facilities, including recycling containers, and screening.
Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
All existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
Exterior lighting showing area of illumination and indicating the type and height of fixture to be used.
Elevation drawings of proposed buildings.

Traffic Impact Assessment; Traffic Impact Study	<p>The Planning Commission may require a Traffic Impact Assessment or Traffic Impact Study as part of final site plan review. The level of detail required for either a Traffic Impact Assessment or Study is based upon the expected amount of traffic to be generated by the proposed use (as noted below), according to the Trip Generation Manual published by the Institute of Transportation Engineers.</p>
	<p>Traffic Impact Assessment: A traffic impact assessment shall be required for projects expected to generate either between 50 - 99 directional trips during the peak hour or 500 - 750 directional trips during a typical day. The assessment shall evaluate current and future inbound and outbound traffic operations at site access points and shall include proposed access design and other mitigation measures that will positively affect traffic operations at these points.</p>
	<p>Traffic Impact Study: A traffic impact study shall be required for projects expected to generate either 100 or more trips in the peak hour or over 750 trips on an average day. The study shall evaluate pedestrian access, circulation and safety, and current, background and future traffic operations at site access points and major signalized or non-signalized intersections in proximity to the site. The study must also include proposed access design and other mitigation measures that will positively affect traffic operations at the site and nearby intersections. The study must take into account the Comprehensive Plan in analyzing future traffic developments.</p>

4. Additional Information

- a. The Planning Commission, prior to granting approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs, architectural floor plans, impacts on significant natural features and drainage, wetlands determination, soil tests and other pertinent information.

D. Application and Review

- 1. Required site plans, application form, escrow fees (if applicable), and an application fee shall be submitted to the Zoning Administrator by the applicant or his agent, in accordance with the submittal deadline schedule established by the Planning Commission. The Zoning Administrator shall cause the submittal to be placed on the agenda of the applicable Planning Commission meeting. Applications shall not be accepted unless all required materials and fees are submitted and are deemed complete by the Zoning Administrator.

2. The Planning Commission shall approve, deny, or approve subject to conditions, the site plan, in accordance with the provisions of this Section.
3. Any conditions or modifications recommended by the Planning Commission shall be recorded in the minutes.
4. Three (3) copies of the final approved site plan shall be signed and dated by the Planning Commission Chairman or designee and the applicant. The City shall keep two (2) of these approved copies on file, and one (1) shall be returned to the applicant or his designated representative.
5. Each development subject to site plan review shall be substantially under construction within one (1) year after the date of approval of the site plan, except as noted below:
 - a. The Planning Commission may grant one (1) one (1) year extension of the time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan.
 - b. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
 - c. If neither of the above provisions are fulfilled or the one (1) year extension has expired prior to construction, the site plan approval shall be null and void.
6. Construction related to each development subject to site plan review, or approved phase of that development, shall be completed within three (3) years after the date of approval of the final site plan.

E. Administrative and Escrow Fees

1. Any site plan application shall be accompanied by a fee, in an amount to be established by the City Council by resolution. The application fee shall be for the purpose of payment for the administrative costs and services expended by the City in the implementation of this Article and the processing of the application. No part of this fee shall be returnable.
2. A separate fee may be collected from the applicant, as determined by the City Council, and used to reimburse another party retained by the City to provide expert consultation and advice regarding the application. Any unused portions of this fee shall be returned to the applicant after all costs have been received by the City.

F. Changes in the Approved Site Plan

1. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to the site plan.
2. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - a. Change in the building size, up to five percent (5%) in total floor area.
 - b. Movement of buildings or other structures by no more than ten (10) feet.
 - c. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - d. Changes in building materials to a comparable or higher quality.
 - e. Relocation of a dumpster.
 - f. Modification of up to 10% of the total parking area.
 - g. Sign location.
 - h. The addition of small accessory buildings of not more than one hundred twenty (120) square feet in area.
 - i. Changes in floor plans which do not alter the character of the use.
 - j. Changes required or requested by the City, Cass County, or other State, or Federal regulatory agency in order to conform to other laws or regulations.
3. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application. If the Zoning Administrator determines that a proposed minor change may have a major impact on the neighborhood or area involved, he may refer the plan to the Planning Commission and the plan shall be reviewed in the same manner as the original application.

G. Review Standards

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment

concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

1. Site Development Standards

- a. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- b. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- c. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
- d. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution.
- e. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from Residential Districts or public streets, shall be screened appropriately.
- f. Site plans shall conform to all applicable requirements of City, County, State, Federal agencies. Approval may be conditioned on the applicant receiving necessary City County, State, and Federal permits before final site plan approval or an occupancy permit is granted.
- g. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.
- h. The general purposes and spirit of this Ordinance and the Comprehensive Plan of City of Dowagiac shall be maintained.

2. Vehicular and Pedestrian Standards

- a. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.

- b. The arrangement of vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the City.
- c. All streets and driveways shall be developed in accordance with the City Subdivision Control Ordinance, access standards or MDOT specifications, as appropriate. Except that the Planning Commission may impose more stringent requirements than those of the Michigan Department of Transportation with respect to driveway location and spacing. Sidewalks may be required if deemed necessary or appropriate for pedestrians or non-motorized vehicles. Shared parking, common driveways, frontage roads and similar access management techniques shall be encouraged where practical.
- d. Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exists from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors. The number of individual driveways should be the minimum needed to serve the proposed development.

3. Environmental and Natural Features Standards

- a. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- b. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- c. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being directly discharged to the natural drainage system.

H. Site Plan Approvals

1. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest. A record of conditions shall be maintained with the approved site plan. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
2. Conditions imposed shall be related to and ensure that the review standards of this Article are met and shall meet the requirements of the City and Village Zoning Act.
3. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners and occupants.
4. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
5. The Zoning Administrator shall make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.
6. Any site plan review approval may be voided by the Zoning Administrator or Planning Commission if it has been determined that a material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency. The voiding of an approved site plan shall be communicated in writing with reasons for revocation to the property owner. The Building Official shall also be notified to withhold any building permit until a new site plan is approved.

I. Performance Guarantees

The Planning Commission may require a performance guarantee in accordance with Section 22.4 to ensure compliance with the approved site plan.

J. Appeal

If any person shall be aggrieved by the action of the Zoning Administrator or Planning Commission, appeal in writing to the Zoning Board of Appeals may be taken in accordance with the provisions of Section 21.4, within twenty-one (21) days after the date of the action. The Zoning Board of Appeals shall fix a time and place for a public hearing to be published in a newspaper prior to the hearing at which all interested parties shall be afforded the opportunity to be heard. After such hearing, the Zoning Board of

Appeals shall affirm or reverse the action of the Zoning Administrator or Planning Commission, stating its findings and the reasons for its action and a written copy of the action shall be given to the appellant.

SECTION 19.2 LANDSCAPING AND SCREENING

A. Intent

It is the intent of this Section to require landscaping and screening to buffer the negative impacts between incompatible land uses; to minimize the adverse effects of certain outdoor activities upon their surroundings; and to improve the appearance of parking areas and street frontages within the community. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values of property within the City of Dowagiac.

B. Definitions

For the purposes of this Section the following definitions will apply:

1. **Buffer:** A strip of land between potentially incompatible uses which provides visual separation and aesthetic relief through some combination of screen and greenbelt.
2. **Screen:** A visual barrier which surrounds a potentially offensive activity.
3. **Greenbelt:** A landscaped area which provides aesthetic relief.

C. Buffer Zones Required

1. A buffer zone shall be required on the subject parcel between abutting zoning districts, as indicated on the Required Buffers table.
2. A buffer zone shall be required on the subject parcel even if the adjacent parcel is unimproved land.
3. When any developed parcel changes to a more intense land use or a special land use approval or a site plan review is required, a buffer zone shall be provided in compliance with this Ordinance.
4. If existing conditions on the subject parcel are such that a parcel cannot comply with the buffer zone requirements, the zoning administrator shall determine the character of the buffer based on the following criteria:
 - a. Traffic impacts
 - b. Building and parking lot coverage

- c. Outdoor sales, display, storage, or manufacturing area
- d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc. Views and noise levels
- e. Health, safety, and welfare of the City of Dowagiac
- f. Proximity or potential proximity of adjacent residential uses

DISTRICTS	REQUIRED BUFFER							
	R-3	R-4	O-S	C-1	C-2	C-3	I-1	I-2
R-1 Residential	B	B	B	B	A	A	A	A
R-2 Residential	B	B	B	B	A	A	A	A
R-3			C	C	B	B	A	A
R-4			C	C	B	B	A	A
O-S					B	B	B	B
C-1							B	B
C-2							B	B
C-3							C	C
I-1								
I-2								

D. Buffer Zone Development Standards

- 1. Buffer Zone Level A shall meet the following requirements:
 - a. Fifty (50) foot minimum width.
 - b. Equivalent of one (1) canopy tree per thirty (30) linear feet or fraction of buffer zone length.
 - c. Six (6) foot high continuous sight-obscuring screen composed of evergreen plant material, berming, walls or fences, or any combination approved by the Planning Commission.
 - d. If berming is used for any part of the buffer, all required plant material shall be placed on the top and side slope facing the exterior property line.

- e. If a wall or fence is used for any part of the buffer, a minimum of 4 (four) shrubs are required per twenty (20) linear feet of wall or fence, with at least fifty (50) percent of all such plant material being at least twenty-four (24) inches high at time of planting.
 - f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.
 - g. All other applicable standards of this section shall be met.
 - h. All plant material shall meet the minimum requirements of Section 19.2-I-1.
2. Buffer Zone Level B shall meet the following requirements:
- a. Twenty (20) foot minimum width.
 - b. Equivalent of one (1) tree per forty (40) linear feet or fraction of buffer zone length. Two-thirds (2/3) of all required trees shall be evergreen and the balance shall be deciduous.
 - c. Three (3) foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the Planning Commission.
 - d. If berming is used for any part of the buffer, it shall contain one (1) shrub for each ten (10) feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line.
 - e. If a wall or fence is used for any part of the buffer, a minimum of one (1) shrub per ten (10) feet of fence or wall shall be placed along the exterior side. At least fifty (50) percent of all such plant material shall be at least twenty-four (24) inches high at time of planting.
 - f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.
 - g. All other applicable standards of this Section shall be met.
 - h. All plant material shall meet the minimum requirements of Section 19.2-I-1.
3. Buffer Zone Level C shall meet the following requirements:
- a. Ten (10) foot minimum width.

- b. Equivalent of one (1) tree per fifty (50) linear feet or fraction of buffer zone length. At least fifty (50) percent of the total number of required trees shall be canopy trees.
- c. Three (3) foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the Planning Commission.
- d. If berming is used for any part of the buffer, it shall contain one (1) shrub for each ten (10) feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line.
- e. If a wall or fence is used for any part of the buffer, a minimum of one (1) shrub per ten (10) feet of fence or wall shall be placed along the exterior side. At least fifty (50) percent of all such plant material shall be at least twenty-four (24) inches high at time of planting.
- f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.
- g. All other applicable standards of this Section shall be met.
- h. All plant material shall meet the minimum requirements of Section 19.2-I-1.

E. Screening Required

- 1. Screening shall be required on the subject parcel in the following situations, except as may be provided elsewhere in this Section.
 - a. Around all trash dumpsters in all districts.
 - b. Around designated outdoor storage areas in the I-1, Light Industrial District, or I-2 Heavy Industrial District.
 - c. Around any loading/unloading area or hospital emergency area.
- 2. Screening shall be required on the subject parcel even if the surrounding area or adjacent parcels are unimproved.
- 3. When any developed parcel changes to a more intense land use or a special land use approval or site plan review is required, screening shall be provided in compliance with this Ordinance.

4. If existing conditions on the subject parcel are such that a parcel cannot comply with the screening requirements, the Zoning Administrator shall determine the character of the screen based on the following criteria:
 - a. Traffic access and circulation.
 - b. Building and parking lot coverage.
 - c. Outdoor sales, display, or manufacturing area.
 - d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc.
 - e. Views and noise levels.
 - f. Public health, safety, and welfare.

F. Screening Standards

1. All required screens shall meet the following standards:
 - a. A solid, sight-obscuring fence or wall six (6) feet high.
 - b. Enclosed on all sides and not containing any openings other than a gate for access which shall be closed at all times when not in use.
 - c. The fence or wall shall be constructed of masonry, treated wood, or other material approved by the Planning Commission if determined to be durable, weather resistant, rust proof, and easily maintained. Chain link and barb wire fences are not permitted.
 - d. The required screen may be comprised of berms, plant material, walls, fences, or any combination, if approved by the Planning Commission upon determining that such alternate materials will provide the same degree of screening or better than required by these screening standards.
 - e. All other applicable standards of this Section shall be met.

G. Greenbelts Required

1. Greenbelts, as indicated in the following section shall be required on the subject parcel in the following situations, except as may be provided elsewhere in this Section.
 - a. Within the front setback area for parking lots in the OS, C-1, C-3, I-1, and I-2 Districts.

- b. Around any nonresidential parking lot abutting or within one hundred (100) feet of a Residential District.
- c. Within any parking lot which contains ten (10) spaces or more.

H. Greenbelt Standards

- 1. Greenbelts shall meet the following requirements:
 - a. Minimum width shall correspond to the setback requirements for parking areas as prescribed in the Schedule of Regulations, but shall not be less than ten (10) feet.
 - b. Equivalent of one (1) tree per twenty (20) linear feet or fraction of street frontage.
 - c. At least one-half ($\frac{1}{2}$) of the total number of required trees shall be evergreen trees.
 - d. A minimum of one (1) shrub at least twenty-four (24) inches high per each ten (10) linear feet or fraction of street frontage.
 - e. All areas within the greenbelt which do not contain trees or planting beds shall be covered with grass or other living ground cover.
 - f. Clustering of trees and shrubs within the greenbelt is permitted.
 - g. Detention/retention areas shall be permitted within required greenbelts provided they do not hamper the screening intent of the greenbelt or jeopardize the survival of the plant materials.
 - h. All other applicable standards of this Section shall be met.
- 2. Greenbelts within parking lots shall meet the following requirements:
 - a. An amount equal to 15 sq. ft. of area per parking space.
 - b. The minimum size of any internal landscaped area shall be one hundred eighty (180) sq. ft.
 - c. Internal landscaped areas shall be protected by the installation of a raised curb, anchored timbers, or similar edge around the border.
 - d. For each one hundred eighty (180) sq. ft. of required greenbelt a minimum of one (1) deciduous tree shall be planted.

I. General Development Standards. All required buffers, screens and greenbelts shall comply with the following standards:

1. Minimum Plant Material Standards

- a. All plant materials shall be hardy to Cass County, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
- b. All plant materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
- c. All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.
- d. Minimum plant sizes and spacing at time of installation shall conform to the following requirements:

TREE TYPE	MINIMUM SIZE
Deciduous Canopy Tree	2 ½ inch caliper
Deciduous Ornamental Tree	2 inch caliper
Evergreen Tree	5 feet in height
Deciduous Shrub	2 feet in height
Upright Evergreen Shrub	2 feet in height
Spreading Evergreen Shrub	24 inches spread

- e. Existing plant material which complies with the standards and intent of this Ordinance, as determined by the Planning Commission, shall be credited toward meeting the landscape requirements.
- f. The installed plant material shall achieve its horizontal and vertical screening effect within four (4) years of initial installation.
- g. The overall landscape plan shall not contain more than thirty-three (33) percent of any one plant species.
- h. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

COMMON NAME	HORTICULTURAL NAME
Box elder	Acer Negundo
Ginkgo	Ginkgo Biloba (female only)
Honey Locust	Gleditsia Triacanthos (w/thorns)
Mulberry	Morus Species
Poplars	Populus Species
Black Locust	Robinia Species
Willows	Salix Species
American Elm	Ulmus Americana
Ash	Fraxinus Species
Siberian Elm	Ulmus Pumila
Slippery Elm; Red Elm	Ulmus Rubra
Chinese Elm	Ulmus Parvifola
Horse Chestnut, Tree of Heaven	Catalpa
Soft Maples (Red, Silver)	Acer Rubram, Acer Saccharinum

- i. Plant materials shall not be placed closer than four (4) feet to any fence or property line.
 - j. Where plant materials are placed in two (2) or more rows, planting shall be staggered in rows.
2. Minimum Standards for Berms
- a. Where possible, berms shall be constructed so as to maintain a side slope not to exceed a one (1) foot rise to a three (3) foot run ratio. When topography or other site condition prevents construction of berms at this ratio, retaining walls or terracing may be permitted. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.
 - b. Berm areas not containing planting beds shall be covered with grass or other living ground cover maintained in a healthy condition.
 - c. Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.

3. Minimum Standards for Screen Walls and Fences

- a. All walls and fences required for screening shall be constructed with new, durable, weather resistant, and easily maintainable materials. Chain link and barbed wire fences are not permitted to serve as screen fencing.
- b. Unless otherwise prohibited, the wall or fence may be constructed with openings that do not exceed twenty (20) percent of the wall or fence surface. The fence openings shall not reduce the intended obscuring effect of the wall or fence.
- c. Screen walls or fences shall not be constructed so as to alter drainage on site or adjacent properties, or obstruct vision for safety or ingress or egress.

4. Installation and Maintenance Provisions

- a. The Planning Commission or Zoning Administrator may require a financial guarantee, in accordance with the provisions of Section 22.4, of a sufficient amount to insure the installation of all required landscaping.
- b. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced.
- c. All required landscaping shall be completed within six (6) months from the date of occupancy of the buildings, unless a performance bond is submitted in accordance with the provisions of Section 22.4.

5. Waiver from Landscaping and Screening Requirements. The Planning Commission during site plan review may determine, upon inspection, that conditions unique to the parcel exist which would prevent development of required off-street parking landscaped areas or greenbelts. In such cases, these requirements may be waived in whole or in part. Criteria to be used when considering a waiver shall include, but not be limited to:

- a. Existence of natural vegetation or screening
- b. Topography
- c. Existence of areas of poor soils
- d. Existing and proposed building placement
- e. Building height

- f. Adjacent land uses
- g. Distance between land uses
- h. Dimensional conditions unique to the parcel
- i. Traffic, sight distances and traffic operational characteristics on and off site
- j. Visual, noise and air pollution levels
- k. Public health, safety, and welfare.

SECTION 19.3 OFF-STREET PARKING AND LOADING

A. General Requirements

1. Except for the C-2 District, off-street parking for all non-residential zone districts and uses shall be either on the same lot or within three hundred (300) feet of the building or use it is intended to serve, measured from the nearest public entrance of the building to the nearest point of the off-street parking lot. In the C-2 District parking shall be provided on the same lot as the use, unless the property adjoins or has access to a community parking lot, or common parking area maintained by the City or participating property owners.
2. The storage of merchandise or products, motor vehicles displayed for sale, or the repair of vehicles is prohibited in any off-street parking lot.
3. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Such parking spaces shall be paved with an asphalt or Portland cement binder so as to provide a permanent, durable and dustless service and shall occupy no greater than thirty-three (33) percent of the required front yard.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this Section.
5. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
6. Two (2) or more buildings or uses may collectively provide the required off-street parking.

B. Parking Lot Design Standards

1. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

Parking Pattern	Two-Way Aisle Width	One-Way Aisle Width	Width	Length
Parallel Parking	18 Ft.	12 Ft.	9 Ft.	25 Ft.
30-75 degree angle	24 Ft.	12 Ft.	9 Ft.	21 Ft.
76-90 degree angle	24 Ft.	15 Ft.	9 Ft.	20 Ft.

2. Minor adjustments of the dimensions prescribed in this Section may be authorized by the Planning Commission, if consistent with generally recognized design standards for off-street parking facilities.
3. All parking lots shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable and dustless surface. Each designated parking space shall be delineated with durable striping on the pavement surface.
4. All parking lots shall be constructed so as to permit proper drainage and prevent ponding or storage of water within the lot. Drainage shall be in accordance with the requirements of the City of Dowagiac and the Cass County Drain Commission.
5. All parking lots shall be provided with adequate lighting. Parking lot lighting shall be shielded to prevent light from spilling onto adjacent residential districts or uses.
6. All paved parking spaces, aisles, and unloading zones shall be striped or marked. Such striping or other required demarcation shall be maintained permanently in a condition such that easy interpretation of such markings by intended users is possible. In approved unpaved parking areas, spaces shall be defined by wheel chocks, concrete bumpers, or other similar device.
7. No permit will be issued for major changes to an existing parking lot unless the parking lot is made to comply with the requirements of this Ordinance. A major change consists of one or more of the following:
 - a. Replacement or alteration of existing drainage elevations or structures affecting more than fifty (50) percent of the existing parking lot.
 - b. Any expansion or addition of a parking lot equal to or greater than twenty-five (25) percent of the area of the existing parking lot.

- c. Reconstruction of the parking lot, including the removal of existing pavement or drainage structures, which affects more than twenty-five (25) percent of the existing parking lot.
- d. Any other change which, in the opinion of the Zoning Administrator, constitutes a major change.

C. Off-Street Parking Requirements

- 1. Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Planning Commission or Zoning Administrator considers similar in type.
- 2. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.
- 3. The minimum number of off-street parking spaces shall be determined in accordance with the following tables:

USE	PARKING SPACE PER UNIT OF MEASUREMENT
Residential	
Single family dwellings	2 for each dwelling unit
Two family dwellings	2 for each dwelling unit
Multiple family dwellings	2 for each dwelling unit
Convalescent or nursing homes	One 1 space for each two 2 dwelling units
Institutional	
Churches	1 space for each 4 seats in the main unit of worship, or 1 space per each 8 feet of pew length, whichever is greater.
Group day care homes and group foster care homes	1 space for each 4 clients, plus 1 space for each employee
Hospitals	Two (2) spaces per bed
Schools, elementary and middle	1.5 spaces for each classroom, plus amount required for auditorium or gymnasium seating
Schools, secondary and institutions of higher learning	1 space for each eight (8) students, plus 1.5 spaces for each classroom, plus amount required for auditorium or gymnasium seating

Theaters, assembly areas, auditoriums, gymnasiums	2 spaces for each five 5 seats or each eight 8 feet of bench or pew length or 1 space for each 3 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Commercial	
Barber shop	2 spaces per barber chair
Beauty shop	3 spaces per stylist chair
Bowling alleys	4 spaces for each bowling lane plus required spaces for each accessory use
Convenience stores	1 space per 200 square feet of usable floor area
Funeral homes and mortuary establishments	1 space for each 50 square feet of gross floor area
Furniture stores	1 space for each 500 square feet of usable floor area
Hotels and motels	5 spaces for each 4 guest rooms, plus required spaces for any accessory uses
Open air business	1 space for each 200 square feet of indoor usable area plus 1 space for each 1000 square feet of outdoor display area
Personal service establishments	1 space for each 50 square feet of usable floor area
Restaurants without drive-through facilities	1 space for each 100 square feet of usable floor area or 1 space for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	1 space for each 75 square feet of usable floor area or 1 space for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	1 space for each 200 square feet of gross floor area
Vehicle repair establishments	1 space per 800 square feet of gross floor area plus 3 spaces per stall or service bay
Vehicle service stations	1 space for each employee on the maximum shift plus amount required for convenience stores, vehicle wash, or other applicable accessory uses.
Vehicle wash (automatic)	1 space per each employee on the maximum shift plus vehicle stacking space as required in the special use standards of Section 20.6 II.

Vehicle wash (self service)	1 space plus vehicle stacking space as required in the special use standards of Section 20.6 II.
Video rental stores	1 space for each 100 square feet of usable floor area plus 1 space for the maximum number of employees on the premises at any one time
Wholesale stores	1 space per 250 square feet of gross floor area
Offices	
Banks, credit unions, savings and loan associations, post offices, and other similar uses	1 space for each 200 square feet of usable floor area plus 3 spaces for each ATM machine or drive-through teller window.
Medical and dental offices and clinics	1 space for each 75 square feet of waiting room area plus 1 space for each examining room, dental chair, or similar use area
Offices not otherwise specified	1 space for each 300 square feet of gross floor area
Industrial	
Manufacturing, processing, and research establishments	1 space for each 1000 square feet of gross floor area plus those spaces required for offices located on the premises
Warehouses and wholesale	1 space for each 2000 square feet of gross floor area plus those spaces required for offices located on the premises

D. Deferred Parking for Commercial or Industrial Districts

An applicant may request that a portion of the required parking be deferred from being constructed in cases where the applicant feels the minimum parking required is in excess of what is required for their business. Parking may not be deferred below the minimum standard of 0.5 spaces per 1,000 square feet of gross floor- area for industrial uses or eighty (80) percent of the required parking for commercial uses. The applicant shall show that the deferred portion of the parking is possible to construct on the site by showing it on the site plan; and shall guarantee the availability of such area for future parking through a recorded deed restriction on the property, a copy of which shall be provided to the zoning administrator prior to commencing construction on the site. The City shall retain the right to revoke the deferral at anytime if observations of the use indicate that the amount of parking is insufficient. In cases of revocation, the applicant shall construct the deferred portion of the parking within 90 days of being directed to do so by the City.

E. Off-Street Loading Requirements

1. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and

maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.

2. To the extent possible, loading in the O-S and C-2 Districts shall be provided in the rear yard.
3. In the C-1 and C-3 Districts all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from off-street parking requirements.
4. Industrial Districts:
 - a. In the I-1 and I-2 Districts at least one (1) loading space shall be provided. All loading spaces shall be at least ten feet by fifty feet (10 x 50), or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
 - b. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
5. Where an alley exists in the rear yard, loading requirements may be computed from the center of the alley.
6. All dedicated loading spaces shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable and dustless service.

SECTION 19.4 SIGNS

A. Intent

The sign regulations of this Chapter are intended to protect and further the health, safety, and welfare of the residents of the City of Dowagiac; to maintain and improve the appearance of the City; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. It is further determined that to allow signs of excessive number and size in the City would unduly distract pedestrians and motorists, create a traffic hazard, and reduce the effectiveness of signs needed to direct the public. The regulations of this Chapter are intended to provide reasonable identification for businesses and other uses within the community, but are not intended to serve as a means of advertising.

B. Definitions:

1. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
2. Awning sign: A sign affixed flat against the surface of an awning.
3. Balloon sign: A sign composed of a non-porous bag of material filled with air.
4. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
5. Billboard: Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.
6. Business Center: Any two (2) or more businesses (other than within the C-2 district) which:
 - a. Are located on a single parcel of property.
 - b. Are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings.
 - c. Share a common parking area.
 - d. Otherwise present the appearance of a single, contiguous business area.
7. Business Center Sign: A freestanding sign identifying the name of a Business Center and/or one or more individual businesses within the center.
8. Construction Sign: A temporary sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
9. Directional Sign: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
10. Freestanding Sign: A sign, not attached to a building or wall, supported on poles or supports with a minimum ground clearance of eight (8) feet.
11. Government Sign: Temporary or permanent signs erected by or on behalf of the City of Dowagiac. (revised 7/23/07)

12. **Ground Sign:** A sign, the bottom of which is no more than twenty-four (24) inches from the ground, which rests directly on the ground or is supported by short poles or a base, and is not attached to a building or wall.
13. **Highway Sign:** A temporary or permanent sign erected within or adjacent to the road right-of-way by the City of Dowagiac, Cass County, the State of Michigan, or federal government for the purpose of directing or controlling traffic on a public street, road, or highway.
14. **Institutional Bulletin Board:** A ground sign upon which is displayed the name of a church, school, library, community center or similar public or quasi-public institution located on the property and which may contain a space for a reader board to announce its services, events, or activities.
15. **Marquee:** A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
16. **Marquee Sign:** A sign affixed flat against the surface of a marquee.
17. **Memorial Sign:** A non-illuminated sign, tablet, or plaque commemorating a person, event, structure, or site.
18. **Mural:** A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
19. **Off-premise Sign:** A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located (including, but not limited to billboards).
20. **Placard:** A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing", "No Hunting", "Closed", or "Open" signs.
21. **Political Sign:** A temporary sign used in connection with an official local government, school district, county, state, or federal election or referendum. Every political sign must have identified on it the name, address, and telephone number of the person who posted or caused the posting of the sign.
22. **Projecting Sign:** A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than forty-eight (48) inches from the face of the building or wall.
23. **Reader Board:** A portion of a sign on which copy is changed manually.

24. Real Estate Sign: A non-illuminated, temporary sign pertaining to the sale, rent, or lease of the property upon which the sign is located.
25. Recognition Signs: Identification signs which provide or display the name of a person, firm or organization, and historical reference dates applying to same, in recognition of a specific gift, contribution, or other community service provided by the identified party and displayed on the object or site of the gift. The name and reference dates shall be included as an integral part of the design of the specific gift, contribution or service site, unless permanently affixed as a plaque thereto, and may not exceed two (2) square feet in area or ten (10) percent of the surface area of the gift, contribution, or service site, whichever is less. (revised 7/23/07)
26. Residential Subdivision Sign: A permanent ground sign identifying a recognized platted subdivision, site condominium project, multi-family development, or other residential development, which has been approved by the City.
27. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
28. Roof Sign: A sign erected above the roof line of a building.
29. Sandwich Board Sign: A double-faced sign hinged or connected at the top which is spread for stabilization and set upon the ground.
30. Sign: Any display, figure, painting, drawing, placard, poster or other device visible from the public way which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.
31. Special Event Sign: Temporary signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.
32. Sponsor Signs: Temporary signs containing names of sponsors or recognition of Sponsors of Community Events, Organizations, Special Events and similar functions. (revised 7/23/07)
33. Temporary Sign: A display, informational sign, banner or other advertising device with or without a structural frame and intended for a limited period of display, including seasonal produce sales, and decorative displays for holidays, or public demonstrations.
34. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall to which it is attached.

35. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

C. General Requirements

1. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except for permitted highway and government signs and those signs permitted in the C-2 district which may project from a building wall over a public way.
2. No wall sign shall extend beyond the edge of the wall, and shall not extend beyond the cornice line of the roof of the building.
3. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
4. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
5. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
6. No sign shall contain any moving or animated parts, nor have the appearance of having any moving or animated parts.
7. All ground, freestanding, and wall signs may contain reader boards within the maximum size limits permitted for the sign.
8. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
9. All signs shall pertain only to the business or activity conducted on the premises, with the exception of political signs, special event signs, and billboards.
10. Real estate signs, non-illuminated, are permitted in any Zoning District, but shall be removed within thirty (30) days after completion of the sale or lease of the property.
11. Construction signs are permitted within any District, subject to the following regulations:

- a. One sign may be erected per construction site and shall be no larger than thirty-two (32) square feet and shall be located not closer than ten (10) feet from the street right-of-way line and shall not be higher than ten (10) feet.
 - b. In residential developments, any construction sign shall be removed at such time as a permanent subdivision sign is erected, final plat approval is obtained, or a certificate of occupancy is issued for any dwelling in the development; whichever comes first.
 - c. In non-residential developments, any construction sign shall be removed upon issuance of a certificate of occupancy for the building.
12. Community special event signs are permitted in any zoning district, subject to the following restrictions:
- a. Such sign may be located either on or off the lot on which the special event is held.
 - b. The display of the signs shall be limited to the ten (10) days immediately preceding the special event which is being advertised.
 - c. The signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height above ground level of six (6) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet. The front setback shall be as required for signs in the zoning district in which the sign is to be located.
 - d. The signs shall be removed within forty-eight (48) hours of the conclusion of the special event which is being advertised.
13. Directional signs are permitted in any zoning district subject to the following restrictions:
- a. Such sign shall not exceed two (2) square feet in area and three (3) feet in height, and shall be set back at least five (5) feet from any lot line and edge of any driving lane.
 - b. A directional sign may contain a commercial logo or trademark, not exceeding one-third of the sign size, but not a business name or commercial message.
14. Freestanding signs shall have a clear space of at least eight (8) feet between the grade and the bottom of the sign to permit an unobstructed view for motorists and pedestrians.
15. Temporary signs are permitted in any district subject to the following restrictions:

- a. A temporary sign shall only be displayed upon receipt of a permit issued by the Zoning Administrator.
 - b. No temporary sign shall be displayed on any one lot or parcel for more than thirty (30) consecutive days for any one permit period and no more than two (2) permits shall be issued for any lot or parcel during any calendar year.
 - c. Upon expiration of the permit, the sign shall be removed by the permit holder.
 - d. No temporary sign shall exceed thirty-two (32) square feet.
 - e. Only one (1) temporary sign shall be permitted on a lot or parcel.
 - f. No temporary sign shall be closer than five (5) feet from any property line fronting on a public street.
 - g. All temporary signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area.
16. Portable sandwich board signs are permitted in any commercial district, subject to the following restrictions:
- a. The support structure shall be made of an acceptable construction material which must be approved by the Zoning Administrator.
 - b. The square footage of each sign shall not exceed four (4) square feet per side.
 - c. The total height of the sandwich board sign shall not exceed four (4) feet, including the support structure.
 - d. All sandwich board signs shall be located directly in front of the building, no closer than eight (8) feet to the building front.
 - e. The business owner will agree to carry comprehensive general public liability insurance with a responsible insurance provider rated A or better by a rating agency approved by the City, naming the City as an additional insured-loss payee and insuring the City against all legal liability for injury to persons and damages to property suffered on, or about the sign, including the public right-of-way in an amount of not less than one hundred thousand dollars (\$100,000) per person, three hundred thousand dollars (\$300,000) aggregate and fifty thousand dollars (\$50,000) for property damage per occurrence.

- f. The business owner shall sign an agreement, holding harmless and defending the City from any claims or actions brought by any persons for reasons arising out of construction, display and/or maintenance of the sign.
 - g. The business owner is responsible for obtaining the required permit, providing a copy of the insurance certificate and maintenance of the sign.
 - h. The business owner is responsible for removing the sandwich board sign when the business is closed and shall remove the sign if existing weather conditions dictate that the sign may become hazardous to pedestrian traffic.
17. Political signs are permitted in any district, subject to the following restrictions:
- a. No political signs shall be illuminated.
 - b. Political signs shall not be placed on or project into a public right-of-way and shall only be placed on private property with the prior permission of the property owner.
 - c. The surface area of each political sign shall not exceed six (6) square feet per sign, as measured on one side of a two-sided sign. *(revised 6/05)*
 - d. Any sign advertising a candidate for political office or stating a position on a ballot proposal shall be removed within fourteen (14) days after the election. *(revised 6/05)*
 - e. No political signs shall be placed in such a manner as to obstruct the view of vehicle drivers when leaving or entering a street, driveway or parking space.
 - f. The painting of any political sign on the exterior surface of any building or structure is prohibited.
 - g. No political sign shall be placed closer than ten (10) feet to the right-of-way of any street, nor shall it extend in height more than six (6) feet above the average grade of the front lot line.
18. Sponsor signs are permitted in any district, subject to the following restrictions: *(revised 7/23/07)*
- a. No sponsor sign shall be illuminated.
 - b. The surface area denoting the sponsor information shall not exceed four (4) square feet in total area.

- c. All sponsorship signs shall be removed within seven (7) days after the conclusion of the special event, sporting function, community event or similar functions.
 - d. Advertisement for each sponsor sign shall be limited to the name, address and telephone number of the sponsor.
 - e. All sponsor signs not meeting the above requirements may be approved by the Dowagiac Planning Commission upon submittal of sign information prior to placement of the sponsor sign.
 - f. Sponsor signs shall not be located upon public right-of-way. All sponsor signs shall be located upon private property with the owner's permission. Any sponsor sign proposed to be placed upon public property shall receive prior permission from the Dowagiac City Council.
- D. Exempt Signs: The following signs shall not require a building permit, but shall be subject to all other applicable general requirements of this chapter:
- 1. Government signs.
 - 2. Placards.
 - 3. Temporary Real Estate signs of six (6) square feet or less in size. (Revised 7/23/07)
 - 4. Window signs, provided the total area of all signs within one (1) foot of the window shall not obscure more than fifty (50) percent of the window area; provided in the C-2 district such sign shall not obscure more than ten (10) percent of the window area.
 - 5. Historical markers.
 - 6. Memorial signs or tablets.
 - 7. Murals.
 - 8. Signs not visible from any street.
 - 9. Signs for essential services.
 - 10. Signs with address, owner, or occupant name, of up to one (1) square foot in area attached to a mailbox, light fixture or exterior wall.
 - 11. Sponsor signs meeting the requirements of Section 19.49 (C) 18. (revised 7/23/07)

12. Recognition Signs (revised 7/23/07)
 13. Flags or insignia of any nation, state, local government, community organization, or educational institution.
- E. Prohibited Signs: All signs not specifically allowed under this Section (unless exempted from regulation herein) are prohibited in the City of Dowagiac. Further, the following types of signs are expressly prohibited:
1. Balloons, balloon signs, strings of light bulbs, pennants, streamers, banners, or flags, except for those flags of a non-commercial nature not used for the purpose of commercial advertisement and specifically exempted, or except at the opening of a new business in a commercial or industrial district, for a period not exceeding thirty (30) consecutive days. Exterior banner signs and pennant display signs shall be permitted in commercial or industrial districts only to call attention to a sale or promotion of goods sold on the premises, for a period not exceeding thirty (30) consecutive days, each sale or promotion.
 2. Any sign, including window signs, which have flashing, moving, or oscillating lights (excluding time and temperature signs, which are permitted).
 3. Roof signs.
 4. Off-premises signs, except for an off-premise sign for a business that is adjacent to and alley and which has no access from a street may with a permit from the building official, according to the following regulations:
 - a. The sign must be a wall or flush-mounted sign painted or placed upon a building at the entrance of the alley adjacent to the business.
 - b. The owner of the building upon which the sign will be placed must approve and sign the building permit.
 - c. Each sign shall not exceed twelve (12) inches in height by eighteen (18) inches in width and at a height no less than four feet above the existing sidewalk.
- F. Measurement
1. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

2. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back, are of equal size, and are no more than two (2) feet apart at any point, the area of the two (2) back-to-back faces shall be counted as one face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
4. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

G. Illumination

1. Except in the Central Business District, signs may be internally illuminated. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property. In the Central Business District each business may display an internally illuminated window sign at both the front and rear entrance of the business. The signs shall only portray the word "open" and shall be illuminated during normal business hours. The maximum size of each sign shall not exceed twelve (12) inches by twenty-four (24) inches, any dimension. The maximum letter size shall not exceed ten (10) inches in height.
2. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
3. All lighted signs shall be inspected by the Zoning Administrator for proper and adequate electrical connections. If deemed necessary by the Zoning Administrator, an electrical code permit will be required.

H. Maintenance

1. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.
2. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.

- I. Signs Permitted by District: The following signs are permitted in combination (unless otherwise noted) in each district, subject to the requirements described in the tables and all other applicable regulations of this Chapter.

R-1, R-2, R-3, R-4 & RESIDENTIAL PUD DISTRICTS	
Residential Subdivision Signs	
Number	One (1) per entrance road to the development, not exceeding two (2) such signs per development
Size	No greater than twenty-four (24) square feet
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade
Institutional Bulletin Board	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (36) square feet
Location	Minimum fifteen (15) feet from the street right-of-way line, or one-half the existing yard setback, whichever is less.
Height	Not more than ten (10) feet above grade
Wall Signs For Home Occupations	
Number	One (1) per lot or parcel
Size	No greater than two (2) square feet
Location	Mounted flat against the wall and non-illuminated
Wall Signs For Non-Residential Uses	
Number	One (1) per street frontage
Size	For public and quasi-public facilities (such as schools, churches, and similar institutional uses) no sign shall be greater than five (5) percent of the wall area to which it is affixed, not to exceed fifty (50) square feet. For private offices no such sign shall be greater than six (6) square feet.
Location	Mounted flat against the wall facing the street.

“O-S” OFFICE SERVICE and “C-2”, CENTRAL BUSINESS DISTRICT	
Wall Signs	
Number	One (1) per business; provided that any business which has frontage on more than one (1) street shall be permitted to have one (1) wall sign per street frontage, subject to the following size restrictions.
Size	No greater than fifteen (15) percent of the ground floor wall area to which it is affixed on the front and no greater than ten (10) percent of the ground floor wall area on any side or rear face which abuts a street, not to exceed thirty (30) square feet per sign. Where two or more businesses occupy a single building, the ground floor wall area shall be limited to that portion of the building occupied by the respective business.
Location	Mounted flat against the wall facing the street.
Design	<ol style="list-style-type: none"> 1. Wall signs may extend the length of the building, but shall not be more than 2 ½ feet in height. Signs for businesses located on the ground level of a multistory building shall be mounted above the first story windowsills and below the second story windowsills. 2. Lettering on such signs shall be not more than eighteen (18) inches high or occupy more than sixty-five (65) percent of the area of the sign. 3. Each business located on the first floor may have a window sign provided: <ol style="list-style-type: none"> a. The size of the letters on the window sign shall not exceed six (6) inches in height. b. All signs shall be painted on or otherwise permanently affixed to the window. c. All signs shall be limited to the business name, a portion of such business name, or a generic reference to its products, services or functions. 4. Building, wall or window signs identifying and directing persons to uses on the second and/or third story of buildings, that differ from the first story, may be erected in accordance with the following regulations: <ol style="list-style-type: none"> a. Only one sign, window or wall, shall be permitted per use which displays business name only. b. Wall signs shall be placed in such a manner as to be above the street entrance door and below the second story windows. Signs shall be attached flush to the building wall and may not exceed an area of six square feet.

Design	<p>c. Window signs may be placed on windows located in the space occupied by the specific business or use. The six of the letters on the window sign shall not exceed six (6) inches in height. All signs shall be painted on or affixed to the windows.</p> <p>5. All signs identifying businesses or uses on the second and/or third story of a building shall be removed within 30 days of the specific business or use vacating the premises</p>
Ground Signs (Permitted only in O-S)	
Number	One (1) per lot or parcel.
Size	No greater than forty-eight (48) square feet
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade
Projecting Signs, Awning Signs, or Marquee Signs	
Number	One (1) per street frontage
Size	No greater than ten (10) square feet
Design	<p>Awnings that extend over the public right-of-way in the Central Business District may only be erected by permit issued by the building official. Such awnings must meet the following guidelines:</p> <ol style="list-style-type: none"> 1. They must be constructed in a structurally sound manner according to the City Building Code. 2. Awnings must be constructed in such a manner that the bottom part of the awning, which includes the valance, shall not be less than seven feet above the finished grade. 3. Every awning which does not conform to the requirements of this Section as the adoption of the ordinance from which this Section is derived, is hereby deemed to be nonconforming. Nonconforming awnings may not be altered, expanded, enlarged or extended. However, conforming awnings may be maintained and repaired as long as necessary to continue the useful life of the awning. For the purposes of this Section a nonconforming awning may be diminished in size or dimension or the descriptive or artistic copy of the awning may be amended or changed, provided that the revision does not increase the nonconformity of the awning. Any awning destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the replacement cost of the awning at the time of the loss.

“C-1”, “C-3” & COMMERCIAL PUD DISTRICTS	
Ground Signs or Freestanding Signs	
Number	One (1) per street frontage but not more than two (2) signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least fifty (50) feet in order to have a second sign. No freestanding sign shall be permitted for individual businesses within any business center.
Size	No greater than forty-eight (48) square feet for ground signs or sixty (60) square feet for freestanding signs; provided that in the C-3 District the area of a freestanding sign may be increased to eighty (80) sq .ft.
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade for ground signs or twenty-five (25) feet for freestanding signs
Wall Signs	
Number	One (1) per business; provided that any business which has frontage on more than one (1) street shall be permitted to have one (1) wall sign per street frontage, subject to the following size restrictions.
Size	No greater than ten (10) percent of the wall area to which it is affixed and which is occupied by the respective business, not to exceed one hundred (100) square feet
Location	Mounted flat against wall facing the street
Business Center Signs	
Number	One (1) per street frontage but not more than two (2) signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least fifty (50) feet in order to have a second sign. No freestanding signs shall be permitted for individual businesses within any business center.
Size	No greater than one hundred (100) square feet.
Location	Minimum ten (10) feet from the street right-of-way line
“I-1”, “I-2” & INDUSTRIAL PUD DISTRICTS	
Ground Signs (no freestanding signs are permitted)	
Number	One (1) per lot or parcel
Size	No greater than forty-eight (48) square feet
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade

Wall Signs	
Number	One (1) per street frontage
Size	No greater than five (5) percent of the wall area to which the sign is affixed, not to exceed one hundred (100) square feet
Location	Mounted flat on wall facing street
Billboards (if approved as a Special Exception Use)	
Number	One (1) per lot or parcel
Size	No greater than two hundred (200) square feet.
Location	Shall be located on property with frontage on set back a minimum of one hundred (100) feet from the road right-of-way line, and no closer than fifty (50) feet to any other property line.
Height	No more than thirty (30) feet.
Lighting	None permitted.

J. Nonconforming Signs

1. Every permanent sign which was erected legally and which lawfully exists at the time of the enactment of this Ordinance, but which does not conform to the height, size, area, or location requirements of this Section as of the date of the adoption of these regulations, is hereby deemed to be nonconforming. This status shall not be granted to any temporary sign, banner, placard, or other non-permanent sign.
2. Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
3. For the purposes of this Section, a nonconforming sign may be diminished in size or dimension, or the descriptive or artistic copy of the sign amended or changed; provided that the revision does not increase the nonconformity of the sign without jeopardizing the privilege of nonconforming use. *(revised 6/05)*
4. Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
5. Any sign which for a period of one (1) year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.

6. A sign accessory to a nonconforming use may be erected in the City in accordance with the sign regulations for the District in which the property is located.

K. Sign Permits

No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, unless such sign is specifically exempted as provided in Section 19.4-D.

L. Government Signs

All government signs, if determined by the City Manager (or his/her designee) to protect or enhance the health, safety, or welfare of the residents of the City of Dowagiac, are exempt from the regulations of this Chapter. The Planning Commission may review the City Manager's (or the designee's) determination and, if appropriate, require enforcement of any or all regulations of this Chapter to specific signs. (revised 7/23/07)

**CHAPTER 20
SPECIAL LAND USES**

SECTION 20.1 APPLICATION PROCEDURES

Application for a special land use permit shall be made to the Zoning Administrator and shall include the following:

- A. Ten (10) copies of a site plan containing the information required by Section 19.1-C
- B. A completed application form.
- C. Payment of an application fee, which shall be non-refundable, as established from time to time by resolution of the City Council.

SECTION 20.2 NOTIFICATION, HEARING, AND REVIEW PROCEDURES

- A. Upon receipt of an application for a special land use permit, the Zoning Administrator shall cause notice to be given of a special land use public hearing, in accordance with the requirements of the City and Village Zoning Act, as follows:
 - 1. The notice of public hearing shall be published in a newspaper of general circulation in the City and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet, except that the notice shall be given not less than five (5), and not more than fifteen (15) days before the application will be considered.
 - a. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas or organization, 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.
 - b. The notice shall:
 - i. Describe the nature of the special use request.
 - ii. Indicate the property which is the subject of the request.
 - iii. State when and where the request will be considered.

- iv. Indicate when and where written comments will be received concerning the request.
- B. Following notice, the Planning Commission shall hold a public hearing on the special land use permit application.
 - C. The Planning Commission may approve, approve with conditions, or deny the special land use permit request, based upon review and consideration of materials submitted with the application, comments received at the public hearing, and the applicable standards of this Chapter.

SECTION 20.3 GENERAL STANDARDS FOR APPROVAL

- A. The Planning Commission shall approve, or approve with conditions, a special land use permit request only upon a finding that all of the following general standards for approval are complied with:
 - 1. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
 - 2. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, water and sewer facilities and schools.
 - 3. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
 - 4. The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy.
 - 5. The site plan proposed for such use demonstrates compliance with the special land use specific design standards contained in Section 20.6 and all other applicable requirements of this Ordinance.
 - 6. If proposed in a Residential District, the use will be compatible with the surrounding residential neighborhood, and the scale, density, or bulk of the use will be consistent with neighborhood character. Demolition of existing residential buildings is presumed to be inconsistent with maintaining the residential character of the City.
- B. The decision of the Planning Commission shall be incorporated in a statement of conclusions specifying the basis of the decision and any conditions imposed. The

decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the minutes of the Planning Commission.

SECTION 20.4 CONDITIONS OF APPROVAL

- A. The Planning Commission may impose reasonable conditions in conjunction with approval of a special land use permit which are deemed necessary to ensure compliance with the general standards for approval in Section 20.3 and the Specific Design Standards of Section 20.6.
- B. Conditions shall be imposed in a manner in accordance with the City and Village Zoning Act.

SECTION 20.5 APPROVAL TERM AND EXPIRATION

A special land use permit, including conditions imposed, is attached to, and shall run with the land for which the permit is granted, and shall be binding upon subsequent owners and all occupants of the subject land.

- A. A special land use approval granted by the Planning Commission shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction has occurred and is progressing meaningfully toward completion.
- B. The Planning Commission may grant up to one (1) additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will precede within the extension period.
- C. If the above provisions are not fulfilled or the extension has expired prior to construction, the special use approval shall become null and void.

SECTION 20.6 SPECIAL LAND USE SPECIFIC DESIGN STANDARDS

The following Special Land Uses shall be subject to the requirements of the District in which located, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

- A. **Banks, credit unions, savings and loan associations, and other similar uses, having drive-through facilities.**
 - 1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four (4) stacking spaces for each drive-through teller operation, whether personal or automatic, shall be provided.

2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the centerline of any other driveway.

B. Bed and breakfast establishments.

1. The establishment shall be located on property with direct access to a public street.
2. No such use shall be permitted on any property where there exists more than one (1) other bed-and-breakfast establishment within seven hundred fifty (750) feet, measured between the closest property lines.
3. Such uses shall only be established in a single family detached dwelling.
4. Parking shall be located to minimize negative impacts on adjacent properties.
5. The number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each three thousand (3,000) square feet or fraction thereof by which the lot area of the use exceeds ten thousand (10,000) square feet, not to exceed six (6) guest rooms in any case.
6. Exterior refuse storage facilities beyond what might normally be expected for a single family detached dwelling shall be prohibited.
7. The property shall front and have direct access to an arterial or collector street.
8. The establishment shall contain the principal residence of the operator.
9. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and so forth.
10. Meals shall be served only to the operator's family, employees, and overnight guests.
11. The maximum stay for any occupant, excluding the owner, shall be ten (10) consecutive days, not to exceed thirty (30) days in any twelve (12) month period. A guest register shall be maintained by the proprietors and shall be made available to the City for inspection upon request.

12. No exterior evidence that the facility is a bed & breakfast shall be permitted, other than one (1) non-illuminated sign attached flat against the building, not to exceed six (6) sq. ft.
13. Off-street parking shall be provided at a minimum ratio of two (2) spaces, plus one (1) for each permitted guest room. No parking shall be permitted in the front yard and no parking area shall be lighted, except for a residential porch light.

C. Bus passenger waiting stations.

1. A vehicle waiting/drop off area of not less than ten (10) spaces shall be provided on-site.
2. Passenger loading areas must be lighted. Lighting shall be shielded to prevent light from spilling onto any residential district or use.

D. Churches.

1. The Purpose of these requirements is to integrate churches into the fabric of the City's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the church, parking lots, and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.
2. The minimum lot area shall be one (1) acre.
3. The minimum lot width shall be one hundred fifty (150) feet.
4. At least one (1) property line shall abut and have access to an arterial or collector street.
5. To the extent possible, shared parking arrangements should be employed with other uses in the vicinity, consistent with Section 19.3-A-1, to minimize the number of spaces provided on the church property.

E. Commercial storage warehouses.

1. Minimum lot area shall be two (2) acres.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum floor area requirements for a multiple family dwelling in the R-3 District, based on number of bedrooms.
3. Parking and circulation:

- a. One parking space shall be provided for each ten (10) storage cubicles, and shall be equally distributed throughout the site. One (1) additional parking space per twenty (20) storage cubicles, up to a maximum of ten (10) spaces, shall be located adjacent to the rental office for the use of customers.
- b. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
- c. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.

F. Dwelling units within an existing accessory building.

1. A maximum of one (1) dwelling unit is allowed per accessory building, and may not exceed fifty percent (50%) of the floor area of the accessory building.
2. No dwelling units are permitted on the ground floor of an accessory building.

G. Funeral homes and mortuary establishments.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
2. Minimum lot area shall be one (1) acre and minimum lot width shall be one-hundred and fifty (150) feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. No waiting lines of vehicles shall extend off-site or onto any public street.
5. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from any other driveway.
6. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum floor area requirements for a multiple family dwelling in the R-3 District, based on number of bedrooms.

H. Group Day Care Homes.

1. The dwelling exterior and property shall be maintained in a manner that is compatible with the surrounding area and does not change the residential

character of the neighborhood. No sign shall be permitted and no evidence of the day care facility shall be visible from any street or adjoining property.

2. The lot shall contain the minimum area required for the district, plus one thousand eight hundred (1,800) sq. ft.
3. An outdoor play area of at least one thousand eight hundred (1,800) sq. ft. shall be provided in the rear yard. Such play area and any other outdoor areas accessible to children shall be completely enclosed with a fence at least four (4) but not more than six (6) feet high.
4. The day care operation shall be restricted to Monday through Friday only and between the hours of 7:00 a.m. and 6:00 p.m.
5. No group day care facility shall be established within one thousand five hundred (1,500) feet of any existing group day care home.
6. The facility shall comply with all other applicable State licensing regulations.

I. Hotels and motels.

1. Minimum lot area shall be two (2) acres and minimum lot width shall be two-hundred (200) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setback of ten (10) feet.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.

J. Housing for the elderly.

1. All dwelling units in the building shall have a minimum of four hundred fifty (450) square feet per unit.
2. Retail and service uses may be permitted on the site if such uses are accessory to the elderly housing use. All such uses shall be within the principal residential structure. No exterior signs of any type are permitted.
3. The allowable density of the zoning district may be increased by no more than fifty (50) percent for all nursing care units licensed by the state of Michigan and no more than twenty-five (25) percent for non-licensed nursing care and supportive care units.

4. All medical waste facilities shall be secured and meet the requirements of the Michigan Department of Health.
5. Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public street.
6. The maximum height may be increased by one story for each additional forty (40) feet the building is set back from all required yards.

K. Kennels.

1. For kennels, the minimum lot size shall be one (1) acre.
2. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any residential district boundary and shall not be located within any required yard area.

L. Lumber and planing mills.

1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any residential district property line.

M. Lumberyards.

1. The lot area used for parking, display, or storage shall be paved and shall be graded and drained so as to dispose of all surface water.
2. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
3. Materials stored within ten (10) feet of the property line of the use may be stacked to a height not exceeding ten (10) feet.
4. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district property line.

N. Manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.

1. The principal and accessory buildings and structures shall be located at least three hundred (300) feet of any residential district property line.

O. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of Paris.

1. Access driveways shall be located no less than two hundred (200) feet from the right-of-way line of any street or one hundred (100) feet from the nearest edge of any other driveway.
2. The principal and accessory buildings and structures, shall not be located within one thousand (1,000) feet of any residential district.

P. Metal plating, buffing, and polishing.

1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any residential district property line.

Q. Open air businesses.

1. The lot area used for parking, display, or storage shall be paved and shall be graded and drained so as to dispose of all surface water.
2. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district property line.
4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

R. Outdoor merchandise display.

1. No merchandise, displays, or fixtures shall be located closer than twenty (20) feet to any public right-of-way line.
2. No fixtures or merchandise shall be located so as to obstruct the movement of pedestrians along the sidewalk or obstruct the visibility of vehicles on the street.
3. All merchandise, displays, and fixtures shall be removed and stored indoors during non-business hours.
4. No lighting, motors, or electrical apparatus shall be employed in any outdoor display.
5. The area devoted to such outdoor display shall be maintained in a safe, clean, and sanitary manner.

S. Outdoor patio/seating area in conjunction with a permitted restaurant.

1. The area devoted to outdoor service must be ancillary to the main use of an indoor restaurant, bakery, delicatessen, specialty food store, bookstore, or similar establishment.
2. The area devoted to outdoor service shall not obstruct any public walkway, street, alley or right-of-way.
3. The outdoor service area shall not obstruct visibility of on-coming pedestrians or vehicular traffic.
4. The type and style of furniture to be used shall be shown in conjunction with the site plan submittal for the special use request.
5. The sale of alcoholic beverages is subject to the rules and regulations of the State of Michigan Liquor Control Commission.
6. Furniture utilized for outdoor dining shall be removed and stored indoors or secured outdoors during non-business hours. All such furnishings shall be completely removed from December 1 through March 1 of each year.
7. The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.

T. Outdoor storage, display, and sale of farm implements and commercial construction equipment.

1. The lot area used for parking, display, or storage shall be paved and shall be graded and drained so as to dispose of all surface water.
2. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
3. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use.
4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

U. Outdoor storage yards.

1. All outdoor storage in the C-3 District shall be located in the rear yard only and shall be fenced with a six (6) foot high chain link fence or screen wall.

2. All outdoor storage in the I-1 or I-2 Districts shall be located in the rear or side yard.
3. All outdoor storage yards shall be paved.
4. Screening of outdoor storage yards shall be provided along all property lines in accordance with the requirements of Section 19.2-F.
5. Outdoor storage yards shall only be permitted in conjunction with a principal use on the property.
6. No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground.

V. Private noncommercial recreation areas or community recreation centers.

1. The use shall be located on property with direct access to a public street.
2. Any outdoor activity areas shall be set back a minimum of fifty (50) feet from any residential district.
3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district.
4. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.

W. Production, refining, or storage of petroleum or other flammable liquids.

1. Access driveways shall be located no less than two hundred (200) feet from the right-of-way line of any street or one hundred (100) feet from the nearest edge of any other driveway.
2. The principal and accessory buildings and structures shall not be located within one thousand (1,000) feet of any residential district.

X. Recycling centers.

1. A six (6) foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
2. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any residential district property line.

Y. Residential dwelling units, in the same building with commercial uses.

1. No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.
2. Two (2) on-site parking spaces shall be required for each dwelling unit.
3. Access to dwelling units shall be from outside of the building.
4. No dwelling unit shall be located on the ground floor of the building.

Z. Restaurants with drive-through facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least three (3) parking or stacking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
4. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.

AA. Salvage yards, Junk yards.

1. Requests for a special land use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall abut and have suitable access to a collector or arterial street to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within one thousand (1,000) feet of any residential district.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently

opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.

5. Stored materials shall not be stacked higher than ten (10) feet and shall be Stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot wide continuous loop drives separating each row of vehicles.
11. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
13. The property shall be a minimum size of at least six (6) acres.
14. All fences shall be set back a minimum of three hundred (300) feet from any residential district.
15. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
16. The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of the City of Dowagiac. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

BB. Sexually-Oriented Businesses

1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several are concentrated in certain areas, or when located in proximity to a Residential District, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities which are prohibited in other Sections of the Zoning Ordinance.
2. Adult uses shall comply with the following requirements:
 - a The adult use shall not be located within a one thousand (1,000) foot radius of any other such use or be located on a lot or parcel within five hundred (500) feet of a public park, school, child care facility, church, or place of worship.
 - b Any sign or signs proposed for an adult use must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
3. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:
 - a "Persons under the age of 18 years are not permitted to enter the premises." and,
 - b "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
4. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
5. All off-street parking areas shall be illuminated from at least ninety (90) minutes prior to sunset to at least sixty (60) minutes after closing.
6. No adult use shall be open for business prior to ten o'clock a.m. (10:00 a.m.), nor after ten o'clock p.m. (10:00 p.m.). However, employees or other agents, or

contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.

7. All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have such other similar qualifications which must be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the Community, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
8. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the Planning Commission, as provided herein.

CC. Site condominiums.

1. The minimum lot size, width, and setbacks shall conform to the requirements of the zoning district in which the project is located.
2. The minimum floor area per unit shall conform to the requirements of the zoning district in which the project is located.
3. All developed sites shall be required to use City utilities.
4. Sidewalks shall be constructed on all sides of site condominium lots abutting a public street or a common use private drive, in accordance with City standards. The Planning Commission may waive the requirement for a sidewalk when, in the opinion of the Commission, no good purpose would be served by the sidewalk for site plan condominium projects of four or more sites.
5. All site condominium lots shall have access to and frontage on a public street.

DD. Small Open Child Caring Facility.

1. The dwelling exterior and property shall be maintained in a manner that is compatible with the surrounding area and does not change the residential character of the neighborhood. No sign shall be permitted and no evidence of the child caring facility shall be visible from any street or adjoining property.
2. The lot shall contain the minimum area required for the district, plus one thousand eight hundred (1,800) sq. ft.

3. An outdoor play area of at least one thousand eight hundred (1,800) sq. ft. shall be provided in the rear yard. Such play area and any other outdoor areas accessible to children shall be completely enclosed with a fence at least four (4) but not more than six (6) feet high.
4. No small open child caring facility shall be established within one thousand five hundred (1,500) feet of any existing group day care home or any other existing small open child caring facility.
5. The facility shall comply with all other applicable State licensing regulations.

EE. Truck terminals.

1. Access driveways shall be located no less than two hundred (200) feet from the right-of-way line of any street or one hundred (100) feet from the nearest edge of any other driveway.
2. Trucks and trailers parked overnight shall be set back from the front lot line a minimum of one hundred (100) feet.
3. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any residential district.
4. The lot area used for parking, display, or storage shall be paved and shall be graded and drained so as to dispose of all surface water.
5. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use.
6. Any vehicle or equipment stored outside of an enclosed building shall not be located within any required yard.
7. No trailer containing a refrigeration unit shall be parked in, stored, or otherwise occupy any yard within three hundred (300) feet of a residential district.

FF. Utility and public service buildings (including substations), without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

1. Any such buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
2. Any such building shall comply with the yard setback requirements of the district in which it is located.

3. Minimum lot area requirements for the district on which the use is located shall be met.

GG. Vehicle repair (major).

1. The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any residential district property line.
2. Minimum lot area shall be twenty thousand (20,000) square feet and minimum lot width shall be one hundred fifty (150) feet.
3. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Inoperative vehicles left on the site shall be stored within an enclosed building or in an area screened by an opaque fence not less than six (6) feet in height. Such fence shall be constructed in accordance with the requirements of Section 19.2-F, and continuously maintained in good condition.
5. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited, except in designated and approved storage areas screened from view of adjoining properties and streets.
6. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.

HH. Vehicle service stations.

1. Minimum lot area shall be twenty thousand (20,000) square feet and minimum lot width shall be two hundred (200) feet.
2. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way or lot line.
3. All equipment and activities associated with vehicle service operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
5. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use.

6. Canopy roofs shall be permitted to encroach into any required yard, provided that a minimum setback of five (5) feet is maintained, and further provided that the fascia of such canopy is a minimum of ten (10) feet above the average grade.
7. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
8. Canopy lighting shall be recessed into the canopy and no part of the light fixture lens shall protrude below the underside of the canopy.

II. Vehicle wash establishment, either self-serve or automatic.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. Such vehicle stacking space shall be equivalent to 5 times the wash capacity. Wash capacity shall be determined by dividing the length of the mechanical wash/dry machinery by 25 feet. No less than fifteen (15) stacking spaces shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at the entrance and one (1) space at the exit.
2. Vacuuming activities, if outdoors, shall be at least three hundred (300) feet from any residential district property line. Wash bays for self-service establishments shall be located at least one hundred fifty (150) feet from any residential district property. line.
3. Should self-service wash bays be located with openings facing an adjacent street, they shall be screened as required by Section 19.2-F, and continuously maintained in good condition.
4. Only one (1) access driveway shall be permitted on any single street. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.

JJ. Veterinary hospitals and veterinary clinics.

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any residential district boundary and shall not be located within any required yard area.

KK. Wireless Communication Towers.

1. The lot size shall be a minimum of twenty thousand (20,000) square feet.
2. The tower shall be of a monopole design.

3. The tower shall be set back from all lot lines a minimum distance equal to one-half ($\frac{1}{2}$) the height of the tower. All other buildings and structures shall meet the minimum setback requirements of the Zoning District.
4. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
5. Where possible, joint use of tower facilities, including City elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the City. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.
6. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half ($\frac{1}{2}$) mile radius of an existing radio, television, cellular, or wireless communications tower.
7. No signs, except warning or other cautionary signs, shall be permitted on the site.
8. Abandoned or unused towers and any associated structures or equipment shall be removed, within twelve (12) months of the cessation of operations, unless a time extension is granted by the Planning Commission. One (1) three (3) month extension shall be permitted if the Planning Commission finds that the owner or former operator of the facility is taking active steps to remove it.

CHAPTER 21
ZONING BOARD OF APPEALS

SECTION 21.1 MEMBERSHIP

A. Continuation of Present Zoning Board of Appeals

The Zoning Board of Appeals existing at the time of adoption of this Ordinance shall perform its duties and exercise its powers as provided in the City and Village Zoning Act.

B. Composition and Terms

1. The Zoning Board of Appeals shall consist of five (5) regular members and two (2) alternate members appointed by the City Council. One (1) member may also be a member of the Planning Commission. No elected officer of the City nor any employee of the City shall serve simultaneously as a regular member or alternate member. Of the regular members initially appointed, one (1) shall serve a term expiring one (1) year after appointment, two shall serve a term expiring two (2) years after appointment, and two (2) shall serve a term expiring three (3) years after appointment. Thereafter, all regular members shall be appointed for a term of three (3) years.
2. Of the alternate members initially appointed, one (1) shall serve a one (1) year term, and one (1) shall serve a two (2) year term. Thereafter, all alternate members shall be appointed for a term of three (3) years.
3. Each regular and alternate member may receive such compensation as the City Council may establish by resolution.
4. The Zoning Board of Appeals shall annually elect from its membership a Chairperson, Vice-Chairperson, and such other officers it deems necessary. The Zoning Board of Appeals is also authorized to appoint an Executive Secretary for the Board.

C. Alternate Members

If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. An alternate member shall only serve to discuss or vote upon a case in the absence of a regular member or upon the conflict of interest of a regular member.

D. Vacancies

Any vacancies in the Zoning Board of Appeals shall be filled by appointment by the Council.

SECTION 21.2 MEETINGS

A. Meetings

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as such Zoning Board of Appeals may determine. All hearings conducted by the Zoning Board of Appeals shall be open to the public. The City Clerk or his representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Three (3) members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business, except that four (4) members shall be required to hear any request for a use variance. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

B. Hearings

The Zoning Board of Appeals shall make no decision regarding a variance except after a public hearing is conducted by the Zoning Board of Appeals. Notification of hearings shall be in accordance with the following requirements:

1. Public notice of the appeal shall be sent by regular mail or personally delivered to the persons whom own real property within three hundred (300) feet of the premises in question, and to the occupants of single and two-family dwellings within three hundred (300) feet.
2. The public notice shall be addressed 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.
3. An affidavit of mailing shall be maintained.

SECTION 21.3 JURISDICTION

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The Zoning Board of Appeals shall not have the authority to hear appeals from a decision made in respect to any special land use, planned unit development, or rezoning. The powers of the Zoning Board of Appeals include:

A. Hearing of Appeals

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

B. Granting of Variances

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Chapter.

C. Zoning Ordinance Interpretation

The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provisions is uncertain.

D. Granting of Temporary Uses and Buildings

1. The Zoning Board of Appeals may permit, upon proper application, temporary uses or buildings not otherwise permitted in the district, not to exceed twelve (12) months and to provide up to a twelve (12) month extension when appropriate.
2. The Zoning Board of Appeals, in granting permits for temporary uses and buildings, shall do so under the following conditions:
 - a. The granting of the temporary use or building shall in no way constitute a change in the basic uses permitted in the district nor on the property where the temporary use or building is permitted.
 - b. The granting of the temporary use or building shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
 - c. All setbacks, land coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals.
 - d. The use or building shall be in harmony with the general character of the district.

- e. No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as provided for in this Ordinance.
- f. Prior to granting a temporary permit the Board may seek the review and recommendation of the Planning Commission.

SECTION 21.4 DECISIONS

A. Procedure

An appeal may be taken by a person aggrieved, or by an officer, department, or board of the City. Such appeal shall be taken within twenty-one (21) days, as prescribed by the rules of the Zoning Board of Appeals, by the filing with the officer or body from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal.

B. Filing

The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan. Said site plan shall include the following information:

1. Project Information, including:
 - a. The applicant's name.
 - b. North arrow.
 - c. Complete and current legal description and size of property in acres.
 - d. Size of property in acres or square feet.
 - e. A survey shall be required for dimensional variance.
2. Existing Features
 - a. Property lines and dimensions.
 - b. Zoning and current land use of applicant's property and all abutting properties and of properties across any public street from the site.
 - c. Lot lines and all structures on the property.
 - d. The Zoning Board of Appeals may require buildings and structures within one hundred (100) feet of the site's property lines to also be shown.

3. Proposed Construction
 - a. Building footprints, setbacks, and building height.
 - b. Location and dimensions of parking spaces (if applicable).
4. Additional information may be required by the Zoning Board of Appeals, including, but not limited to:
 - a. Existing and proposed topography.
 - b. Location and method of screening waste dumpsters.
 - c. A landscaping plan.
 - d. Details of exterior lighting.
 - e. Details of site circulation and access design.
5. A completed application form, supplied by the Zoning Administrator, and an application fee.

C. Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

D. Decisions

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds (2/3) of the membership shall be necessary to grant a use variance.
2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.

3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.

E. Record of Actions

For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

1. Description of the applicant's request.
2. The Zoning Board of Appeal's motion including an explanation of how the request meets each standard outlined in Section 21.6-B, for Non-Use Variances, or Section 21.6-C, for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.
3. The Board's vote on the motion.
4. A summary or transcription of all relevant material and evidence presented at hearing; and,
5. Any conditions attached to an affirmative decision.

F. Appeals to Circuit Court

The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the City and Village Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.

G. Resubmission

No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the Board finds that at least one of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.
2. That new conditions or circumstances exist which change the nature of the original request.

SECTION 21.5 CONDITIONS OF APPROVAL

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the City and Village Zoning Act and related to the standards by which the decision is reached.

SECTION 21.6 VARIANCE PROCEDURES

- A. Authority for Variances

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

- B. Granting of Non-Use Variances

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.
6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

C. Granting of Use Variances

1. A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:
 - a. That the building, structure, or land cannot be reasonably used for any of the uses permitted by right or special approval in the zone district in which it is located.
 - b. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would cause unnecessary hardship.
 - c. That the proposed use will not alter the essential character of the neighborhood.
2. Prior to Zoning Board of Appeals hearing on a request for a Use Variance, the Planning Commission shall consider such request and forward a report to the Zoning Board of Appeals. For this report the Planning Commission shall consider the Comprehensive Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, the effect of the request on the essential character of the neighborhood, and other such factors as the Planning Commission may deem relevant.

SECTION 21.7 FEES

The City Council may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. The fee shall be paid to the City Treasurer at the time the application for the appeal or variance is filed.

**CHAPTER 22
ADMINISTRATION**

SECTION 22.1 ZONING ADMINISTRATOR

A. Authority

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator, or such other official or officials as may be designated by the City Charter. The Zoning Administrator shall have the power to:

1. Grant Certificates of Occupancy.
2. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance.
3. Issue and serve appearance tickets on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense.
4. Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.

SECTION 22.2 PERMITS

A. Zoning Permits.

1. No building, structure, or sign shall be erected, altered, or moved unless a Zoning Permit shall have been first issued for such work.
2. No Zoning Permit shall be issued for the erection, alteration, or use of any building or structure, or for the use of any land which is not in accordance with all provisions of this Ordinance and any conditions of approval imposed on the particular use.
3. A record of all Zoning Permits issued shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person owning or renting the property which is the subject of the Permit.
4. No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a Zoning Permit is first obtained for the new or different use.

B. Building Permits and Certificates of Occupancy.

1. No Building Permit for the construction, erection, alteration, repair, or moving of any building or structure shall be issued until a Zoning Permit, or Zoning approval for such work has been issued by the Zoning Administrator.
 2. No building or structure which is hereafter erected or altered shall be occupied or used unless and until a Certificate of Occupancy shall have been issued for such building or structure.
 3. Certificates of Occupancy, as required by the currently adopted Building Code for the City of Dowagiac, shall also constitute certification of compliance with the Zoning Ordinance.
 4. A record of all Certificates of Occupancy issued shall be kept on file in the office of the Building Official, and copies shall be furnished upon request to any person owning or renting the property which is the subject of the Certificate.
- C. Fees for the inspection and issuance of Permits or Certificates of Occupancy, or copies required or issued under the provisions of this Ordinance, may be collected by the City in advance of issuance. The amount of such fees shall be established by resolution of the City Council and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

SECTION 22.3 ENFORCEMENT

A. Violations

1. Any building erected, altered, razed, or converted, or any use carried on in violation of any provision of this Section is hereby declared to be a nuisance per se. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Section shall be guilty of a civil infraction punishable by the sanctions as set forth in this Section.
2. The Zoning Administrator, the Building Inspector, together with law enforcement officers, are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this Ordinance.
3. Each day that a violation continues may be deemed a separate infraction.
4. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under Act 12 through 26, Public Acts of Michigan of 1994 and the Code of Ordinances of the City of Dowagiac.

5. Increased civil fines will be imposed for repeated violations that occur within a six (6) month period. Civil fines for first offenses, repeat first offenses and repeat second offenses will be established from time to time by resolution of the City Commission.
6. The City shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the City pursuant to Chapters 83 and 87 of the Michigan Revised Judicature Act, as amended at the present time or in the future.
7. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

SECTION 22.4 PERFORMANCE GUARANTEES

- A. As a condition of approval of a site plan review, special land use, or planned unit development, the Planning Commission or City Council, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- B. Performance guarantees shall be processed in the following manner:
 1. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be one hundred (100) percent of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies, not to exceed a total of one hundred twenty-five percent (125%) of the cost of construction and materials.
 2. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City.
 3. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the City.

4. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
5. When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
6. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

SECTION 22.5 CHANGES AND AMENDMENTS

- A. Amendments. The City Council may, from time to time by Ordinance, amend, supplement or change the boundaries of districts, designation of districts, or regulations herein established, in accordance with the State law.
- B. Initiation of Amendments. Amendment to this Ordinance will be directed to the Planning Commission for review and may be initiated by the City Council by resolution, by the Planning Commission, by motion, or by any interested person or persons by petition to the Zoning Administrator.
- C. Amendment Petition. All petitions for amendment to this Ordinance shall be in writing, signed and filed in triplicate with the Zoning Administrator for presentation to the Planning Commission. Such petitions shall include the following:
 1. The petitioner's name, address and interest in the petition, as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned.
 2. The nature and effect of the proposed amendment.
 3. The alleged error in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.

4. The changed or changing conditions in the area or in the City that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
 5. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.
 6. If the proposed amendment would require a change in the Zoning Map:
 - a. A fully dimensioned map showing the land which would be affected by the proposed amendment.
 - b. A legal description of such land.
 - c. The present zoning district of the land.
 - d. The zoning district of all abutting lands.
 - e. All public right-of-way easements bounding and intersecting the land to be rezoned.
- D. Procedure. The Planning Commission shall hold at least one (1) public hearing on all Zoning Ordinance amendments, supplements, changes to the boundaries of districts, designation of districts, or regulations. At least fifteen (15) days notice of the public hearing shall be given as follows:
1. To the general public, by publication in an official newspaper or newspaper of general circulation.
 2. To each public utility company or railroad owning or operating any public utility or railroad within the districts or zones affected, provided they are registered by name and address with the City Clerk for the purposes of receiving such notice.
 3. To each property owner within three hundred (300) feet of the subject property, provided the proposed change involves a change of district boundaries or district designation of specific land.
 4. The Planning Commission may adjourn the public hearing or may call upon the assistance of the City departments or experts in the performance. It shall be the duty of such departments to render assistance to the Planning Commission as may be reasonably required.
 5. The Planning Commission shall take action by concurring vote of a majority of the Planning Commission. The Planning Commission shall reduce its action on each to a written summary recommendation to the City Council. This written summary recommendation shall:

- a. Indicate the vote of each member upon this question;
 - b. Summarize the pertinent facts particular to the issue; and
 - c. List any recommended changes to the proposed change or amendment as presented.
6. The Planning Commission shall expeditiously transmit its recommendation to the City Council. The City Council, upon receipt of the Planning Commission's recommendation, shall act upon the proposed changed or amendment by Ordinance, in accordance with State law and City Charter.
- E. Protest Petition. Upon presentation of a protect petition meeting the requirements of this section, an amendment to the Zoning Ordinance, which is the subject of the petition, may only be passed by at least a two-thirds (2/3) vote of the City Council. The protect petition presented to the City Council shall be signed by at least one (1) of the following:
1. The owners of at least twenty percent (20%) of the area included in the proposed change.
 2. The owners of at least twenty percent (20%) of the area of land within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.
 3. For purposes of this subsection, publicly owned land shall not be included in the calculation of the twenty percent (20%) land area requirement.
- F. Publication. Following adoption by the City Council of a Zoning Ordinance and subsequent amendments, one (1) notice of adoption shall be published in a newspaper of general circulation within the City within fifteen (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 Council of the City of Dowagiac."
 2. In the case of an amendment to an existing Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
 3. The effective date of the Ordinance.
 4. The place and time where a copy of the Ordinance may be purchased in accordance with the City's fee schedule, or inspected.

CHAPTER 23
TITLE

SECTION 23.1 TITLE

This Ordinance shall be known, and may be cited as, the City of Dowagiac Zoning Ordinance.

SECTION 23.2 INTENT

This Ordinance, enacted under the authority of the City and Village Zoning Act, is intended to insure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

SECTION 23.3 SCOPE

A. Interpretation and Application

In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance. However, where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

B. Vested Rights

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

SECTION 23.4 SEVERABILITY

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

SECTION 23.5 EFFECTIVE DATE

Public hearing having been held hereon, the provisions of this Ordinance are hereby adopted, and this Ordinance shall take effect on the 12th day of January, 2005.

SECTION 23.6 REPEAL OF PRIOR ORDINANCES

Title Section 94, “Zoning” of the City Code is hereby repealed and replaced with this Zoning Ordinance. The repeal does not affect any act done or offense committed, or any liability, penalty, forfeiture, or punishment acquired thereunder. The repeal does not include the Official Zoning Map of the City of Dowagiac Zoning Ordinance, which is hereby adopted as a part of this Ordinance.